

**Responses to the Objections to the
Notice of Data Availability (NODA),
Proposed Allocation of NO_x Allowances under the
Clean Air Interstate Rule (CAIR) Federal Implementation Plan (FIP)
(71 FR 44283, August 4, 2006)**

Introduction

On August 4, 2006, EPA published a Notice of Data Availability (NODA) that proposed NO_x allowance allocations to existing electric generating units (EGUs) that are potentially subject to the Clean Air Interstate Rule (CAIR). EPA did so under the CAIR Federal Implementation Plan (FIP). EPA allowed objections to several parts of the process for determining these allocations: 1) the inventory of existing units that currently are potential CAIR units; 2) the data on which the inventory is based; 3) the data used to calculate the allocation of NO_x allowances to individual existing potential CAIR units under the CAIR FIP; and 4) the resulting allowance allocations themselves. The period for submitting objections closed on June 1, 2007 for cogeneration units firing biomass and on October 5, 2006 for all other units. This document presents a response to the objections received in response to the August 4, 2006, NODA.

In the March 15, 2006 final action on the CAIR FIP, EPA finalized NO_x annual and ozone season trading programs for EGUs as the federal implementation remedy for CAIR. The EPA decided to adopt the model cap-and-trade programs in the final CAIR as the FIP for each state in the CAIR region, modified slightly to allow for federal instead of state implementation (as revised March 15, 2006).

These cap-and-trade programs include a NO_x annual trading program and NO_x ozone season trading program. As explained in the CAIR FIP Notice of Final Rulemaking (NFR), the FIP NO_x annual and NO_x ozone season trading programs require CAIR sources to hold allowances sufficient to cover their emissions for each control period. A NO_x annual allowance will authorize the emission of one ton of NO_x during a calendar year, and EPA made available data relating to the NO_x annual and NO_x ozone season allocations under the CAIR FIP that EPA will allocate to individual existing units covered by the CAIR FIP NO_x annual and NO_x ozone season trading programs for 2009-2014. NO_x ozone season allowance will authorize the emission of one ton of NO_x during an ozone season (May 1 through September 30).

In the CAIR FIP NFR, EPA adopted the state NO_x annual and NO_x 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 CAIR. For each state covered by the CAIR FIP NO_x trading programs, the state NO_x budgets are the total amount of allowances that EPA will allocate to sources in that state for use in the FIP NO_x trading programs. EPA determined the method for allocating NO_x annual and NO_x ozone season allowances under the FIP through a process that included extensive public participation.

Sections 1 and 2 of this response to objections document summarize and provide EPA's response to objections relating to applicability and the heat input (or multiplier) data,

respectively. Section 3 summarizes and responds to objections related to unit identifier information. Section 4 provides a summary of the objections outside the scope of the NODA. EPA is not responding to these objections in this document.

This document refers, as appropriate, to various support documents that have been prepared to assist in presenting the more technical aspects of the Agency's responses. These documents are available in the docket, and a list of them is presented in the "References" section of this document.

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1. Applicability

1.1 Electric Generating Unit Definition/Cogenerator Thermal Efficiency

Objector: Weyerhaeuser; EPA-HQ-OAR-2004-0076-0267 and 0310

Objection: Weyerhaeuser notes that the following eight facilities may be subject to CAIR: Pine Hill mill (AL); Hawesville mill (KY); Columbus mill (MS); Flint River Operations mill (GA); Plymouth mill (NC); New Bern mill (NC); Johnsonburg mill (PA) and Kingsport mill (TN). EPA's information in the NODA does reference seven of these eight facilities. Weyerhaeuser will submit additional information at a later time on whether these units should receive allocations under the CAIR FIP.

Weyerhaeuser's follow-up objection (0310) identifies seven cogenerator units burning biomass and fossil fuels that are subject to CAIR because the units do not meet the thermal efficiency level required for the cogenerator exemption. The CAIR units are at Flint River Operations, Pine Hill mill, and Columbus mill. Weyerhaeuser also identifies units that are not subject to CAIR either because the unit generation is not sold and the unit is not an EGU, or the unit meets the cogeneration exemption sales and thermal efficiency requirements.

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule. EPA has taken this rule change and the objections submitted by Weyerhaeuser in response to the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for allocation purposes. As a result, the units at the mills identified by Weyerhaeuser were not included in the inventory of potential CAIR units.

Objector: Nelson Industrial Steam Company; EPA-HQ-OAR-2004-0076-0287. CITGO Petroleum Corporation; EPA-HQ-QAR-2004-0076-0300

Objection: The two boiler units at the Nelson Industrial Steam Company (NISCO) plant, included in the Louisiana CAIR FIP allocations under ORIS 1393, should be exempt from CAIR. The units are FERC qualifying cogenerator units that were designed to primarily provide electricity and process steam to the owners' two petroleum refineries and a chemical plant. The highest sale to the grid in any year was only 2.58% of annual production, and that was due to Hurricane Rita in 2005. Because these units are designed and used for internal power and steam use, several incidental sales to the grid in the past, due to abnormal plant operations or

Force Majeure conditions, should not affect the applicability. EPA should consider exempting units that sell de minimis quantities of electricity to the grid.

The CAIR cogeneration exemption also extends the FERC qualifying thermal efficiency requirement for gas and oil fired units to solid fuel units. The NISCO units burn primarily petroleum coke that is more difficult to burn than coal, and EPA's evaluation of the thermal efficiency requirement did not include solid fuels other than coal. Petroleum coke and alternative fuels like biomass use materials that might otherwise end up as waste products and reduce the national dependency on oil and gas. CITGO, in its objections, provides historic efficiency information for the two NISCO units and requests that EPA consider an efficiency standard of 25% for petroleum coke fired cogeneration units

Response: EPA has determined that NISCO's R. S. Nelson Units 1 and 2 are CAIR affected units. The complete NISCO applicability determination can be found on the EPA website at <http://www.epa.gov/airmarkets/progsregs/cair/index.html>.

Objector: MeadWestvaco; EPA-HQ-OAR-2004-0076-0288 and 0311

Objection: MeadWestvaco operates four paper mills that are potentially affected by CAIR. None of these units are listed as affected EGUs by EPA. As of the initial objection date, MeadWestvaco believes cogeneration combustion units at these facilities are exempt under the cogeneration exemption. The units either sell less than one-third of the potential output capacity, or less than 219,000 MWh annually. However, due to the complexity of the power systems, it will take additional time to determine whether or not the units meet the cogeneration exemption thermal efficiency requirements. Also the efficiency test requires data back to 1990 which may not be available. The objection period extension will allow MeadWestvaco to further define unit applicability and make a more complete determination.

In its subsequent objection (0311) Westvaco identifies only two units that are affected under the current EGU definition and cogeneration exemption: Covington mill No. 1 and No. 2 Recovery Furnaces. The other units either do not sell electricity to the grid, or meet the cogeneration exemption levels for sales and thermal efficiency.

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule. EPA has taken this rule change and the objections submitted by MeadWestavco in response to the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for allocation purposes. As a result, the Covington recovery furnaces were excluded from the existing CAIR unit inventory.

Objector: Georgia-Pacific Corporation; EPA-HQ-OAR-2004-0076-0290 and 0304

Objection: Georgia-Pacific Corporation (GP) has about 40 boilers which are potentially subject to the CAIR requirements. GP and other forest product companies have been operating under the assumption that virtually all industrial cogeneration units were exempt from CAIR either because of size, lack of electricity sales to the grid, or the cogeneration exemption. GP has subsequently learned that many biomass fired units, and some solid fossil fuel fired units, may not meet the cogeneration thermal efficiency requirement. GP is reviewing available records and determining whether cogeneration units meet the thermal efficiency requirements. Calculations have not been completed, and GP will supplement these objections with additional technical information and calculations as soon as possible. GP requests that EPA consider the additional information for the fossil fuel units, even though it will be filed after the close of the objection period, and is not affected by the biomass objection period extension.

GP in a subsequent objection (0304) filed during the biomass objection period extension, requested a determination on whether or not CAIR is applicable to a coal-fired boiler (B25) at its paper mill in Green Bay, Wisconsin. The unit meets the sales requirements for the cogeneration exemption, but may not meet the thermal efficiency requirement. GP presents the results of two different thermal efficiency calculation methodologies for a unit that shares a common steam header, and requests EPA's determination on the appropriate calculation approach. Method 1 calculates an overall thermal efficiency for all the boilers serving the common header. Method 2 calculates the thermal efficiency based on the steam contribution of B25 as a fraction of total steam input and generator output. GP also requests that EPA consider alternative rule language regarding the thermal efficiency calculation if it determines that the unit is subject to CAIR based on the Method 2 approach.

Response: EPA is conducting an applicability determination for the Green Bay, Wisconsin B25 unit. It has not yet determined whether the unit is subject to CAIR. It has been left in the inventory of potential existing CAIR units and an allocation has been determined. The pending applicability determination will be posted on EPA's website at <http://www.epa.gov/airmarkets/progsregs/cair/index.html>.

Objector: Finch, Pruyn and Company; EPA-HQ-OAR-2004-0076-0303

Objection: Two recovery boilers (Boilers 8 and 10) at Finch, Pruyn, and Company's New York facility do not meet the thermal efficiency requirement under the cogeneration exemption and therefore are subject to CAIR unless EPA adopts the revisions to the exemption proposed on April 25, 2007. The recovery boilers were not included in the NODA allocations, and should be included in the inventory if EPA does not adopt the proposed exemption changes.

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule.

EPA has taken this rule change and the objections submitted by Finch, Pruyn, and Company in response to the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for allocation purposes. As a result, the recovery boilers at the New York facility have been excluded from the existing CAIR unit inventory.

Objector: International Paper; EPA-HQ-OAR-2004-0076-0312

Objection: International Paper identifies 20 units at nine plants that are affected by CAIR under the current cogeneration exemption language, and are not identified as affected in the NODA allocations. Of these, 19 meet the sales requirement for the current cogeneration exemption, but do not meet the thermal efficiency requirement. Biomass fired boilers cannot achieve the same thermal efficiency as fossil fuel fired units, because biomass fuels often contain 30 to 35% water. Further, the efficiency requirement in the exemption does not account for process units such as recovery furnaces that are optimized to recover chemicals, not to produce steam or electricity. The majority of recovery furnaces at IP facilities fail to meet the thermal efficiency test (17 of the 20 affected units are recovery furnaces). The CAIR affected unit list would be reduced to a single unit if EPA adopts the revised cogeneration exemption language EPA proposed on April 25, 2007.

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule. EPA has taken this rule change and the objections submitted by International Paper in response to the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for allocation purposes. As a result, EPA has only added the Hudson River unit in New York, to the existing CAIR unit inventory.

Objector: Smurfit-Stone Container Enterprises, Inc.; EPA-HQ-OAR-2004-0076-0313

Objection: The number 5 recovery furnace at the Smurfit-Stone facility (ORIS 10017) in West Point, Virginia, is exempt based on the current cogeneration exemption, if the heat in smelt is included as useful thermal energy in the efficiency calculation. All three (PB10, RF4, and RF5) units at the facility are exempt if EPA adopts the revised cogeneration exemption language EPA proposed on April 25, 2007.

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule. EPA has taken this rule change and the objections submitted by Smurfit-Stone in response to the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for

allocation purposes. As a result, the West Point, Virginia, units have been removed from the existing CAIR unit inventory.

1.2 Units to Add/Include

Objectors: City of Higginsville, MO; EPA-HQ-OAR-2004-0076-0232. Missouri Department of Natural Resources (MO DNR); EPA-HQ-OAR-2004-0076-0274

Objection: The City of Higginsville was omitted from the list of existing sources in Missouri. The City of Higginsville has 2 dual fuel fired turbines with a single 60 MW generator. These units began operation in June 1996 and should be provided with allocations. MO DNR provides the annual and ozone season heat input for this facility for the years 2000 through 2004 and requests that EPA use these data to allocate NO_x allowances to the City of Higginsville.

Response: The units have been added to the CAIR FIP inventory under one EIA generator code. (See NODA Applicability Objections.xls.)

Objector: Michigan Department of Environmental Quality; EPA-HQ-OAR-2004-0076-0243

Objections: The allocations in the NODA identify 118 Michigan units as receiving allocations. However, there should be 145 units listed. According to the Michigan Department of Environmental Quality (MDEQ) files, a number of units are missing from the annual and ozone season allocation tables. (MDEQ provides a specific list of facilities and units that should be added in their objection letter.) In addition, the listings for the City of Detroit, Mistersky Units 5, 6, and 7 and GT-1 require some clarification. Mistersky Units 5, 6, and 7 are listed under ARP and one additional unit is listed under EIA information. MDEQ requests clarification regarding whether this EIA listing applies to the GT-1 unit information.

Response: The missing units identified by Michigan are new units under the CAIR FIP (on-line after 2000), and therefore are not included in the existing unit allocations. Mistersky GT-1 is a non-Acid Rain unit, and is therefore listed under the EIA generator ID. (See NODA Applicability Objections.xls.)

Objector: Michigan Department of Environmental Quality; EPA-HQ-OAR-2004-0076-0243. CMS Generation; EPA-HQ-OAR-2004-0076-0239.

Objection: Dearborn Industrial Generation facility only has the GTP1 unit listed. However, boilers 1 through 3 should also be included and receive allocations since they are not subject to the cogeneration exemption. CMS notes that the three boilers at the Dearborn Industrial Generation facility are cogeneration units, but do not meet the CAIR "cogeneration unit" efficiency standard and should be included as EGUs in the annual and ozone season FIP NO_x allocation tables. According to MDEQ data, these three units have been "shorted" 474 allocations.

Response: The Dearborn Industrial Generation boilers are new units, and have not been added to the existing unit allocation inventory. The units commenced commercial operation in 2001.

Objector: Engineering, Compliance & Construction, Inc. (ECCI); EPA-HQ-OAR-2004-0076-0245

Objection: Engineering, Compliance & Construction, Inc. (ECCI) requests that EPA allocate allowances to two units at Jonesboro CWL: Units 3 and 4. Unit 3 is an "existing" unit that operated in 2001 through 2004 on natural gas and diesel. Unit 4 is a "new" unit with regards to CAIR and operated in 2003 and 2004 on natural gas and diesel. ECCI provides supporting documentation and data as obtained from biennial certified reports and records required to comply with the state-issued Air Permit.

Response: Unit 4 is a new unit and therefore was not added to the existing unit allocation inventory. Unit 3 has been added to the inventory. These are both Acid Rain units, but were not in the CAMD or EIA database.

Objector: Northshore Mining; EPA-HQ-OAR-2004-0076-0247

Objection: The two Northshore units at the Silver Bay, Minnesota, facility (Units 1 and 2) provide process steam and electricity for Northshore's taconite production facility, produce electricity for sale, and have been in operation since before January 1, 2001. Although these units are exempt from ARP as cogeneration units, they do not meet the cogeneration exemption (which is based on an efficiency standard) under CAIR. Northshore provides additional discussion regarding the characteristics of these units as well as supporting documentation and data on energy produced, heat input, and efficiency percentages; requests clarification on whether the Northshore units are subject to CAIR; and notes that if EPA determines that these units are subject to the rule, allocations should be issued to both units.

Response: The units have been added to the existing unit allocation inventory.

Objector: Xcel Energy; EPA-HQ-OAR-2004-0076-0252

Objection: French Island, ORIS 4005, Units 3 and 4 in Wisconsin, meet the definition of applicability for the CAIR FIP and should be included in the allocations database. Boilers 1 and 2 at this facility only burn refuse-derived fuel (RDF) and wood waste and thus, are not subject to CAIR. However, Units 3 and 4 are oil-fired simple cycle combustion turbines, which are both rated above 25 MW. These units combust fuel oil for more than 15% of their annual heat input.

Response: The units have been added to the existing unit allocation inventory.

Objector: South Carolina Department of Health and Environmental Control (SCDHEC); EPA-HQ-OAR-2004-0076-0254

Objection: There are a number of facilities and units that should be added to the allocations for South Carolina. SC DHEC provides a comprehensive list of missing units and notes that it intends to include these units in the CAIR NO_x annual and NO_x ozone season trading programs. SC DHEC also notes that the unit at the Smurfit-Stone Container Enterprises (Smurfit) facility should be classified as a non-EGU, as it sells less than one-third of its potential output capacity and less than 219,000 MWh annually.

Response: The units identified by South Carolina, except the Smurfit unit in Florence, are non-EGUs or new units, and have not been added to the existing unit allocation inventory. (See NODA Applicability Objections.xls.)

Smurfit (ORIS 50806) unit PB4 does not meet the cogeneration exemption sales requirements and will remain in the existing EGU inventory. This is discussed further below in the response to the Smurfit-Stone objection (EPA-HQ-OAR-2004-0076-270 and 275).

Objector: Dominion; EPA-HQ-OAR-2004-0076-0256

Objection: The Rosemary Power Station (ORIS 50555) in Roanoke Rapids (Halifax County), North Carolina, should be included in the list of affected units and should receive allocations under the CAIR FIP. This facility should not be classified as exempt under CAIR based on its previous status as a cogeneration facility since this 165 MW combined cycle facility no longer qualifies for this exemption and has been allocated NO_x allowances (as an EGU) for both the annual and ozone season NO_x programs under the North Carolina CAIR rule. Dominion provides a list of CAIR NO_x allowances allocated under the NC CAIR rule for reference purposes.

Response: The Rosemary Power Station units have been added to the existing unit allocation inventory.

Objectors: Florida Department of Environmental Protection; EPA-HQ-OAR-2004-0076-0258. Florida Power and Light; EPA-HQ-OAR-2004-0076-0259

Objection: The Florida Power and Light Ft. Myers Plant, Unit FMCT2C, should be added to the list of units affected by the CAIR FIP. FL DEP notes that the plant began operation prior to January 1, 2001 (although not necessarily in commercial operation). FPL notes that the facility began operation on December 22, 2000. This unit should be considered an existing CAIR source for the purpose of NO_x allocations.

Response: The unit has been added to the existing unit allocation inventory.

Objector: Florida Power and Light; EPA-HQ-OAR-2004-0076-0259

Objection: Unit 4 at Lamar Power Partner, LLC facility in Paris, Texas, (Lamar County) should be included in the source allocations for the CAIR FIP. FPL notes that during the review of the TCEQ preliminary NO_x allocations under the Texas CAIR NO_x Annual Trading program for the 2009 - 2014 control periods, this unit was erroneously classified as new. Unit 4 meets the definition of "commencing operation prior to January 1, 2001" and as such, should be listed as an affected unit with allocations.

Response: The unit is included in the NODA existing unit allocation inventory.

Objector: Florida Power and Light; EPA-HQ-OAR-2004-0076-0259

Objection: FPLE Marcus Hook 50 (ORIS 50074) was incorrectly excluded from the existing source allocation for both the ozone season and annual NO_x allocations. This is an existing Part 75 affected facility under the NO_x SIP Call and should be included in the baseline allocation for the CAIR FIP.

Response: The unit has been added to the existing unit allocation inventory.

Objector: P.H. Glatfelter Company; EPA-HQ-OAR-2004-0076-0260

Objection: P.H. Glatfelter notes that the Spring Grove Mill has five boilers, three of which are identified as possibly exempt from CAIR in Table 8 of the allocation tables in the NODA. Preliminary calculations for the No. 5 Power Boiler (listed as 5PB036 and 036 in Table 8) indicate that it does not meet the 42.5% efficiency required to be considered a cogeneration unit under CAIR and should receive allocations.

Also, there are two other boilers at this facility that serve generators with a capacity greater than 25 MW: the No. 3 Recovery Boiler (listed as REC037 in Table 8), which uses No. 6 fuel oil for start-up and emergencies, and the No. 1 Power Boiler, which is coal-fired. Glatfelter notes that it has not completed its calculations to determine whether these boilers are subject to the cogeneration exemption for a variety of reasons but will investigate and submit additional information to confirm whether they are exempt.

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule. EPA has taken this rule change and the objections submitted by P.H. Glatfelter in response to the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for allocation purposes. The three units identified in the objection are not included in the CAIR FIP allocation tables as potential CAIR units.

Objector: North Carolina Department of Environment and Natural Resources; EPA-HQ-OAR-2004-0076-0262

Objection: The Progress Energy Blewett facility (listed on the permit as CP&L - Blewett Hydroelectric Plant), included in North Carolina's CAIR rules, is missing from the CAIR FIP NODA spreadsheet entitled "Allocations." This is a hydroelectric plant with four No. 2 fuel oil-fired combustion turbines (288 mmBtu/hr max heat input each: units IC-1, IC-2, IC-3, and IC-4). These CTs are only operated 20 to 40 hours per year in times of extreme power demand or during maintenance of the hydroelectric units.

Response: The units have not been added as requested by North Carolina. The EIA database shows that the associated generator nameplate capacity for each unit is less than the 25 MW applicability requirement.

Objector: North Carolina Department of Environment and Natural Resources; EPA-HQ-OAR-2004-0076-0262

Objection: The Primary Energy facilities Roxboro and Southport are missing from the annual and ozone season worksheets in the CAIR FIP NODA spreadsheet entitled "Allocations." Note that the facility listed as Green Power Kenansville is now United Cogen, Kenansville and is included in the state ozone season CAIR rule.

Response: The Primary Energy units were in the NODA allocations, but with different names: Cogentrix Roxboro and Cogentrix Southport. The plant names have been changed to Primary Energy Roxboro and Primary Energy Southport. The Green Power Kenansville name has been changed to United Cogen, Kenansville.

Objector: North Carolina Department of Environment and Natural Resources; EPA-HQ-OAR-2004-0076-0262

Objection: The non-EGU sources in Worksheet T8 should be included in the ozone season CAIR allocations. These facilities were NO_x SIP call sources that are being rolled into CAIR. Craven County Wood Energy is subject to both the annual and ozone season rules in 15A NCAC 02D, and the remaining facilities are subject to the ozone season rule. In addition, the International Paper Roanoke Rapids facility is missing and should be included.

Response: The Craven County Wood Energy plant is included in the NODA CAIR FIP existing unit allocation inventory. The NO_x SIP Call non-EGU sources were not added. The CAIR NO_x FIP does not apply to non-EGUs. International Paper Roanoke Rapids is also a new unit, and therefore has not been included in the existing unit allocation inventory.

Objector: Texas Commission on Environmental Quality (TCEQ); EPA-HQ-OAR-2004-0076-0264

Objection: TCEQ cites a number of discrepancies in the NODA allocations with respect to applicability. TCEQ notes that there are two units that should be added (Silas Ray, Unit 8, and Sweeny Cogeneration, Unit 4). TCEQ provides additional explanation as well as supporting documentation and data that can be used by EPA to update the CAIR FIP allocation tables.

Response: The Silas Ray, Unit 8, and Sweeny Cogeneration, Unit 4, have been added to the existing unit allocation inventory. Texas had identified a number of duplicate entries for units at a number of facilities, and these duplicates have been removed. (See NODA Applicability Objections.xls.)

Objector: Calpine Corporation; EPA-HQ-OAR-2004-0076-0273

Objection: Units GT1 and GT2 of Calpine's Bethpage Energy Center (ORIS 50292) ceased cogeneration service in 2004 and are presumably subject to CAIR. Calpine provides heat input data for these units as reported to EPA under Part 75 that can be used to determine allocations under the CAIR FIP.

Response: The GT1 and GT2 units were included in the NODA existing unit allocations.

Objector: Kansas City Power & Light; EPA-HQ-OAR-2004-0076-0279

Objection: In the heat input tables used by EPA for CAIR allocations, Hawthorn (ORIS 2079) Unit 5A is not listed as an operating unit. The table lists Hawthorn 5 as retired in 2001, which it was following an explosion. Unit 5A is the replacement unit which was permitted and began operation in 2001 and has been filing ARP quarterly reports since 2001. Unit 5A, which is treated in the state rule as an existing unit and receives a NO_x allocation for the annual and ozone season, should be listed in EPA's allocation table. Kansas City Power & Light provides heat input data for 2001 through 2004 for Unit 5A.

Response: Both units are subject to CAIR. Unit 5A was considered a new unit and not included in the CAIR NO_x FIP existing unit inventory because it began operation in 2001. An existing unit in the CAIR NO_x FIP is any unit which commenced operation prior to January 1, 2001.

Objector: East Kentucky Power Cooperative; EPA-HQ-OAR-2004-0076-0289

Objection: East Kentucky Power Cooperative (EKPC) objects to EPA's failure to include Dale (ORIS 1385) Units 1 and 2 in the CAIR FIP allocations. EPA has alleged that the units are currently subject to the Acid Rain Program and NO_x Budget Program, and an enforcement action is pending on this matter. This objection is not a waiver of any arguments or defenses EKPC may have with regards to issues raised in the enforcement action, and should not be construed as an admission of liability.

Response: The units have been added to the existing unit allocation inventory.

Objector: JCI/Trigen Energy Corporation; EPA-HQ-OAR-2004-0076-0309

Objection: Trigen Schuylkill and Edison stations in Philadelphia, Pennsylvania, are no longer electrical generating units (since the late 1990s). Accordingly, Trigen is not being captured under the allocations since no EIA forms have been submitted.

Response: Affected EGUs are units that at any time since the later of November 15, 1990, or the start up of the unit's combustion chamber have been connected to a greater than 25 MW generator and have sold electricity. The Trigen Schuylkill and Edison stations have been added to the allocation inventory. Heat input data reported to CAMD under the OTC and NBP will be used for allocations.

1.3 Units to Remove/Exclude

Objectors: Georgia EPD; EPA-HQ-OAR-2004-0076-0241. Georgia Power; EPA-HQ-OAR-2004-0076-0242.

Objection: Georgia Department of Natural Resources, Environmental Protection Division (EPD) and Georgia Power object to the inclusion of Plant Dahlberg in Houston County, Georgia, (ORIS 7709) and Hartwell Energy LP (ORIS 54538) since these facilities do not exist, nor have they ever existed. Based on EIA data, ORIS 7709 pertains to Georgia Power Plant Dahlberg in Jackson County, Georgia. EPD notes that Harwell Energy Facility (ORIS 70454) does exist.

Response: The units at ORIS 7709 and ORIS 54538 have been removed from the CAIR FIP existing unit inventory.

Objectors: Georgia EPD; EPA-HQ-OAR-2004-0076-0241. Georgia Power; EPA-HQ-OAR-2004-0076-0242. Weyerhaeuser; EPA-HQ-OAR-2004-0076-0265 and 0310.

Objection: Objectors object to the inclusion of Weyerhaeuser-Port Wentworth in Chatham County, Georgia, since this facility should be classified as an exempt cogeneration facility. Weyerhaeuser notes that this facility is identified in EPA's database under its former name "Stone Savannah" (ORIS 50804) and that the operating permit limits the facility to selling 202,064 MWh of electricity calculated as a rolling 12-month average. EPD notes that the units at the facility do not combust fossil fuels during the generation of electricity and that the MWh of the electric output to any utility power distribution system for sale during any consecutive 12-month period is limited to less than one-third of the generator's capacity by Permit Condition 3.2.2 in Permit No. 2611-051-0010-V-01-1 (issued 12/17/2003). Objectors provide additional discussion and supporting documentation.

Response: The Weyerhaeuser-Port Wentworth units, listed in the NODA as Stone Savannah 4 and RE01, have been removed from the CAIR NO_x FIP unit inventory.

Objector: Michigan Department of Environmental Quality; EPA-HQ-OAR-2004-0076-0243

Objection: The Holland BPW units 7, 8, and 9 are double counted. The listing for 48th St Peaking Station (ARP, NBP) is the same as the listing for 491 E 48th Street (EIA). The City of Marshall units listed in the ozone season table should be excluded because they are less than 25 MW. MDEQ also confirms that the following "possibly exempt" units are subject to the cogeneration exemption: Escanaba Paper Company (boilers 7 through 11), International Paper Quinnesec Michigan Mill (PB, RB, and WTB), and S.D. Warren Muskegon (4PB).

Response: The duplication of the Holland BPW, 491 East 48th St plant units has been corrected. The City of Marshall units have been removed from the CAIR NO_x FIP unit inventory. EPA also appreciates the MDEQ confirmation of the Escanaba Paper Company, S.D. Warren Muskegon, and International Paper Quinnesec Michigan Mill status. These units did not receive allocations in the NODA.

Objector: Exeter Energy; EPA-HQ-OAR-2004-0076-0248

Objection: Exeter Energy objects to the inclusion of the Exeter Energy waste tire incineration units in the allocation tables in the NODA. Each of these units qualifies as a "solid waste incineration unit" and should not be considered as fossil-fuel fired. Exeter provides additional discussion to support this conclusion.

Response: EPA is conducting an applicability determination for the Exeter Energy waste tire incineration units. It has not yet determined whether they are subject to CAIR. The facility has been left in the inventory of potential existing CAIR units and an allocation has been determined. The pending applicability determination will be posted in the CAIR FIP docket and on EPA's website at <http://www.epa.gov/airmarkets/progsregs/cair/index.html>.

Objector: Massachusetts Department of Environmental Protection; EPA-HQ-OAR-2004-0076-0250

Objection: Certain Massachusetts sources currently listed as affected units in the NODA may not meet the CAIR applicability requirements with respect to the sale of electricity to the grid including: MWRA Deer Island, ORIS 10823, Units S42 and S43 (electricity has never been sold to the grid even though the permits were modified in 2002 to allow for this); and South Boston Combustion Turbines, ORIS 10176, Units A and B (electricity has not been sold until recently -- EPA should review the dates of electricity sale to verify applicability). These four units were not originally included in EPA's NEEDS-derived "Draft CAIR Trading Rule Inventory." In addition, Waters River, ORIS 1678, Unit 1 is not a CAIR unit since its capacity is not greater than 25 MW.

Response: The Deer Island and Waters River units have been removed from the CAIR NO_x FIP inventory. The South Boston turbines have sold electricity in the past (2000 EIA form 860b),

and the generator is listed as capable of selling power to the grid (2004 EIA form 860). Therefore, the South Boston units will remain in the CAIR NO_x FIP existing EGU inventory.

Objector: Xcel Energy; EPA-HQ-OAR-2004-0076-0252

Objection: There are four boilers at the High Bridge facility in Minnesota (ORIS 1912, Boilers 3, 4, 5, and 6). Boilers 5 and 6 provide steam to generators for the production of electricity. However, boilers 3 and 4 do not provide steam to generators and have not done so since September 1989. Steam from boilers 3 and 4 is currently sent off-site for industrial use. Since these two boilers permanently discontinued serving a generator prior to November 15, 1990, they are not CAIR NO_x units and should not be included in the NO_x allocations data.

Response: Units 3 and 4 are Acid Rain units. EPA assumed that all Acid Rain units, except opt-in units, were subject to CAIR. The units have been removed from the CAIR NO_x FIP unit inventory.

Objector: Conectiv; EPA-HQ-OAR-2004-0076-0255

Objection: Middle Street (ORIS 2382) Units 3001 and 4001 should be removed from the list of affected units since they have a nameplate capacity of less than 25 MW. In addition, the Pedricktown Cogeneration Plant (ORIS 10099) Unit 1001 should also be removed as an affected unit since it is an exempt cogeneration unit based on its annual generation, which is below 219,000 MWh.

Response: The Middle Street Units 3001 and 4001 were removed from the list of affected units. A review of the EIA data showed that an error was made in associating the unit CAMD IDs with the proper EIA generator ID. The Pedricktown Cogeneration Plant Unit 1001 is currently an Acid Rain unit. EPA assumed that all Acid Rain units, except for opt-in units, were subject to CAIR. The 2000 EIA sales for the unit were below 219,000 MWh, and the 1999 sales over 219,000 MWh were below one-third of the potential annual generating capacity. If a unit does not meet the cogeneration unit exemption requirements under the Acid Rain Program, it will not meet them under the CAIR program. If Pedricktown continues to feel it has been mistakenly included in the CAIR inventory, it should submit evidence explaining why it does not qualify for the ARP cogeneration exemption. For the time being, EPA will consider the unit as a potential CAIR affected unit for purposes of the FIP.

Objectors: ISG Sparrows Point LLC; EPA-HQ-OAR-2004-0076-0261. Mittal Steel USA; EPA-HQ-OAR-2004-0076-0286

Objection: The Sparrows Point, Pennwood Boilers No. 1 through 4 (ORIS 10485), should not be included in the allocation tables for the CAIR FIP since these units are subject to the cogeneration unit exemption. The Sparrow Point units do not produce electricity for sale. In addition, units at four other Mittal Steel USA facilities do not produce electricity for sale, or have sales less than the cogeneration exemption level (ISG Cleveland, Mittal Steel USA Wierton, ISG Burns Harbor, and IHW). ISG Sparrows Point and Mittal Steel USA provide significant

additional discussion and documentation to support their conclusion that the cogeneration exemption applies.

Response: EPA is conducting an applicability determination for the ISG Sparrow's Point Pennwood boilers 1 - 4. It has not yet determined whether the units are subject to CAIR. They have been left in the inventory of potential existing CAIR units and an allocation has been determined. The pending applicability determination will be posted in the CAIR FIP docket and on EPA's website at <http://www.epa.gov/airmarkets/progsregs/cair/index.html>.

Objector: North Carolina Department of Environment and Natural Resources; EPA-HQ-OAR-2004-0076-0262

Objection: The Tobaccoville facility in North Carolina is shut down.

Response: Units that have shut down but have operated during the baseline period receive existing unit allocations under the CAIR NO_x FIP. The Tobaccoville facility units have heat input during the 2000 - 2004 baseline period, so these units will remain in the existing unit allocation inventory.

Objector: Texas Commission on Environmental Quality (TCEQ); EPA-HQ-OAR-2004-0076-0264

Objection: TCEQ notes that there are 12 units that should be removed from the NODA allocations for various reasons. There are eight duplicate units (VH Braunig, CT 1 and 2; Blackhawk Station, Units 001 and 002; Hidalgo Energy Center, Units CTG1 and CTG2; and Twin Oak, Units 1 and 2) that should be removed. There are two units that are exempt from CAIR since their MW capacity is below 25 MW (Chocolate Bayou, Unit GEN1, and Sam Bertron, Unit GT1), one unit that is not a CAIR unit (Texas City Cogen, Unit GEN4 -- assumed to be a steam turbine), and one unit that does not supply power to the grid (Texas City Union Carbide, Unit GEG). All of these units should be removed from the list of affected units with allocations under the CAIR FIP. TCEQ provides additional explanation and information on these units.

Response: The duplicate units have been removed from the CAIR NO_x FIP unit allocation inventory. The Texas City Cogen Unit GEN4 has also been removed from the CAIR NO_x FIP unit allocation inventory. The EIA form 860 database shows that Chocolate Bayou Gen 1 and Sam Bertron GT1 have nameplate capacities greater than 25 MW. Chocolate Bayou Gen 1 at ORIS 10154 is listed as a 41 MW gas turbine, and Sam Bertron GT1 (ORIS 3468) is listed at 32.6 MW. Both of these have been retained in the unit allocation inventory. (See list in NODA Applicability Objections.xls.)

Objector: Texas Commission on Environmental Quality (TCEQ); EPA-HQ-OAR-2004-0076-0264

Objection: TCEQ notes that the Guadalupe Generating Station, Unit CTG-4, is listed as existing. However, it is considered new since it came online after January 1, 2001.

Response: The unit has been removed from the existing unit allocation inventory.

Objector: Sappi Cloquet LLC; EPA-HQ-OAR-2004-0076-0269

Objection: The Sappi Cloquet Mill has four units (#7, #8, and #9 power boilers and #10 recovery boiler) that were listed as "possible exempt cogeneration sources." Sappi Cloquet LLC provides additional information on these units and the associated steam turbine generators to confirm that they are exempt from CAIR as cogeneration units.

Response: The units will not be included in the CAIR NO_x FIP inventory.

Objector: Smurfit-Stone Container Enterprises, Inc.; EPA-HQ-OAR-2004-0076-0270 and 0275

Objection: The Stone Container facility (ORIS 50806) in South Carolina should not be listed as an EGU and should not be subject to CAIR. The No. 4 Power Boiler (PB4) is a cogeneration boiler that is exempt from CAIR since the thermal efficiency is above 42.5% (topping-cycle cogenerator) and annual power sales are less than one-third of the generating capacity. Smurfit-Stone Container calculates the one-third generating capacity as 33% of the boiler rated heat input, and uses net power sales in calculating annual sales as a percent of potential capacity. Smurfit-Stone Container acknowledges that SCDHEC is including this unit as a non-EGU in the state CAIR NO_x ozone season program (independent of CAIR) and provides additional discussion and documentation to support its assertion.

Response: Smurfit-Stone Container Enterprises based its assessment of the facility's qualifying cogeneration status on net sales. When calculating units' total sales for purposes of determining CAIR cogeneration status, the value used is total sales (not net sales). Based on the 1999 and 2000 EIA data that EPA used for determining whether a unit met the sale qualifying requirements for CAIR cogeneration units, PB4 supplied more than one-third of its potential electric output capacity and more than 219,000 MWh annually to the grid for sale.

Objector: Reliant Energy; EPA-HQ-OAR-2004-0076-0272 and 0277

Objection: There are numerous units in Pennsylvania and New Jersey that are not subject to CAIR since they have a nameplate capacity less than 25 MW. Reliant Energy provides a complete list of these units along with their associated nameplate capacities.

Response: All of the units identified as too small to be subject to CAIR are not included in the CAIR NO_x FIP unit allocation inventory except for Ortanna (ORIS 3112) gas turbine unit 1.

Reliant Energy objected that the nameplate capacity for the unit (its unit 031) is 23.58 MW, while the EIA form 860 for 2005 lists a nameplate of 27 MW for unit 1. EPA will continue to use the nameplate capacities reported to EIA for non-ARP units. If Reliant wishes to be removed from the inventory, then it must submit a data correction to EIA with supporting evidence of its actual nameplate capacity. Because the EIA 860 data indicates that the Ortanna unit has a nameplate capacity greater than 25 MW, EPA will retain the unit in the inventory of potential CAIR units for purposes of the FIP.

Objector: Calpine Corporation; EPA-HQ-OAR-2004-0076-0273

Objection: The two units at Calpine's Hidalgo Energy Center appear to be listed twice -- once with EIA ORIS 55545 and again with CAMD ORIS 7762.

Response: The duplicate units with EIA ORIS of 55545 were removed from the CAIR NO_x FIP unit allocation inventory.

Objector: Tennessee Department of Environment and Conservation (TN DEC); EPA-HQ-OAR-2004-0076-0278

Objection: There are four units operated by Packaging Corporation of America (PCA) that are listed as potentially exempt cogeneration units. All of the electricity generated by these units is used on-site and additional power is purchased from TVA. Tennessee Department of Environment and Conservation (TN DEC) confirms that these units should be considered exempt cogeneration units.

Response: The units will be considered non-EGUs and will not be included in the CAIR NO_x FIP program.

Objector: Smurfit-Stone Container Enterprises, Inc.; EPA-HQ-OAR-2004-0076-0313

Objection: The number 5 recovery furnace at the Stone Container facility (ORIS 10017) in West Point, Virginia, is exempt based on the current cogeneration exemption, if the heat in smelt is included as useful thermal energy in the efficiency calculation. All three (PB10, RF4, and RF5) units at the facility are exempt if EPA adopts the revised cogeneration exemption language EPA proposed on April 25, 2007.

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule. EPA has taken this rule change and the objections submitted by Smurfit-Stone Container Enterprises in response to the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for allocation purposes. The three units identified in the objection are not included in the NODA allocation tables as potential CAIR affected units.

2. Allocations: Heat Input and Fuel/Adjustment Factor Data

Objector: Midwest Generation; EPA-HQ-OAR-2004-0076-0235 and 0295

Objection: Midwest Generation submits objections on the oil/gas multiplier used for certain Collins Station units. Units 1, 2, and 3 burned greater than 15% oil in 2001, 2003, and 2004. Units 4 and 5 also burned greater than 15% oil in the year 2001. Midwest Generation notes that its objections stem from the fact that EPA was unable to identify whether a unit was an oil-fired unit for the year if the EDR had reported that the primary fuel was natural gas as stated on FR page 44288. Additional data were provided for each of the units and years cited above with respect to oil consumption (in gallons and mmBtu), gas consumption (in kcuft and mmBtu), and percent oil use. Midwest Generation notes that the total heat input derived from fuel sampling and analysis slightly differs from the Part 75 CEM flow monitoring derived heat inputs, and based on the data it provides, requests that the fuel adjusted heat inputs use a factor of 0.60 instead of 0.40. A summary of corrections for the revised baseline and adjusted heat input data are provided.

Response: EPA has changed the oil/gas designation for the Midwest Generation units and recalculated fuel adjusted heat input as requested. (See NODA Heat Input Objections.xls.)

Objector: Dynegy Northeast Generation; EPA-HQ-OAR-2004-0076-0236

Objection: Dynegy Northeast Generation notes a discrepancy in the primary fuel listed for Dynegy Danskammer, ORIS 2480, Unit ID 1 and Unit ID 2. These units are listed with "Pipeline Natural Gas" as the primary fuel when, by definition, for the period in question, they should be listed as "Residual Oil" units. Per the Acid Rain Program definitions in Part 72, there must be combustion of "at least 85% of the annual heat input in each of those calendar years." Dynegy provides supporting documentation to indicate that the gas contribution in each year from 2000 through 2004 was far less than 85%. These units seldom run and the need to edit their primary fuels in the monitoring plans had gone unnoticed. Dynegy notes that the Total Annual Heat Input values are those correctly listed in the NODA.

Response: EPA accepts the fuel designations, and has changed the fuel adjustment factor from gas to oil for the two Danskammer units. Baseline adjusted heat input values have been recalculated to reflect the application of the oil adjustment factor. (See NODA Heat Input Objections.xls.)

Objector: Wisconsin Public Service Corporation; EPA-HQ-OAR-2004-0076-0237

Objection: There is an allocation error associated with West Marinette, ORIS 4076, Units 31 and 32, which both received an allocation of zero. The CAIR Adjusted Heat Input data are incorrect in the NODA allocation spreadsheet, due to both an incorrect adjustment factor and incorrect heat input values. The correct adjustment factor for these units is 0.40 (instead of the factor near zero that was applied). This inaccuracy applies to both the annual and ozone season

heat input data. Wisconsin Public Service Corporation provides revised heat input data and adjustment factors for these units.

Response: EPA has accepted the revised heat input data and adjustment factor for the combustion turbine units. The zero allocation for the units was due to the methodology used to apportion EIA plant-level combustion turbine heat input data to non-Acid Rain units at plants with both Acid Rain and non-Acid Rain turbines. (See NODA Heat Input Objections.xls.)

Objector: Maryland Department of the Environment; EPA-HQ-OAR-2004-0076-0238

Objection: The Chalk Point Turbine #2 data used for the CAIR FIP budget for the 2000 and 2001 ozone seasons do not correlate to either the hourly emissions data for that unit on the Clean Air Markets website or the data in PEPCO's emissions certification reports on file with MDE. The MDE heat input data for 2000 and 2001 are 22,260 and 23,940 mmBtu, respectively (while the FIP uses 71,713 and 1,260 mmBtu, respectively). Also, Chalk Point's "SMECO turbine" and "CT2" annual data in the FIP appear lower than the ozone season data, which presents a potential problem with the FIP annual data.

The oil-fired gas turbines at Perryman and Morgantown have identical heat inputs in the FIP for all four units at each site. Individual unit data can be used to better reflect emissions as the FIP may be over-estimating emissions.

Westport's "CT5" annual 2000 heat input data in the FIP does not correlate to any emissions data for that year.

Response: The Chalk Point Turbine #2 did not report heat input to CAMD in 2000, and the 2001 data in the NODA match the CAMD data. EPA has revised the 2000 data based on Maryland's objection, but not the 2001 heat input from the CAMD ozone season database. The objector noted that SMECO and CT2 annual heat input for some years are lower than corresponding ozone season heat input. The annual heat input data are based on EIA plant-level combustion turbine heat input that included Acid Rain unit heat input. In order not to double count the Acid Rain heat input, EPA subtracted the Acid Rain heat input in the CAMD data from the EIA heat input data. The remaining heat input was apportioned equally to the non-Acid Rain turbines. This can result in a misallocation between units at a plant. The total annual allocations, however, for the Chalk Point Acid Rain and non-Acid Rain turbines are greater than the ozone season allocation and no changes have been made.

Individual unit annual heat input data from CAMD or EIA were not available for the non-Acid Rain turbines at Perryman and Morgantown, and none has been provided. The identical heat input reflects plant-level EIA data that have been allocated equally to each unit as described above with regards to the Chalk Point turbines.

The Westport turbine CT5 is also a non-Acid Rain unit that was an ozone season only reporter under the OTC program. Only EIA annual data were available for this unit, and no other data have been provided. The three year annual average heat input based on EIA data is

less than the ozone season average based on CAMD data reported under the OTC and NBP program. The result, unlike for Chalk Point, is both an annual unit and plant allocation less than the ozone season allocation. For this unit, EPA has substituted CAMD ozone season heat input data for the EIA annual data in years when the CAMD ozone season heat input was larger.

Objector: CMS Generation; EPA-HQ-OAR-2004-0076-0239

Objection: CMS Generation provides revised annual and ozone season heat input data for units at Genesee Power Station LP and Grayling Generating Station (both biomass-fired), TES Filer City Station (coal-fired, also burns petroleum coke, wood, and tire-derived fuel), and Dearborn Industrial Generation (three natural gas/blast furnace gas fueled boilers). CMS provides some discussion as to why the revised values may differ from those in the NODA, but is not sure of the reason for the unusually large heat input values for Genesee (2004) and Grayling (2001) in the NODA table. CMS multiplied the heat input values for Genesee, Grayling, and the Dearborn units by 40% since these units are not fueled by coal or oil, and multiplied the TES Filer City Station data by 100% since those units are coal-fired. The revised data are based on CEM and/or fuel sampling data, have been submitted to MDEQ as part of the annual emission inventory reporting under MAERS, and have been rechecked several times.

Response: A review of the EIA based calculations did not identify any errors in the annual data, but EPA has found an error in the ozone season heat input values in the NODA that were based on EIA form 767 data for the 2002 through 2004 period. EPA has corrected this problem and has revised all of the EIA based boiler heat input for 2002 through 2004. EPA has also accepted the heat input values provided by CMS Generation and revised the baseline heat input for the three plants.

Objector: Inter-Power/AhlCon; EPA-HQ-OAR-2004-0076-0240

Objection: The NODA includes incorrect heat input data for the Colver Power Project. Inter-Power/AhlCon provides revised data in an attachment to its letter: 2001 EIA-767, Plant Code 10143 (Colver), Schedule 4 - Part A, Boiler ABB01, fuel quantity and quality. Inter-Power/AhlCon noted that it provided revised Form 767 data to EIA, which subsequently corrected the information in its data set.

Response: EPA has revised the 2001 heat input based on the correction of the EIA data.

Objector: Michigan Department of Environmental Quality; EPA-HQ-OAR-2004-0076-0243

Objection: MDEQ notes that some of the heat input data are inconsistent with its records (i.e., Holland BPW, units 7, 8, and 9; City of Detroit-Mistersky, units 5, 6, 7, and GT-1; and Dearborn Industrial Generation, unit GTP1), but does not suggest any specific revisions, adding that the specific revisions to the heat input data are best left to the individual sources.

Response: EPA did not receive revised heat input data from the individual sources. No change has been made to the baseline heat input data for these units.

Objector: ADEM; EPA-HQ-OAR-2004-0076-0244

Objection: Alabama Department of Environmental Management (ADEM) submitted a revised list of allocations for the entire state, noting that these allocations will be included in its SIP. ADEM did not cite specific revisions, but simply requested that EPA replace the existing Alabama allocations with the ADEM allocations provided as an attachment to its letter.

Response: EPA did not receive any changes to the baseline heat input data. Therefore no changes were made in response to Alabama's request.

Objector: Engineering, Compliance & Construction, Inc. (ECCI); EPA-HQ-OAR-2004-0076-0245, 0316, and 0318

Objection: Engineering, Compliance & Construction, Inc. (ECCI) requests that EPA allocate allowances to two units at Jonesboro CWL: Units 3 and 4. Unit 3 is an "existing" unit that operated in 2001 through 2004 on natural gas and diesel. Unit 4 is a "new" unit with regards to CAIR and operated in 2003 and 2004 on natural gas and diesel. ECCI provides baseline ozone season heat input information and supporting documentation obtained from biennial certified reports and records required by the state-issued Air Permit. The heat input calculations are based on the units' MWh output and the heat rate claimed by the manufacturer.

Response: Unit 4 is a new unit and therefore was not added to the existing unit allocation inventory. Unit 3 has been added to the inventory. These are both Acid Rain units, but were not in the CAMD or EIA database, and therefore there is no heat input information from these data sources. The initial heat input data supplied by the objector are estimates based on electric output converted to heat input based on an equipment specification from the manufacturer. Subsequently, ECCI provided 2 more objection letters with corrected annual and ozone season heat input values for its units. ECCI also submitted these data to EIA. EPA has incorporated the ozone season heat input values provided in ECCI objection letters into the allowance calculations for unit 3.

Objector: Madison Gas & Electric; EPA-HQ-OAR-2004-0076-0249

Objection: The NODA did not include 2004 data for the Fitchburg facility in Wisconsin (ORIS 3991). Madison Gas & Electric provides heat input (and adjusted heat input) data for Units 1 and 2 for the year 2004 based on FERC Form 1 data, and requests that EPA update the allocations for these units accordingly.

Response: EPA has not accepted the annual 2004 data provided by Madison Gas & Electric for the Fitchburg facility units, as no information was provided as to why the data were not in the EIA database. See generally 71 FR 44283, 44290 for EPA's description of the supporting

information required to accept objector's data in place of data reported to EPA or EIA. (See NODA Heat Input Objections.xls.)

Objector: Massachusetts Department of Environmental Protection; EPA-HQ-OAR-2004-0076-0250

Objection: EPA should use available EDR data before relying on EIA data. In Massachusetts, EIA data were used for the following units even though the facility has submitted data through its EDR: MWRA/Deer Island, ORIS 10823, Units S42 and S43 (2000 and 2001); Medway, ORIS 1592, Units J1T1, J1T2, J2T1, J2T2, J3T1, and J3T2 (2000 and 2001); South Boston Combustion Turbines, ORIS 10176, combustion turbine units A and B (2000 and 2001); and Water River, ORIS 1678, Unit 1 (2002). MA DEP notes that using the web-based query database to develop the CAIR NODA allocations may not yield accurate allocations since the EDR data are not automatically updated within that database. EPA should re-calculate the allocations using EDR data rather than its web-based query database.

Response: EPA directly queried the updating CAMD database for allocation heat input data, which consists of data submitted by the sources in their EDRs. MWRA/Deer Island, Medway, and South Boston units did not report heat input for 2000 and 2001 in the CAMD database, and similarly Water River unit 1 did not report heat input in 2002. EPA has also updated all of the non-Acid Rain unit annual allocations for OTC and NBP units that have data submitted to CAMD on a 12-month basis to use the CAMD data in place of the EIA data, if available.

Objector: Schuylkill Energy Resources, Inc.; EPA-HQ-OAR-2004-0076-0251

Objection: The 2002, 2003, and 2004 ozone season heat input data in Table 6 for the St. Nicholas Cogeneration Project (ORIS 54634, Unit 1) are inconsistent with the data presented in Table 4. The heat input for the month of May could have been inadvertently omitted when the monthly ozone season heat inputs in the Table 6 spreadsheet were compiled. The data in Table 4 are correct and should also be used in Table 6.

Response: There was an error in the Table 6 ozone season heat input calculations for the years 2002 - 2004. The error has been corrected and the EIA based ozone season heat input in Table 6 has been updated. The data in Table 6, however, had not been used for the St. Nicholas Cogeneration Project ozone season allocation. The ozone season allocation was and is still based on ozone season heat input data reported to CAMD.

Objector: Xcel Energy; EPA-HQ-OAR-2004-0076-0252

Objection: Boilers 1 and 2 at Bay Front (ORIS 3982) in Wisconsin should be listed as "coal-fired" and the baseline heat input data should be adjusted accordingly. These two boilers burn coal, wood waste, shredded tire, and natural gas in varying quantities each year. Even though Part 75 data reported for ARP list the primary fuel for units 1 and 2 as wood, coal is listed as a secondary fuel. Also, EIA 767 data for the baseline years of 2000 through 2004 show that coal was burned in each of these boilers during all of these years. These units meet the definition of

coal-fired and as such, the total baseline heat input should be identical to the adjusted baseline heat input (with an adjustment factor of 1.0).

Response: EPA based the adjustment factor on the Part 75 monitoring plan primary fuel. EPA agrees with Xcel Energy, and has recalculated the adjusted baseline heat input for Bay Front Boilers 1 and 2 using the coal adjustment factor of 1.0. (See NODA Heat Input Objections.xls.)

Objector: Xcel Energy; EPA-HQ-OAR-2004-0076-0252

Objection: The EIA data that EPA are using for non-ARP units are reported by facility totals, and as such, it will be difficult to determine from that data the heat input that should be used for French Island, Units 3 and 4 in Wisconsin (see objection summary in the preceding applicability section that requests the inclusion of these units). In addition, the existing data in the NODA for the Wheaton units in Wisconsin (units 1 through 6) are incorrect due to the use of EIA data. Xcel Energy provides heat input data that should be used for both the French Island and Wheaton units when these are added to the allocation tables.

Response: EPA has revised the baseline heat input for the French Island and Wheaton combustion turbines to reflect the data submitted by Xcel Energy. Xcel Energy correctly noted that the EIA data available to EPA were only available at the plant level for combustion turbines. (See NODA Heat Input Objections.xls.)

Objector: FPL Energy; EPA-HQ-OAR-2004-0076-0253

Objection: The 2000 heat input data in the NODA should be revised for the Cherokee County Cogeneration partners, LP (CCCP) facility in South Carolina. FPL Energy provides a revised (slightly lower) value. In addition, the heat input data for the Doswell Limited Partnership (DLP) facility in Virginia should also be revised. FPL Energy provides revised data based on the Annual Emissions Report that it submitted to the Virginia DEQ. These revised data provide the missing information for the year 2000 and revised heat input values for all other years.

Response: FPL Energy provided adjusted heat input values that were incorrectly calculated. The provided adjustments were based on applying the gas and oil factors to the separate gas and oil heat input for each year. For the Doswell facility, EPA recalculated the adjusted heat input by applying a gas or oil fuel adjustment factor to the total heat input for each year based on whether oil contributed 15% or more of the heat input in the year. The adjusted baseline heat input has been revised for the Doswell units based on the recalculated FPL Energy information, replacing EIA plant level heat input that included Acid Rain turbines at the plant. EPA did not revise the heat input for the Cherokee County Cogeneration unit. The NODA heat input was based on CAMD data and is similar to the objection. (See NODA Heat Input Objections.xls.)

Objector: South Carolina Department of Health and Environmental Control (SCDHEC); EPA-HQ-OAR-2004-0076-0254

Objection: There are a number of South Carolina facilities and units for which the heat input and allocations data should be revised. SC DHEC provides a comprehensive list of units and their associated heat input and allocations data and notes that it intends to include these data in the CAIR NO_x annual and NO_x ozone season trading programs. SC DHEC also notes that its initial allocations will be based on the single highest heat input for the years 2002 through 2005.

Response: The units, other than the Smurfit unit in Florence, identified by South Carolina are either non-EGUs or new units under the CAIR NO_x FIP. These non-EQU and new units have not been added to the existing unit allocation inventory. (See NODA Applicability Objections.xls.) EPA did not use the 2004 ozone season heat input provided by South Carolina to revise the Smurfit unit PB4 heat input. The 2004 ozone season heat input for the unit is based on NBP data in the CAMD database.

Objector: Conectiv; EPA-HQ-OAR-2004-0076-0255

Objection: There are a number of Conectiv facilities for which the heat input data should be revised. Conectiv provides a comprehensive list of these revisions based primarily on CAMD data for both the ozone season and annual NO_x allocations.

Response: EPA has accepted the Conectiv data revisions to the adjustment factor fuel type or where EIA data are replaced by CAMD data, and has updated the adjusted baseline heat input values for these facilities. The CAMD based heat input values have not been changed, unless there was a change in the fuel adjustment factor. (See NODA Heat Input Objections.xls.) EPA has not added the Conectiv heat input data in place of missing EIA data for the Tasley plant in Virginia. Conectiv did not explain the basis for the data, or reasons why the EIA information was missing. See generally 71 FR 44283, 44290 for EPA's description of the supporting information required to accept objector's data in place of data reported to EPA or EIA.

Objector: Florida Department of Environmental Protection; EPA-HQ-OAR-2004-0076-0258 and 0317

Objection: Florida has numerous emission units for which the primary fuel is natural gas, but would be considered oil-fired for individual years. Making this adjustment would alter the NO_x allocations. Allocations should be recalculated to reflect the proper fuel adjustment. Florida Department of Environmental Protection notes that if the fuel use data are not available through the national databases, it can provide such data for Florida sources.

Response: EPA has received the revised fuel adjustment factors from Florida (EPA-HQ-OAR-2004-0076-0317), and has updated the annual and ozone season adjusted baseline heat input calculations for the Acid Rain units based on Florida's submittal. EPA also revised the annual baseline fuel and heat input for non-Acid Rain units if a match could be made between the Florida unit ID and EPA unit ID. The revised non-Acid Rain annual heat input units were

combustion turbines for which EPA originally relied on plant-level EIA data. Changes were not made to the ozone season allocations for these units, since that information was not provided. (See NODA Heat Input Objections.xls.)

Objector: Florida Power and Light (FPL); EPA-HQ-OAR-2004-0076-0259

Objection: Unit annual heat input data for FPL combustion turbines contain several errors and omissions with respect to the unadjusted and adjusted heat input data at the following facilities: Fort Myers Plant (ORIS 612) Units GT1 - GT12, Port Everglades Plant (ORIS 617) Units GT1 - GT12, Lauderdale Plant (ORIS 613) Units GT1 - GT 24. In addition, the CAIR fuel adjustment type was incorrect for the Fort Myers Plant GT1 - GT12 for the years 2001 through 2004, as these units have oil capability only. FPL requests that EPA use the data provided by FL DEP for peaking unit heat input data for the annual and ozone season NO_x allocations.

Response: FPL was contacted for a copy of the referenced FL DEP data, but it did not submit the data to EPA. EPA did receive revised fuel adjustment factors and annual heat input data from FL DEP (EPA-HQ-OAR-2004-0076-0317) and used that data to change the fuel adjustment factors and annual heat input. (See NODA Heat Input Objections.xls.) EPA did not change the ozone season CAIR fuel or heat input, as this information was not provided in the FL DEP submittal.

Objectors: ISG Sparrows Point LLC; EPA-HQ-OAR-2004-0076-0261. Mittal Steel USA; EPA-HQ-OAR-2004-0076-0286

Objection: ISG Sparrows Point and Mittal Steel USA provide revised annual and ozone season heat input data for the four Sparrows Point boilers. The revised data are from the Emission Certification Reports submitted to the Maryland Department of Environment under the Title V Air Quality Operating Permit, and combine the heat input for the four boilers. The CAIR primary fuel is blast furnace gas.

Response: The heat input data submitted in the objections were for the combined boilers, and the CAIR adjusted fuel heat inputs were calculated incorrectly. The objections weighted each fuel by the adjustment factor instead of applying the adjustment factor to the total heat input. EPA corrected the adjusted heat input estimates provided by the objector, and revised the 2000 to 2004 data based on the objector heat input.

Objector: Tennessee Valley Authority (TVA); EPA-HQ-OAR-2004-0076-0268

Objection: TVA notes that for a number of its combustion turbine units, the fuel adjustment factors contained in the spreadsheet are inconsistent with those indicated in the Federal Register NODA (i.e., 2001 Gallatin CT units 1 - 4 fuel adjustment factor of 0.1514 instead of 0.6). With regard to the heat input data, TVA notes that in reviewing the EIA data and comparing them to the heat input data TVA used for TRI reporting purposes, TVA has found that some data reported to EIA has not been properly corrected for annual unit operations and fuel use after periodic inventory reviews are conducted. For TRI reporting purposes, TVA implemented a

more rigorous data collection and quality assurance process that provides more accurate heat input data. In addition, for facilities where there is a mix of units where heat input is based on EIA data and CAMD data, TVA notes that there is the potential for double counting. TVA provides revised heat input and adjustment factor data for 2000 through 2004 that can be used to calculate allocations for Allen, Units 17 - 20; Gallatin, Units 1 - 4; and Johnsonville, Units 1 - 16.

Response: EPA has revised the annual baseline heat input data for the combustion turbines based on the unit data submitted by TVA. (See NODA Heat Input Objections.xls.) EPA's original combustion turbine estimates were based on plant-level EIA data. Also, as noted by TVA, the EIA heat input for Gallatin CT and Johnsonville included both Acid Rain and non-Acid Rain units. To avoid double counting in these situations EPA had subtracted the turbine heat input reported under the Acid Rain Program from the EIA heat input before apportioning EIA heat input to non-Acid Rain turbines. TVA did not provide ozone season data revisions, so no changes have been made to that data.

Objector: Calpine Corporation; EPA-HQ-OAR-2004-0076-0273

Objection: There are a number of Calpine units for which the heat input data are inaccurate, including certain units at the following facilities: Calpine Parlin (ORIS 50799), Calpine Newark Cogeneration (ORIS 50797), Calpine Clear Lake Cogeneration (ORIS 10741), and Texas City Cogeneration L.P. (ORIS 50288). Calpine provides revised heat input data for the units of concern as reported to EPA under Part 75 or to the Texas Commission on Environmental Quality (TCEQ).

Response: EPA has revised the baseline heat input data based on the unit data submitted by Calpine. EPA's original combustion turbine estimates were based on plant-level EIA data. (See NODA Heat Input Objections.xls.)

Objector: Missouri Department of Natural Resources (MO DNR); EPA-HQ-OAR-2004-0076-0274

Objection: MO DNR provides the annual and ozone season heat input for the City of Higginsville dual simple combustion turbines facility that was omitted from the NO_x allocations, and requests that EPA use these data to allocate NO_x allowances to the City of Higginsville. Adjusted heat input is provided for the years 2000 through 2004.

Response: EPA has added the City of Higginsville combustion turbines with the adjusted baseline heat input values supplied by Missouri. (See NODA Heat Input Objections.xls.)

Objector: Panther Creek Partners; EPA-HQ-OAR-2004-0076-0280

Objection: The 2002 ozone season heat input data published for units 1 and 2 at the Panther Creek Energy Facility (ORIS 50776) in Pennsylvania are incorrect. Per a settlement agreement between PA Department of Environmental Protection and Panther Creek dated April 15, 2002,

the installation of a new monitoring system was required under Chapter 145 by May 1, 2003. Since a Chapter 145 system was not available during the 2002 control period, Panther Creek calculated heat input using its existing system. The resulting data were submitted to PA DEP and EPA-CAMD. Panther Creek provides the applicable heat input data for 2002 that should be used to determine allocations under the CAIR FIP (and also provides revised calculations for the heat input based on EIA form 767 in the event that EPA does not concur with the 2002 reported ozone season heat input values).

Response: EPA has revised the Panther Creek Partners 2002 heat input based on the flow monitoring system data submitted with the objection. (See NODA Heat Input Objections.xls.) EPA has found an error in the EIA form 767 ozone season heat input calculations for the 2002 through 2004 period. EPA has corrected the calculations and revised all of the EIA heat input used for boilers for the 2002 through 2004 ozone seasons. The revised EIA heat input matches the EIA form 767 data correction provided by Panther Creek Partners.

Objector: Gilberton Power Company; EPA-HQ-OAR-2004-0076-0282

Objection: The annual and ozone season heat input values for Gilberton Power (ORIS 10113) need to be revised. In addition, there is a discrepancy in the EIA ozone season heat input data on the FIP allocations spreadsheet. Under the tab "T6-EIA Ozone Season Heat Input" the values for years 2002, 2003, and 2004 are substantially lower than the values shown on tab "T2-Ozone Season Unit NO_x Allocation" for Gilberton Power. It appears that one full month of data were omitted on tab T6 for these three years. Gilberton Power Company provides revised heat input data for Boilers #1 and #2.

Response: EPA has revised the 2000 annual and ozone season heat input values for Boilers #1 and #2, as provided in the Gilberton Power Company objection. (See NODA Heat Input Objections.xls.) The original values were based on plant level heat input data from EIA. The 2001 through 2004 data have not been revised. The annual objector data are similar to the EIA based unit data, and ozone season data for 2002 to 2004 are based on data reported to CAMD under the OTC and NBP. See generally 71 FR 44283, 44290 for EPA's description of the supporting information required to accept objector's data in place of data reported to EPA or EIA.

Objector: North American Energy Services; EPA-HQ-OAR-2004-0076-0283

Objection: The heat input data for Fortistar North Tonawanda LLC should be revised. The heat input information available from EIA for 2002 is incomplete and does not represent actual facility operations. This non-ARP facility has reported heat input data on a quarterly basis to CAMD under the NBP for 2000 through 2004, which should be used as the heat input data to develop allocations for the CAIR FIP. North American Energy Services provides revised data as obtained from Data and Maps for this facility.

Response: EPA has replaced the NODA annual heat input data with the CAMD data provided in the objection. (See NODA Heat Input Objections.xls.)

Objector: Midland Cogeneration Venture Partnership; EPA-HQ-OAR-2004-0076-0285

Objection: The Midland Cogeneration Venture Partnership provides revised annual and ozone season heat input data for each of the 12 combustion turbine units at its Michigan facility. The heat input information is from data submitted annually to the Michigan Department of Environmental Quality, and is based on an average heat input rate and hours of operation for each unit. The plant level EIA heat input data used by EPA, apportioned equally to each unit, does not accurately reflect unit operation due to the variation in unit usage at the facility.

Response: EPA has revised the combustion turbine heat input data with the objection unit-level data supplied by Midland Cogeneration Venture Partnership. (See NODA Heat Input Objections.xls.)

Objector: Nelson Industrial Steam Company; EPA-HQ-OAR-2004-0076-0287

Objection: Boiler units 1A and 2A at the R.S. Nelson plant (ORIS 1393) in the allocation table appear to correspond to Units 1 and 2 at the Nelson Industrial Steam Company (NISCO) facility. The heat input data for 2000 are much lower than they should be, and the fuel type listing is incorrect, but this year was not used in the three highest year average. NISCO is continuing to evaluate the ozone season allowance and will submit supplemental data as soon as possible.

Response: The NISCO units were determined to be CAIR affected units in the applicability determination requested by NISCO. (See explanation in above response and on EPA website.) EPA made no change in regards to the 2000 heat input value for units 1 and 2. NISCO stated that it concurs with the allocation, and did not provide alternate values to replace the 2000 heat input and fuel data.

Objector: East Kentucky Power Cooperative; EPA-HQ-OAR-2004-0076-0289

Objection: East Kentucky Power Cooperative (EKPC) objects to EPA's failure to include Dale (ORIS 1385) Units 1 and 2 in the CAIR FIP allocations. (See objection summary in Section 1.2.) Heat input data for these units have been provided to EPA in response to Section 114 requests, and in a petition for an alternative emission accounting method for emissions prior to monitor certification tests. EKPC will provide the data for the allocations directly if EPA identifies what specific data are required.

Response: Dale Units 1 and 2 have been added to CAIR NO_x FIP inventory. Allocations have been calculated for these units.

Objector: PSEG Power, LLC; EPA-HQ-OAR-2004-0076-0291 and EPA-HQ-OAR-2004-0076-0292

Objection: PSEG Power LLC believes that the data in the NODA for its EGUs are not accurate. It has provided heat input corrections in a series of tables, and EIA data submissions. The largest number of corrections is for heat input that was based on data obtained from EIA, and much of

this heat input information for its combustion turbine fleet is incorrect. Its experience has been that data provided to EIA does not match the data posted on EIA's website, and provides EIA form 906 submittal copies. PSEG Power LLC has contacted EIA to request corrections for their posted data. There are also some data entry errors related to data previously submitted to EPA. Also, EPA should use data submitted for the Acid Rain Program and NO_x Budget Program whenever possible.

Response: EPA has revised the annual allocation data for non-Acid Rain Program units to use available heat input data provided by full-year reporters under the OTC trading program and the NO_x SIP Call NBP. EPA has also made revisions to the unit baseline heat input values that are based on EIA data as requested by PSEG Power LLC. (See NODA Heat Input Objections.xls.) Heat input values based on CAMD data have not been revised. Because these data come directly from the current CAMD database, they already incorporate any reporting corrections submitted by a source.

Objector: Finch, Pruyn and Company; EPA-HQ-OAR-2004-0076-0303

Objection: Finch, Pruyn and Company (Finch Pruyn) provides annual and ozone season NO_x allocations for two recovery boilers at its New York facility (ORIS 10511). The recovery boilers were listed as potentially exempt cogeneration units in the NODA, and were not included in the allocation inventory. The allocations are based on the average of each recovery boiler's heat input in 2000 and 2004, multiplied by the 0.40 fuel adjustment factor for gas and other fuels. Finch, Pruyn provides the annual and ozone season average adjusted heat inputs for the two years, and annual heat input values for 2000 and 2004. Finch, Pruyn requests the use of a two year average because the boilers were shut down from mid-2001 to mid-2003 as a result of a labor dispute, and therefore operations from 2001 through 2003 are not representative.

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule. EPA has taken this rule change and the objections submitted by Finch, Pruyn, and Company in response to the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for allocation purposes. The two units identified by Finch, Pruyn in this objection were not included in the inventory as potential CAIR affected units, so no adjustments to heat input values were necessary.

Objector: Georgia-Pacific Corporation; EPA-HQ-OAR-2004-0076-0304

Objection: Georgia-Pacific Corporation provides annual and ozone season heat input data for a coal fired boiler (B25) at its facility in Green Bay, Wisconsin. The boiler was not included in the allocations, as it was listed as a potentially exempt cogeneration unit in the NODA.

Response: EPA has added boiler B25 to the CAIR FIP NO_x allocation inventory, and has accepted the unit level 2000 annual and ozone season heat input data provided by Georgia-Pacific Corporation in place of plant level EIA data. EPA has used unit level EIA data for the 2001 - 2004 baseline years instead of the data provided by Georgia-Pacific Corporation. See generally 71 FR 44283, 44290 for EPA's description of the supporting information required to accept objector's data in place of data reported to EPA or EIA. (See NODA Heat Input Objections.xls.)

Objector: Weyerhaeuser; EPA-HQ-OAR-2004-0076-0310

Objection: Weyerhaeuser provides annual heat input by fuel for seven units at three plants that were not included in the NODA allocations. The units were listed in the NODA as potentially exempt units either because the units were not electric generating units or potentially exempt cogeneration units. Weyerhaeuser provides the data so that the units receive allocations if EPA does not change the cogeneration exemption thermal efficiency requirements. Reliable heat input data were not available for all years during the baseline period, so Weyerhaeuser provides data years that were provided to the states for allocations. The data years for Flint River Operations units covered 2001-2005, for Pine Hill Operations 2003-2006, and 2002-2006 for Columbus Cellulose Fibers. (See NODA Heat Input Objections.xls.)

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule. EPA has taken this rule change and the objections submitted by Weyerhaeuser in response to the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for allocation purposes. Because the seven mills that Weyerhaeuser provided substitute heat input data for were not included in the inventory of potential CAIR units, the heat input data were not needed to determine an allowance calculation.

Objector: MeadWestvaco; EPA-HQ-OAR-2004-0076-0311

Objection: MeadWestvaco identifies two recovery boilers at its Covington, Virginia, facility that were not included in the NODA allocations, and that are cogeneration units that do not qualify for the cogeneration exemption because the units do not meet the exemption thermal efficiency requirements. MeadWestvaco also provides annual heat input data (2003 - 2005) for the two recovery boilers.

Response: In April 2007, EPA proposed to modify the CAIR and CAMR thermal efficiency test to exclude non-fossil fuels from the total energy input calculation. Subsequently, EPA finalized this modification to the definition of "cogeneration unit" to exclude energy input from biomass fuel when calculating efficiency of cogeneration units. This makes it possible for some additional cogeneration units that co-fire biomass to qualify for exemption from the CAIR rule. EPA has taken this rule change and the objections submitted by MeadWestvaco in response to

the CAIR FIP NODA into account when revising the inventory of potential CAIR affected units for allocation purposes. Because the two recovery boilers that MeadWestvaco provided substitute heat input data for were not included in the inventory of potential CAIR units, the heat input data were not needed to determine an allowance calculation.

Objector: International Paper; EPA-HQ-OAR-2004-0076-0312

Objection: International Paper provides annual and ozone season heat input data and requests allocations for 20 units that were not included in the NODA NO_x allocations. The heat input is based on fuel flow records and fuel higher heating values except for eight retired units that have estimated heat input. Only one of the 20 units will be affected by CAIR if EPA adopts the changes to the cogeneration exemption that it proposed on April 25, 2007.

Response: EPA has added the one unit (Hudson River) that is not exempt under the revised cogeneration exemption provisions. EPA did not use the heat input data supplied in the objection. Allocations for the units were calculated based on the 12-month heat input data submitted to CAMD under the OTC and NBP. (See NODA Heat Input Objections.xls.)

3. Unit Identification

3.1 Facility Name Changes

The following objections request changes in the unit or facility identification used in the CAIR NO_x FIP inventory. All of the changes have been made as requested for the non-Acid Rain units.

Objector: North American Energy Services; EPA-HQ-OAR-2004-0076-0283

Objection: The facility name for Oxbow Power Cogeneration changed to Fortistar North Tonawanda Inc. during CY 2002. The CAIR FIP allocations should reflect this change.

Objector: North Carolina Department of Environment and Natural Resources; EPA-HQ-OAR-2004-0076-0262

Objection: The Dwayne Collier Battle Cogeneration facility in North Carolina was sold and is now known as Edgecombe GenCo.

Objection: The facility listed as Rowan County Power, LLC is currently permitted as Progress Energy Woodleaf in the NC DAQ system and in the NC CAIR rules.

Objector: PSEG Power LLC; EPA-HQ-OAR-2004-0076-0291

Objection: PSEG Power LLC noted that the allocation tables have different names for units at the same station. Please change all references to: Burlington Generating Station, Hudson

Generating Station, Kearney Generating Station, Mercer Generating Station, and Seweren Generating Station.

3.2 Unit Discrepancy

Objector: Texas Commission on Environmental Quality (TCEQ); EPA-HQ-OAR-2004-0076-0264

Objection: Texas Commission on Environmental Quality (TCEQ) cites a unit identifier discrepancy: LaPalma, Unit 7 should actually be listed as Unit 6 since Unit 7 was already given to "LAPALMAPOWERSTATION."

Response: LaPalma Unit 7 is a boiler subject to the Acid Rain Program. Unit 7 under the LAPALMAPOWERSTATION listing is a non-Acid Rain combustion turbine.

4. Objections Not Related to the Emission Inventory and Allocation Data

The EPA believes that the objections indicated below do not request emission inventory revisions or revisions to sub-inventory heat input or fuel based heat input information necessary for estimating each unit's allocation. For this reason, these objections are beyond the scope of this NODA, and the Agency is not responding to these objections in this document. EPA had provided the opportunity to comment on many of these out of scope issues during the CAIR and CAIR FIP rulemaking process.

Objector: Southern Environmental Law Center (SELC); EPA-HQ-OAR-2004-0076-0233

Objection: The Southern Environmental Law Center (SELC) submits a petition for reconsideration of EPA's final rule (April 28, 2006) on North Carolina's Section 126 petition. There are three issues on which it was impracticable to raise objections during the public comment period, and for which the grounds for objection arose after the comment period closed. The issues are of central relevance to the outcome of the rule, because they demonstrate that EPA's final rule violates the Clean Air Act. The issues for reconsideration are as follows.

1. EPA must reconsider its finding that no sources in upwind states significantly contribute to nonattainment of the 8-hour ozone NAAQS in North Carolina, because new air quality modeling shows that not only is Mecklenburg County currently failing to attain the NAAQS, it will still violate the NAAQS in 2009.
2. EPA must reconsider its finding that Mecklenburg County is currently attaining the PM_{2.5} NAAQS because current monitoring data show that levels of PM_{2.5} in Mecklenburg County exceed the NAAQS.
3. EPA must reconsider its determination not to separately identify upwind states that interfere with Mecklenburg County's maintenance of the 8-hour ozone and PM_{2.5} NAAQS.

Objector: Colver Power Project, submitted on its behalf by Bracewell and Giuliani, LLC; EPA-HQ-OAR-2004-0076-0234

Objection: The objector submits a petition of reconsideration of the EPA's final rule (April 28, 2006) on North Carolina's Section 126 petition. Specifically, Colver Power Project (Colver) requests that EPA reconsider its treatment of waste coal units under the rule. The CAIR FIP imposes new regulatory requirements that jeopardize the operation of waste coal units. The CAIR FIP rule and record reflect EPA's failure to appreciate the complexity of these circumstances and constitute arbitrary and capricious decision making. They also reflect an agency regulatory approach that contravenes express decisions by Congress to exempt waste coal units and not interfere with their existing obligations under Power Purchase Agreements.

Objector: Connecticut Department of Environmental Protection (CTDEP); EPA-HQ-OAR-2004-0076-0246

Objection: CTDEP notes that Exeter Energy LP (ORIS 50736) is a dedicated tire burning facility in Sterling, Connecticut, and is not subject to the Acid Rain Program or NO_x Budget Program. Heat input from the two units at Exeter, Units B1 and B2, was not included in any of the budget calculations for the NBP or CAIR. However, EPA has included these units in the NODA as CAIR NO_x ozone season units based on a revised interpretation of "fossil fuel-fired" with respect to a tire-burning facility, but the associated heat input was not included in the budget determination calculations even though the units started operating in 1991. EPA should add these units along with the associated heat input data into the budget calculations and adjust Connecticut's CAIR NO_x ozone season budget accordingly.

Objector: Pennsylvania Department of Environmental Protection; EPA-HQ-OAR-2004-0076-0263

Objection: Some units receive more ozone season NO_x allocations under the CAIR program than they would have been issued under the current NO_x Budget Trading Program, which Pennsylvania adopted in response to EPA's NO_x SIP Call. Since the CAA discourages backsliding (e.g., sections 172 and 193), EPA should revise the baseline heat input period to ensure that no unit receives more ozone season NO_x allocations under CAIR than it would have under the NO_x Budget Trading Program adopted in response to EPA's NO_x SIP Call. For Pennsylvania's purposes, an acceptable heat input period would be 2002 to 2004.

Objector: Pennsylvania Department of Environmental Protection; EPA-HQ-OAR-2004-0076-0263

Objection: EGUs that are considered "new" under CAIR but were considered regular units under the NBP would not be issued CAIR allowances under the allocation methodology presented in EPA's NODA. Under the NODA, these units will be allocated allowances from a new source set-aside for 2009 at an allocation rate much lower than the rate at which they were issued allowances under the regular allocation process in the NBP.

EGUs that retired in 2000 through 2004 will be issued permanent allowances under the CAIR FIP due to the permanence of baseline heat input data used to make the CAIR allocations for existing units. There are a number of EGUs that will continue to receive CAIR allocations indefinitely under EPA's allocation methodology that would have lost their allocation under the NBP. Also, some closed down units will receive more allocations under CAIR for 2009 than they would have received under the NBP.

These circumstances are inconsistent with the goals and practices of previous EPA cap-and-trade programs. EPA should consider reviewing its FIP allocation procedure to address these issues.

Objector: ARRIPA, submitted on its behalf by Manko, Gold, Katcher, and Fox, LLC; EPA-HQ-OAR-2004-0076-0284

Objection: ARRIPA submits a petition for reconsideration of EPA's final rule (April 28, 2006) on North Carolina's Section 126 petition. From the standpoint of its economic impact on waste-coal fired units operated by Independent Power Producers, EPA's determination to rely on the Acid Rain Program for allocations is neither legal nor factually justified. In the preamble to the final rule EPA addressed for the first time the economic impact of the CAIR FIP on waste-coal fired units that are exempt from the Acid Rain Program. EPA's analysis on these economic issues in the final rule is inaccurate and based on incomplete information. Accordingly it is appropriate and necessary that EPA gather additional information regarding the specific question of the economic burden imposed on these facilities under the SO₂ allowance allocation and trading provisions of the FIP, and reconsider the economic burden of the rule on these sources. Further, EPA has failed to provide meaningful response to comments on its determination that the FIP would not significantly impact on small entities.

Objector: MeadWestvaco; EPA-HQ-OAR-2004-0076-0288

Objection: MeadWestvaco sources have not been included in the CAIR FIP allocations. MeadWestvaco understands that South Carolina plans to include Cogen South as a non-EGU source in the CAIR NO_x Ozone Season Program (EPA-HQ-OAR-2004-0076-0254). MeadWestvaco non-EGU sources in South Carolina, Alabama, and Virginia will all need some allocation with the current NO_x SIP Call provisions. The NODA does not make clear how EPA intends to include NO_x Budget Program non-EGUs in the CAIR program.

Objector: North Carolina; EPA-HQ-OAR-2004-0076-0293 and 0299

Objection: The State of North Carolina submits a petition for reconsideration of EPA's final rule (April 28, 2006) on North Carolina's Section 126 petition. In support of the petition North Carolina makes the following points.

1. EPA announced in the final rule a new and unlawful method for determining significant contribution. In the final 126 rule EPA replaced the second step of the significant

contribution analysis with a new test, a feasibility/cost effectiveness test. This new test represents a substantial and legally impermissible departure from both the proposed rule and prior EPA actions.

2. Recent modeling demonstrates that substantially more SO₂ reductions are both technically feasible and cost effective. Assuming that EPA may consider technical feasibility in this context, the state, using modeling runs released by EPA after the comment period closed, shows that further SO₂ reductions can be obtained cost effectively and technically feasibly in the three-year time period allowed by Section 126.
3. EPA inaccurately claims that the NO_x SIP Call authorized a six-year time frame for achieving upwind emissions reductions. By this EPA suggests that the compliance deadline under the NO_x SIP Call was not within the three years allotted under Section 126. EPA's premise is faulty because it confuses the date of full implementation of control with the date for demonstrating achievement of the budgets.
4. EPA's suggestion that it might require a higher level of cost effectiveness for emission reductions required by the interference with maintenance standard than for emission reductions required by the significantly contribute to nonattainment standard is arbitrary, capricious, and unlawful.
5. Recent data and modeling confirms that North Carolina has attainment and maintenance issues that entitle it to relief under Section 126. The model results were not available prior to the end of the public comment period for the proposed rule, so these results are a proper basis for reconsideration.

5. References

NODA Applicability Objections.xls - Spreadsheet tables listing units for which applicability objections have been received. The tables are categorized by units to be added to the CAIR inventory, units to be removed, and units for which there are identification issues.

NODA Heat Input Objections.xls - Spreadsheet tables with objector supplied annual and ozone season baseline heat input information for CAIR units. The tables compare the objector heat input data to the data in the NODA.