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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

October 11th, 2006

IN THE MATTER OF: )  
 )  
PROPOSED NEW CAIR SO2 CAIR )  
NOx ANNUAL AND CAIR NOx OZONE) R06-26  
SEASON TRADING PROGRAMS, ) (Rulemaking - Air)  
35 ILL. ADM. CODE 225, )  
CONTROL OF EMISSIONS )  
FROM LARGE COMBUSTION SOURCES)  
SUBPARTS A, C, D AND E )

Proceedings held on October 11th, 2006, at  
1:00 p.m., at the Illinois Pollution Control  
Board, 1021 North Grand Avenue East, Springfield,  
Illinois, before John Knittle, Hearing Officer.

Reported by: Beverly S. Hopkins, CSR, RPR  
CSR License No: 084-004316

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Board Member Andrea S. Moore  
Board Member Thomas Johnson  
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EXHIBITS

- Agency Exhibit No. 10 -- 4
- Agency Exhibit No. 11 -- 72
- Agency Exhibit No. 12 -- 84
- Agency Exhibit No. 13 -- 85
- Agency Exhibit No. 14 -- 85
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- Agency Exhibit No. 18 -- 153
- Agency Exhibit No. 19 -- 153

1 HEARING OFFICER KNITTLE: We're back  
2 on the record after a lunch recess. My  
3 understanding, Ms. Doctors, that we are going to  
4 be presenting the testimony of Mr. Bloomberg?

5 MS. DOCTORS: Yes. And I'd like to  
6 request that his testimony be admitted as read  
7 and marked as Agency Exhibit 10.

8 HEARING OFFICER KNITTLE: Any  
9 objection to his testimony being admitted? I see  
10 none. That will be admitted as Agency Exhibit  
11 10. Ms. Doctors, do you have any preliminary  
12 testimony you wish to elicit?

13 MS. DOCTORS: No, I do not.

14 HEARING OFFICER KNITTLE: Mr.  
15 Bonebrake? Ms. Bassi?

16 MS. BASSI: I have an initial, thank  
17 you, background type question. You say in your  
18 testimony that your academic credentials include  
19 a Bachelor of Science in Ceramic Engineering?

20 MR. BLOOMBERG: Yes.

21 MS. BASSI: Do you have more?

22 MR. BLOOMBERG: I took all of the  
23 necessary classes for a master's degree but was  
24 unable to complete the research.

1 MS. BASSI: I know the feeling. Okay.  
2 That was just my little background. Okay. I  
3 would like for you to reconcile a couple of  
4 things for me that are included in the federal  
5 proposal that -- if you could. At Section  
6 51.1230, do you have it in terms of the Code of  
7 Federal Regulations when I refer to a federal  
8 section?

9 MR. BLOOMBERG: I have some parts. I  
10 don't know that I will have exactly what you're  
11 --

12 MS. BASSI: All right. Then a little  
13 background. Are you familiar with the purpose or  
14 with the direction of Section 51 or Part 51 of  
15 the federal code?

16 MR. BLOOMBERG: Part 51 off the top of  
17 my head, no, I do not have that.

18 MS. BASSI: Would it -- does it make  
19 sense to you that Part 51 would be directed to --  
20 would be directed to states and what states are  
21 required to do?

22 MR. BLOOMBERG: Off the top of my head  
23 I can't answer that.

24 MS. BASSI: Well, may I show him Part

1 51?

2 HEARING OFFICER KNITTLE: Yes, you  
3 may.

4 MS. BASSI: This is the Code of  
5 Federal Regulations, Edition 2005, and I believe  
6 Part 51 may or may not have been incorporated by  
7 reference or at least referred to in the Agency's  
8 submittal. And if you would turn to Section  
9 51.123(o), Subsection O.

10 MS. DOCTORS: Are you referring to  
11 Illinois state plans?

12 MS. BASSI: No. This is about -- this  
13 is the CAIR.

14 MS. DOCTORS: Okay.

15 MS. BASSI: This is the general CAIR  
16 requirements of states. I know it takes a while  
17 to --

18 MS. DOCTORS: Can we have a page  
19 number?

20 MS. BASSI: No, I didn't. Okay.  
21 Subsection O2 and then little ii and a large B.

22 MR. BLOOMBERG: Okay.

23 MS. BASSI: Okay. How far in advance  
24 of a vintage year, meaning, the date that's put

1 on a NOX allowance, does USEPA require a state to  
2 submit allowance allocation?

3 MR. BLOOMBERG: Well, for what it says  
4 here, we have to have issued allocation by  
5 October 31st, 2006, for 2009, 10, and 11. And by  
6 October 31, 2008, and October 31 of each year  
7 thereafter for the year after the year of the  
8 notification deadline. Without reading through  
9 the rest of this off the top of my head, I'm not  
10 entirely sure what that means.

11 MS. BASSI: Well, is the first portion  
12 of that consistent with the Agency's proposal,  
13 that you had initially at least planned to make  
14 your initial allocation for 2009, 10, and 11 in  
15 2006?

16 MR. BLOOMBERG: Yes.

17 MS. BASSI: Okay. And in the Agency's  
18 submittal some place, I believe it says that  
19 allocations are due three years in advance of the  
20 year in which they'll be used? Maybe --

21 MR. BLOOMBERG: Allocations are due?

22 MS. BASSI: Maybe Ms. Sims back  
23 there --

24 MS. SIMS: Repeat the question.

1 MS. BASSI: How far in advance does  
2 the Agency have to make its allocations to USEPA?

3 MS. SIMS: According to our proposed  
4 Illinois rule, three years in advance.

5 MS. BASSI: Three years in advance.  
6 Okay. Is this a requirement of USEPA?

7 MS. SIMS: I'm not sure.

8 MS. BASSI: Okay. Do you have Federal  
9 Register 70, Federal Register 25349 there  
10 someplace?

11 MR. BLOOMBERG: No, I don't.

12 MS. BASSI: This is, I think, included  
13 in the Agency's submittal.

14 MS. DOCTORS: Are you -- are you  
15 asking the witness to interpret --

16 MS. BASSI: I want some reconciliation  
17 of two passages that are in the federal  
18 requirement.

19 MS. DOCTORS: I'm not sure that this  
20 witness is familiar with -- with these particular  
21 passages.

22 MS. BASSI: That's why I'm asking him  
23 to read them. Do you have that? Would you get  
24 that?



1 MS. DOCTORS: Repeat that.

2 MS. BASSI: 70 Federal Register at  
3 page 25349.

4 HEARING OFFICER KNITTLE: You know  
5 what part of the Agency's proposal it is at?

6 MS. BASSI: Well, this is Part 96 and  
7 this is -- this is the model rule that we've been  
8 talking about all along.

9 MS. DOCTORS: Okay. 25 --

10 MS. BASSI: 25349.

11 HEARING OFFICER KNITTLE: It'd helpful  
12 for the record to identify it. You said it was  
13 part of the Agency's proposal. The exhibit --

14 MS. BASSI: The Agency, I believe,  
15 submitted -- I'm sorry.

16 HEARING OFFICER KNITTLE: Is it an  
17 exhibit or a document by reference or part of the  
18 TSD?

19 MS. BASSI: I don't know at -- I can't  
20 tell you off the top of my head.

21 MR. BONEBRAKE: Is this the July 6,  
22 2005?

23 MS. DOCTORS: Or the May 12, 2005?

24 MS. BASSI: This is the May 12, 2005.

1 MS. DOCTORS: I think we have the  
2 document and the page number that she's referring  
3 to. I think it was --

4 HEARING OFFICER KNITTLE: And I'm not  
5 saying you're not going to be able to find it.  
6 What I wanted is so when people are reading the  
7 transcript, they know what they're looking for.  
8 Can you read that?

9 MS. DOCTORS: Yes, I could. It's  
10 Illinois EPA Exhibit No. A from the table of  
11 contents.

12 HEARING OFFICER KNITTLE: Thanks.

13 MS. BASSI: Thank you. Okay. On page  
14 25349 at Section 96.141, so it's on that page --

15 MR. BLOOMBERG: Yes.

16 MS. BASSI: -- Subsection B1, okay,  
17 this is -- is this part of the model rule?

18 MR. BLOOMBERG: Having just been given  
19 this, honestly, I don't know the answer.

20 MS. BASSI: Can you tell me how many  
21 years in advance that section says allowances are  
22 to be made?

23 MR. BLOOMBERG: This says the sixth  
24 year after the year of the applicable deadline.

1           However, it's my understanding this is a  
2           recommendation and states have flexibility,  
3           especially if it is, as you indicated, the model  
4           rule.

5                         MS. BASSI: Right. And that's what I  
6           wanted you to explain, if you could, as to why  
7           Illinois was doing it three years in advance for  
8           the first initial -- for the initial allocation  
9           as opposed to what the model rule is providing?

10                        MR. BLOOMBERG: I believe that Jackie  
11           Sims already answered a very similar question --

12                        MS. BASSI: Possibly.

13                        MR. BLOOMBERG: -- discussing the  
14           faster roll in and the -- bringing new units in  
15           more quickly, getting shutdowns out more quickly.

16                        MS. BASSI: With -- And, again, I  
17           apologize if you're not the right person for  
18           this. With the FIP, could you explain again  
19           then, please, why if the FIP goes into a place  
20           and the FIP includes the model rule, that the  
21           allocation, the initial allocations, are not as  
22           set forth in that provision?

23                        MR. BLOOMBERG: Well, I --

24                        MS. DOCTORS: Objection. Why -- I

1 don't understand why she's asking the witness to  
2 explain a Federal Register concerning the FIP.  
3 That Federal Register needs to speak for itself.

4 HEARING OFFICER KNITTLE: Ms. Bassi?

5 MS. BASSI: That's fine. I'll  
6 withdraw the question. Going back to some  
7 questions that we were asking you before lunch  
8 regarding -- regarding timely allocation --

9 MR. BLOOMBERG: Yes.

10 MS. BASSI: -- at pages 47 to 48 of  
11 the Statement of Reasons.

12 MR. BLOOMBERG: Yes.

13 MS. BASSI: Okay. This is where the  
14 Statement of Reasons is explaining the shorter  
15 look-back period that the Agency proposes. All  
16 right. And does it say in here that the source  
17 should have excess bank allowances from the year  
18 prior to an outage that will cover an outage  
19 year?

20 MR. BLOOMBERG: Can you give me a page  
21 number, please?

22 MS. BASSI: 48, the top of the page.

23 MR. BLOOMBERG: Yes, it does.

24 MS. BASSI: Okay. And, again, what

1 happens if the Agency does not make its  
2 allocations timely to -- to make up for the loss  
3 of allowances during the outage year?

4 MR. BLOOMBERG: I am unsure of what  
5 USEPA will do. However, one point remains that,  
6 as you noted, we are giving allowances, I  
7 believe, three years in advance --

8 MS. BASSI: Uh-huh.

9 MR. BLOOMBERG: -- so that's quite a  
10 long -- a long time before the transfer deadline.  
11 And as noted, we have already committed to doing  
12 it timely.

13 MS. BASSI: Does the Agency bear any  
14 liability for failure to submit allocations  
15 timely?

16 MR. BLOOMBERG: That's a legal  
17 question. I have no idea.

18 MS. BASSI: If the Agency, assuming  
19 you have no liability or that that would be the  
20 Agency's position, what recourse do power  
21 companies have to -- to have allocations made  
22 timely?

23 MR. BLOOMBERG: That's probably  
24 another legal question, and I can't answer that.

1 MS. BASSI: Is this covered in the  
2 rule?

3 MR. BLOOMBERG: Not to my knowledge.

4 MR. BONEBRAKE: Mr. Bloomberg, I have  
5 a question for you and it pertains to page 2 of  
6 your testimony. It's the third complete  
7 paragraph.

8 MR. BLOOMBERG: Yes.

9 MR. BONEBRAKE: And the second  
10 sentence in that paragraph starts with the word,  
11 Among these requirements, and at the end there  
12 there's a reference to rounded to the nearest  
13 whole ton?

14 MR. BLOOMBERG: Yes.

15 MR. BONEBRAKE: Can you explain to us  
16 what that means?

17 MR. BLOOMBERG: It means that if they  
18 -- Let me just double check what I said here.  
19 If, for example, a source emitted 10.3 tons of  
20 NOX, they would only have to give 10 allowances.  
21 However, if they held 10.7, they would need to  
22 hold 11 allowances.

23 MR. BONEBRAKE: And what -- what if  
24 10.5?

1 MR. BLOOMBERG: 10.5 USEPA rounds up.

2 MR. BONEBRAKE: On page 3 of your  
3 written testimony, the full -- first full  
4 paragraph, the last sentence reads, As noted in  
5 the TSD, electric generating units are currently  
6 required to report gross electrical output data  
7 to USEPA. I know you were with us this morning  
8 when we were talking about this issue.

9 MR. BLOOMBERG: Yes.

10 MR. BONEBRAKE: Do you have any  
11 further information for us about what gross  
12 electrical output data is submitted to USEPA?

13 MR. BLOOMBERG: I do not. I was  
14 relying upon the TSD.

15 MR. BONEBRAKE: I think that's all  
16 this table has for Mr. Bloomberg.

17 HEARING OFFICER KNITTLE: Mr. Rieser?

18 MR. RIESER: Yes. Following straight  
19 under the language that Mr. Bonebrake pointed to  
20 you on page 3 of the second and bottom paragraph  
21 of page 3 you talk about, There may be additional  
22 monitoring, recordkeeping or reporting required  
23 for any project sponsor of a Clean Air Set-Aside  
24 request, and you say its requirements will be

1 specific to the project in question and are not  
2 described in detail within the proposed  
3 regulations. When and how are these additional  
4 requirements to be identified for sponsors?

5 MR. BLOOMBERG: They would be  
6 involved, and let me -- let me find -- try and  
7 find the specific portion of the rule. Excuse me  
8 one moment while I just check.

9 MR. RIESER: No problem.

10 MR. BLOOMBERG: Yeah, an example would  
11 be 225.470, CASA Applications. In the discussion  
12 of what would be sent to us, what would be  
13 involved in the application, that is when such  
14 additional requirements might be discussed.

15 MR. RIESER: Well, as a specific  
16 matter of process, would the Agency respond to an  
17 application saying you need the following things  
18 and your application is incomplete, or how  
19 exactly is that intended to work?

20 MR. BLOOMBERG: If you look at  
21 225.470(c), it looks like (c)(6), it talks about  
22 additional information requested by the Agency to  
23 determine the correctness of the requested number  
24 of allowances, etc., so based on that, whoever is



1           requesting the allowances, would apply to us, and  
2           us being the Agency, and the Agency would respond  
3           with either an approval or a letter saying we  
4           need additional information.

5                         MR. RIESER:  And there are also  
6           monitoring, recordkeeping and requirement --  
7           requirements -- excuse me, monitoring,  
8           recordkeeping and reporting requirements that may  
9           also be added to the Agency that are different or  
10          beyond what are specified in the regulations?

11                        MR. BLOOMBERG:  We wanted to provide  
12          flexibility and, therefore, it would be  
13          impossible to include in the CASA section all of  
14          the possible permeations of monitoring and  
15          recordkeeping and reporting.  You know,  
16          obviously, a windmill is going to have different  
17          requirements than a pollution control upgrade.

18                        MR. RISER:  Is there a section in the  
19          regulation that describes the type of monitoring,  
20          recordkeeping or reporting that may be required?

21                        MR. BLOOMBERG:  I do not believe so.  
22          Although, there is -- are sections about  
23          information that may be requested or required, so  
24          you can --

1 MR. RIESER: I'm sorry. Finish your  
2 answer.

3 MR. BLOOMBERG: You can kind of figure  
4 out from the information required how you would  
5 need to keep an eye on that information.

6 MS. DOCTORS: I think Mr. Ross can  
7 further answer -- I'm sorry. Mr. Cooper.

8 MR. COOPER: Mr. Davis is who -- I  
9 just ask him to restate the question so I have a  
10 good idea of what he's asking.

11 HEARING OFFICER KNITTLE: Can you find  
12 Mr. Rieser's question, please?

13 (The Reporter read from the record as  
14 follows: And there are also  
15 monitoring, recordkeeping and  
16 requirement -- requirements -- excuse  
17 me, monitoring, recordkeeping and  
18 reporting requirements that may also  
19 be added to the Agency that are  
20 different or beyond what are  
21 specified in the regulations?)

22 MR. COOPER: Yes, they're put in the  
23 CASA Section 225.140, I believe, and those refer  
24 to the DOE documents, has also been referenced in

1 TSD, the measurement and verification guidelines  
2 for energy projects.

3 MR. RIESER: So you're referring to  
4 the incorporations by reference, 225.140?

5 MS. DOCTORS: May I direct the witness  
6 to look at section -- I'm showing him Section  
7 225.470(c)(4)(A). Is this -- I'm going to ask is  
8 this where we find the requirements for the  
9 recordkeeping, reporting and monitoring?

10 MR. COOPER: Yes, that is.

11 MS. BASSI: Would you repeat that  
12 section again, please?

13 MR. COOPER: 225.470.

14 MR. BLOOMBERG: C4A.

15 MR. RIESER: And is it accurate that  
16 the Agency is reserving to itself the authority  
17 to expand on what's required under  
18 225.470(c)(4)(A)?

19 MR. COOPER: In what manner?

20 MR. RIESER: Well, the sentence that  
21 we started this all with was, in Mr. Bloomberg's  
22 testimony was there may be additional monitoring,  
23 recordkeeping or reporting required. Now all I'm  
24 trying to do is get a sense of what the bounds of

1           that -- those -- those types of requirements are  
2           and where those bounds are discussed in the  
3           regulation.

4                       MR. COOPER:  I have -- No, I don't  
5           believe.

6                       MS. DOCTORS:  Rory Davis is going to  
7           take that, explain what he means by his own  
8           statement.

9                       MR. DAVIS:  Yeah.  The information is  
10          -- that we need is all listed here.  However, the  
11          methods by which this information -- well,  
12          actually these are only examples.  I should note  
13          this does say examples.

14                      MR. RIESER:  Okay.  When you say here,  
15          you're referring to?

16                      MR. DAVIS:  225.470(c)(4)(A).

17                      MR. RIESER:  Thank you.  Go ahead.

18                      MR. DAVIS:  And this lists examples,  
19          again, of some of the information that would be  
20          provided for in order to obtain allowances from  
21          the CASA, but it does not go into how this  
22          information would be determined, again, because  
23          this way it allows flexibility based on the type  
24          of project.

1                   MR. RIESER:  And by referencing the  
2                   guidelines in 225.470(c)(4)(A), that's where you  
3                   -- the procedures and methods in those  
4                   guidelines, that's where you would expect to  
5                   derive the monitoring, recordkeeping and  
6                   reporting requirements for an individual project;  
7                   is that correct?

8                   MR. DAVIS:  I would not limit to only  
9                   that particular document as -- I cannot say that  
10                  that document covers all possibilities.  However,  
11                  we have -- we would use that and other -- other  
12                  available information.

13                  MR. RIESER:  Thank you.

14                  HEARING OFFICER KNITTLE:  Anything  
15                  further, Mr. Rieser?

16                  MR. RIESER:  No, that's it.  Thank you  
17                  very much.

18                  MS. BUGEL:  Nothing for me.  Thank  
19                  you.

20                  MR. BONEBRAKE:  I do have a follow-up.

21                  HEARING OFFICER KNITTLE:  Yes, sir,  
22                  Mr. Bonebrake.

23                  MR. BONEBRAKE:  I was going to direct  
24                  that question to Mr. Cooper, but since this

1 section has been implemented by Mr. Bloomberg,  
2 I'll at least start with you. 225.470(b)  
3 requires submissions of applications for CASA  
4 allowances by May 1, is that correct, in a given  
5 year?

6 MR. BLOOMBERG: Yes.

7 MR. BONEBRAKE: And the application to  
8 be submitted -- contents of application to be  
9 submitted are set forth in 225.470 Subpart C; is  
10 that correct?

11 MR. BLOOMBERG: I believe that's  
12 correct.

13 MR. BONEBRAKE: And then Subpart C6,  
14 as you were discussing with Mr. Rieser, contains  
15 a reference to any additional information  
16 requested by the Agency, do you see that, Mr.  
17 Bloomberg?

18 MR. BLOOMBERG: Yes.

19 MR. BONEBRAKE: And one inference that  
20 can be drawn from that is any additional  
21 information requested by the Agency also needs to  
22 be submitted by May 1st in order for the  
23 application to be timely submitted, is that the  
24 intention of the Agency?

1                   MR. BLOOMBERG: The way it is written,  
2                   that is correct. That is the way I would  
3                   interpret it.

4                   MR. BONEBRAKE: So we're in a  
5                   situation then where an initial application needs  
6                   to be submitted by May 1st -- initial application  
7                   has to be submitted by May 1st, the Agency  
8                   requests additional information and that  
9                   additional information also has to be submitted  
10                  by May 1st; is that correct, Mr. Bloomberg?

11                  MR. BLOOMBERG: I believe what this is  
12                  referring to is additional information that has  
13                  been discussed with the Agency. Obviously, we  
14                  would not expect people to go back in time to  
15                  after they've submitted by May 1st if we request  
16                  additional information.

17                  MR. BONEBRAKE: Let me make sure I  
18                  understand that answer. If a party timely  
19                  submits an application and the Agency asks for  
20                  additional information, that additional  
21                  information can be submitted after May 1st and  
22                  the application made would still be considered  
23                  timely; is that correct, Mr. Bloomberg?

24                  MS. SIMS: We have 90 days to review

1 the CASA application and it's in the regulations,  
2 to tell them if it's complete or not.

3 MR. BONEBRAKE: That 90 period -- What  
4 section are you referring to, Ms. Sims?

5 MS. SIMS: I have to find it. It's  
6 Section 225.475(a)(1).

7 MR. BONEBRAKE: So that is  
8 conceivable, is it not Mr. Bloomberg, that the  
9 Agency might not even request additional  
10 information on -- for an application submitted  
11 before May 1, make -- the Agency may not even  
12 request additional information until after May  
13 1st?

14 MR. BLOOMBERG: That's correct.

15 MR. BONEBRAKE: So in that scenario,  
16 would the application be considered to be timely  
17 submitted even though additional information  
18 would be provided in response to request by the  
19 Agency after May 1st?

20 MR. BLOOMBERG: Could you repeat?  
21 Sorry.

22 MR. BONEBRAKE: Let's assume a  
23 scenario where an application is submitted before  
24 May 1st, okay?



1 MR. BLOOMBERG: Yes.

2 MR. BONEBRAKE: After May 1st the  
3 Agency requests additional information, okay?

4 MR. BLOOMBERG: Yes.

5 MR. BONEBRAKE: That additional  
6 information is then submitted by the parties to  
7 the Agency. Will the application be considered  
8 complete and timely submitted notwithstanding the  
9 fact that additional information is submitted  
10 after May 1st?

11 MR. BLOOMBERG: Presuming that the  
12 additional information is provided, you know,  
13 timely and -- and that additional information  
14 answers all of the questions asked by the Agency,  
15 yes.

16 MR. BONEBRAKE: Same question but the  
17 scenario is the Agency requests additional  
18 information before May 1st but the additional  
19 information is provided after May 1st, is the  
20 application still considered timely?

21 MR. BLOOMBERG: I think it would  
22 depend on how the additional information is  
23 requested. If the application, for example, is  
24 submitted in -- on April 1st and we -- the Agency

1           undertakes its review under 225.475 and at that  
2           point determines the additional information is --  
3           is required, it would be the same answer that I  
4           just gave you before.  However, if, for example,  
5           there is an ongoing situation where it's the same  
6           company applying year after year and they have  
7           previously been told this is the additional  
8           information required -- requested by the Agency  
9           which, I believe, is what is covered in six here,  
10          and they did not provide it at that point, then  
11          the application would not be considered complete.

12                           HEARING OFFICER KNITTLE:  Mr.  
13          Bloomberg, may I interject a question?

14                           MR. BLOOMBERG:  (Nods head.)

15                           HEARING OFFICER KNITTLE:  Going back  
16          to the first scenario --

17                           MR. BLOOMBERG:  Yes.

18                           HEARING OFFICER KNITTLE:  -- where  
19          there's a timely submitted application before May  
20          1st and then afterwards the Agency asks for  
21          additional information --

22                           MR. BLOOMBERG:  Yes.

23                           HEARING OFFICER KNITTLE:  -- is there  
24          any time limit for the Agency to submit that

1 additional information? Is that set forth  
2 anywhere?

3 MR. BLOOMBERG: No, there is nothing  
4 in the rule at this time.

5 HEARING OFFICER KNITTLE: So the  
6 Agency would just decide what would be a timely  
7 submission thereafter?

8 MR. BLOOMBERG: That's something that  
9 I think we'll have to discuss and look into  
10 putting in a date certain.

11 HEARING OFFICER KNITTLE: Thanks.

12 MR. BONEBRAKE: And in a scenario  
13 where the Agency requests information before May  
14 1st, I'm not sure I fully understood your last  
15 answer.

16 MR. BLOOMBERG: Uh-huh.

17 MR. BONEBRAKE: Were you suggesting  
18 that if the project sponsor submitted the  
19 application somehow should have anticipated what  
20 the request would be, that if it was not  
21 submitted by May 1st it's not timely?

22 MR. BLOOMBERG: Well, it's not trying  
23 to anticipate. This is -- this section, I  
24 believe, is intended to incorporate the fact

1           that, as I said before, there is some flexibility  
2           here. It's difficult to write a rule that takes  
3           into account all possibilities. And so if a  
4           company comes to us and says we want to apply for  
5           this and we say, okay, this is what you're going  
6           to need to give us, even if it doesn't happen to  
7           be included in this rule, this would be the  
8           additional information requested. So it's  
9           something -- it's not asking the company to try  
10          and guess what the Agency is going to want, but  
11          rather that the company has already been  
12          previously told this is what you have to include.

13                       MR. BONEBRAKE: So are you saying that  
14           if there is specific information set forth in the  
15           rule from which a party should determine this is  
16           something I need to put in my application, then  
17           if the Agency has to come back and ask for it, in  
18           that scenario it was submitted after May 1st it's  
19           not timely, but if there's some information that  
20           is not identified as required in the rule for the  
21           application, the Agency has to support that and  
22           if not submitted until after May 1st that would  
23           be nonetheless a timely application, is that the  
24           distinction you're drawing?

1                   MR. BLOOMBERG: I have to tell you I  
2 think I got lost somewhere along the way in those  
3 examples. I think it's safe to say that, you  
4 know, there has to be a certain amount of common  
5 sense approach to this. If -- if, you know, one  
6 small piece of information is left out and  
7 everything is submitted well in advance, the odds  
8 of us deeming the entire application untimely is,  
9 I would say, fairly small. Now obviously we want  
10 all the information and the rule will dictate  
11 that we get the information, but it's, I think, a  
12 common sense approach has to be dealt with as  
13 well.

14                   MR. BONEBRAKE: I'm all for common  
15 sense. I'm just concerned that my view of common  
16 sense and yours or others in the Agency might  
17 differ.

18                   HEARING OFFICER KNITTLE: Mr. Rieser?

19                   MR. RIESER: This is more of a process  
20 question. Is this the appropriate place and the  
21 appropriate witness with whom to ask -- from whom  
22 to ask questions regarding the CASA process  
23 itself because I had a whole series of questions  
24 along those lines that -- but just looking at the

1 witness list, it's my understanding there's going  
2 to be a presentation and then we'll sort of get  
3 into it. So I got questions now or I can wait.

4 MR. BLOOMBERG: It is anticipated, or  
5 I believe it is anticipated, that the compliance  
6 unit will be the ones reviewing this at the time  
7 that it is anticipated, so I guess I'm as good as  
8 anybody.

9 MR. RIESER: All right.

10 HEARING OFFICER KNITTLE: Ms. Doctors,  
11 would you like to wait until after the  
12 presentation or would you like to have --

13 MS. DOCTORS: I think it's up to Mr.  
14 Bloomberg because he has a time constraint either  
15 way.

16 HEARING OFFICER KNITTLE: Mr. Rieser,  
17 do you have a preference?

18 MR. RIESER: Whatever works -- I  
19 assume Mr. Bloomberg will be available tomorrow  
20 and I don't know what his time constraint is.

21 MR. BLOOMBERG: I think it would be  
22 best to do it now unless some of the questions  
23 that come up relate specifically to what Mr.  
24 Cooper will be discussing, but we can tell you

1           that as it happens.

2                       MS. BASSI:  Is this like the  
3           application, you have to anticipate it?

4                       MR. BLOOMBERG:  That's right.

5                       MR. BONEBRAKE:  I guess depending how  
6           we interpret description of the CASA process, I  
7           know we have a lot of questions too, so I don't  
8           know whether it's best to go onto Mr. Bloomberg  
9           or Mr. Cooper but just to give you a heads up, we  
10          have quite a few questions regarding the CASA.  
11          Some of them I would call them administration  
12          type questions and I'm not sure who's going to be  
13          best to do those.

14                      MR. BLOOMBERG:  Mr. Cooper is sitting  
15          up here too so he can certainly help me out.

16                      MR. RIESER:  Well, let me just dive in  
17          then.  One of the -- along with Mr. Bonebrake,  
18          and I think everybody here, we understand there  
19          are differences in how the company and how the  
20          Agency or citizens for that matter interpret  
21          common sense.  And the bottom line on this is  
22          that in reviewing the rules, I didn't see that  
23          there was an opportunity for reviewing any review  
24          of the Agency's determinations with respect to

1           CASA allowances. I'm wondering if that's correct  
2           and whether there's a reason for handling it that  
3           way?

4                       MR. BLOOMBERG: I do not believe there  
5           is a such an opportunity.

6                       MR. RIESER: Okay. Was that a  
7           conscious decision by the Agency, as opposed to  
8           an unconscious. Is that a policy determination  
9           that the Agency made?

10                      MR. ROSS: I believe we discussed this  
11           in internal meetings and -- to some degree, yes.  
12           That was a -- we discussed that in internal  
13           meetings, and we did decide to write the rule as  
14           it is that there is no external review of our  
15           decision.

16                      MS. BASSI: I'd like to follow-up on  
17           that, if I may.

18                      MR. RIESER: Go ahead.

19                      MS. BASSI: Is this a final Agency  
20           determination?

21                      MS. DOCTORS: Objection. This is  
22           calling for the witness to make a legal  
23           statement.

24                      HEARING OFFICER KNITTLE: Ms. Bassi?



1                   MS. BASSI: You know, I'm afraid I  
2                   have a problem with all of these objections to  
3                   the legal -- to questions about the legality of  
4                   the Agency's actions. An Agency's proposal has  
5                   to be within the scope of its authority. It has  
6                   to be based upon what's in the Act, and somebody  
7                   has to be able to answer those questions about  
8                   those as to whether or not something is within  
9                   the bounds of the Act.

10                   MR. KIM: But the flip side of that is  
11                   Mr. Ross, or any of the witnesses on this panel,  
12                   are not qualified and I don't think it's going to  
13                   be helpful or relevant to the Board for them to  
14                   give you their legal analysis of your question.  
15                   What Mr. Ross stated was there was a decision  
16                   made not to write in appeal rights into the rule  
17                   and that is why the rule looks as it is. Your  
18                   question as to whether or not the -- this is a  
19                   final administrative decision or presumably your  
20                   next step would be whether the Administrative  
21                   Procedure Act applies I think is a very legal  
22                   question. It is nothing more, nothing less. If  
23                   it's something we need to raise in written  
24                   comments, we can certainly do it that way and so

1 direct it and we would be happy to do so, but I  
2 don't think it's going to be appropriate or  
3 helpful for any of the witnesses here to begin to  
4 go through case law on what is and what is not a  
5 final administrative decision, what the criteria  
6 for such decisions, what the appeal process for  
7 those decisions because frankly I don't think  
8 anybody here has any idea what the answers to  
9 that are.

10 HEARING OFFICER KNITTLE: Anything  
11 further, Ms. Bassi?

12 MS. BASSI: Well, just ask for appeal  
13 is all so --

14 MR. KIM: And I believe the answer was  
15 we made a decision not to write into the rule  
16 specific language setting out appeal rights.

17 HEARING OFFICER KNITTLE: You know,  
18 I'm going to allow Mr. Ross to attempt to answer  
19 that question, but I'm generally going to sustain  
20 that objection. There's only limited amount of  
21 benefit that will come to the Board for us to  
22 hear what Mr. Bloomberg or Mr. Cooper intended  
23 the legal ramifications of the rule and I think  
24 Mr. Ross is in a position where he is probably

1 considered this issue. Yes, Mr. Rieser?

2 MR. RIESER: I was just going to ask a  
3 different question not -- a different question  
4 than Ms. Bassi had but I didn't know --

5 HEARING OFFICER KNITTLE: I'd like to  
6 hear the answer -- Mr. Ross to answer Ms. Bassi's  
7 question, then you can ask whatever question  
8 you'd like along as Mr. Kim or Ms. Doctors don't  
9 object to it. The question again was?

10 MS. BASSI: Is this a final Agency  
11 decision?

12 MS. DOCTORS: I repeat my --

13 HEARING OFFICER KNITTLE: Your --

14 MS. DOCTORS: It's a term of art  
15 whether something is a final Agency determination  
16 that there is case law on it.

17 MS. BASSI: Did I use the word final  
18 Agency action?

19 MS. DOCTORS: Okay.

20 HEARING OFFICER KNITTLE: Well, hold  
21 on Ms. Bassi. Let her finish her clarification  
22 so we can get on the record.

23 MS. DOCTORS: I think I was finished.

24 HEARING OFFICER KNITTLE: Oh, well,

1           then, Ms. Bassi?

2                         MR. ROSS:  It was our decision to go  
3 forward with the rule as it is currently written  
4 which does not contain any appeal process.

5                         MS. BASSI:  Okay.  And when I say is  
6 this a final Agency decision, I don't mean that  
7 decision.  I mean the decision as to what -- what  
8 -- what the dispensation is or the final decision  
9 about a CASA application?

10                        MR. KIM:  Same objection.

11                        HEARING OFFICER KNITTLE:  The Agency  
12 objections are noted for the record.  Mr. Ross?

13                        MR. ROSS:  I would believe it would be  
14 final to the point that we don't receive  
15 additional information somewhere along the CASA  
16 that would cause us to change our decision.

17                        MS. BASSI:  Thank you.

18                        HEARING OFFICER KNITTLE:  Mr. Rieser?

19                        MR. RIESER:  And what was the basis  
20 for the -- for the decision you made with respect  
21 to the appeal in this case?

22                        MR. ROSS:  Well, it was discussed  
23 internally that we are -- it was discussed  
24 internally, as I stated, and we are the

1 implementing Agency of the rule, we could get  
2 administratively bogged down, tied down in  
3 appeals, disagreements with our semi or final  
4 decision on the amount of CASA to allocate, so  
5 based on our belief, the best way the CASA was  
6 not to go forward with any appeal rights.

7 MR. RIESER: Okay. Turning to  
8 225.440(h).

9 MR. BONEBRAKE: I'm sorry. What was  
10 that reference?

11 MR. RIESER: 225.440(h).

12 MR. BLOOMBERG: 440(h)?

13 MR. RIESER: 440 -- no, excuse me.  
14 I'm sorry. Where am I? 440(8).

15 MR. BLOOMBERG: Okay.

16 MR. RIESER: The last sentence of that  
17 section talks about, The Agency may from time to  
18 time elect to retire CAIR NOX allowance in the  
19 NUSA that are in excess of a certain amount, do  
20 you see that?

21 MR. BLOOMBERG: Yes.

22 MR. RIESER: What would be the basis  
23 for deciding to retire or not retire and at what  
24 point in time would that decision be made?

1 MS. DOCTORS: Mr. Ross.

2 MR. ROSS: Well, we talked about this  
3 a little bit the other day that one of the  
4 reasons we would retire allowances would be for  
5 benefit of air quality and public health.  
6 Therefore, those would be primary factors in  
7 obtaining decision to retire that allowance.

8 MR. RIESER: Is this a decision -- the  
9 language says that the Agency may from time to  
10 time elect to retire NOX allowances that are in  
11 excess of a certain amount. When are those --  
12 when are those times and how will the Agency make  
13 a decision at those specific times?

14 MR. ROSS: First, there has to be  
15 excess allowances available to retire and that  
16 means that a CASA categories are not being  
17 utilized wholly.

18 MR. RIESER: These are the --

19 MR. ROSS: These are NUSA.

20 MS. DOCTORS: I was just referring the  
21 witness to the subsection that we're discussing.

22 MR. ROSS: So there would not have  
23 been sufficient or enough new sources being  
24 constructed so that the NUSA category is not

1 being utilized and, I believe, it would have to  
2 have been doubled.

3 MS. DOCTORS: Okay. Ms. Sims, do you  
4 know how many years --

5 MS. SIMS: That 15,000 number is five  
6 times the 5% of the face to NUSA.

7 MR. ROSS: So you would have to first  
8 have an amount of allowances in the NUSA pool  
9 greater than 15,881 and then we would at that  
10 time discuss potential retirement of those  
11 allowances. So from time to time that will occur  
12 and there would be excess allowances in the NUSA,  
13 and at that those times we will make a  
14 determination on what to do with those  
15 allowances.

16 MR. RIESER: And you say that one of  
17 the criteria will be the public health protection  
18 that you discussed, but there -- if there is  
19 situations where you may elect not to retire,  
20 what would that be based on?

21 MS. DOCTORS: Mr. Bloomberg.

22 MR. BLOOMBERG: Potentially if we know  
23 there's an upcoming need for those NUSA  
24 allowances, new large plants coming in, perhaps

1           there was a delay in building one that was  
2           expected and that's why it builds up to that  
3           level. We would evaluate the -- whether or not  
4           to retire versus holding them to help that new  
5           unit.

6                         MR. ROSS: If there was a forecast in  
7           need for some of those allowances, we would  
8           perhaps elect not to retire.

9                         MR. RIESER: Thank you.

10                        HEARING OFFICER KNITTLE: Mr. Rieser  
11           -- I'm sorry.

12                        MR. JOHNSON: Before we go on for  
13           anticipating the hearing officer's question, for  
14           purposes of clarification of the record there are  
15           two Section Hs in 225.445 according to my copy of  
16           the notice of proposed rule. You were referring  
17           to the second H; is that correct?

18                        MR. RIESER: That's correct.

19                        MR. JOHNSON: Thank you.

20                        HEARING OFFICER KNITTLE: Ms. Bassi?

21                        MS. BASSI: On the same section that  
22           Mr. Rieser was asking questions about, when does  
23           the Agency -- what is the earliest that the  
24           Agency could expect the NUSA to accumulate to



1 five times the amount so that the Agency could  
2 begin to retire allowances?

3 MR. ROSS: I mean, we just have to  
4 speculate to answer that question.

5 MS. BASSI: Could it be 2013?

6 MR. ROSS: It could be.

7 MS. BASSI: And that would be five  
8 years assuming no allowances were allocated.

9 MR. BLOOMBERG: Hypothetically.

10 MS. BASSI: Hypothetically. Thank  
11 you. Is this after the attainment date for ozone  
12 and for PM2.5?

13 MR. ROSS: Yes, but there's a new PM  
14 standard promulgated recently.

15 MS. BASSI: So then any retirement of  
16 the NUSA could not be used as SIP credit toward  
17 an attainment demonstration; is that correct?

18 MR. ROSS: For a current or planned  
19 attainment demonstration we can't forecast what  
20 type of reductions we will need in the future.

21 MS. BASSI: Stipulated. But all we  
22 have to work with right now is the current  
23 standards; is that correct? Those are the only  
24 ones that are applicable right now; is that

1 correct?

2 MR. ROSS: That's correct. But we  
3 have maintenance standards also.

4 HEARING OFFICER KNITTLE: Mr.  
5 Bonebrake?

6 MR. BONEBRAKE: And, Mr. Ross, is  
7 there any provision in the proposed rules that  
8 would permit appeal or review of the Agency's  
9 election to retire NUSA allowance?

10 MR. ROSS: No, there's not.

11 MR. RIESER: My next question involves  
12 Section 225.455. In C the Agency talks about  
13 acting as a mediator where more than one project  
14 sponsor request CAIR NOX allowances for the same  
15 project. Could you give an example --

16 MS. DOCTORS: Objection. I think he's  
17 misstating the rule. What did --

18 MR. RIESER: Will not. Excuse me.  
19 Thank you. Thank you very much. Even with that  
20 correction, could you give an example of what  
21 circumstances where you expect more than one  
22 project sponsor?

23 MS. SIMS: I can give an example. Say  
24 the City of Chicago wants to get CASA credit for

1           like their rooftops, solar energy panels that  
2           they've been doing there, and say the City is  
3           applying for a CASA allowances at the same time  
4           maybe that apartment building itself those people  
5           are wanting to get cast CASA allowances for their  
6           roof tops, solar panel projects. So we can't  
7           say, well, you can't have them because the City's  
8           getting them. They will to -- we would reject  
9           the application and they would have to decide who  
10          is going to get what.

11                         MR. RIESER: Can somebody other than  
12           the owner or operator of the facility that's  
13           doing whatever the thing is that generates the  
14           potential for CASA allowances apply for CASA  
15           allowances?

16                         MS. DOCTORS: Okay. My -- This  
17           question needs to be addressed to Mr. Roston.  
18           Here he is -- Mr. Copper. I'm sorry. This is  
19           going to be forever a problem for me sitting next  
20           to Jim Ross and Mr. Cooper on the other side.  
21           Can you restate the question for Mr. Cooper?

22                         HEARING OFFICER KNITTLE: Could you  
23           read that back, please, Mr. Rieser's question?

24                                 (The Reporter read from the record as

1 follows: Can somebody other than the  
2 owner or operator of the facility  
3 that's doing whatever the thing is  
4 that generates the potential for CASA  
5 allowances apply for CASA  
6 allowances?)

7 MR. RIESER: Mr. Cooper, we're looking  
8 at 225.455 which deals with the issue of more  
9 than one program sponsor. And the question being  
10 can somebody other than the owner or operator of  
11 a facility or source that does the activity that  
12 generates the basis for asking for allowances  
13 apply for those allowance?

14 MR. COOPER: I would answer -- One  
15 more time, please.

16 MR. RIESER: I'm going to break it  
17 down and make it much simpler. Who can apply for  
18 CASA allowances?

19 MR. COOPER: I believe the ultimate  
20 answer would be anyone, and that's the whole  
21 point of the review process where we determine  
22 what is eligible and what is not. I believe the  
23 intent behind this was if two people apply for  
24 the same -- the same project, an example comes to

1 mind is, I believe, an ESCO, Energy Saving  
2 Corporation, or something to that effect. That  
3 may not be the right term. They come in and do a  
4 building audit and they determine that these  
5 lights are old and inefficient so they recommend  
6 an upgrade. We, the diligent EPA, do that. The  
7 EPA may claim that credit is now ours or the  
8 ESCO, if that's the right term, may believe those  
9 are theirs. That is one potential example of  
10 CASA.

11 MS. DOCTORS: We have a clarification.

12 MR. BLOOMBERG: There is a definition  
13 of project sponsor within the rule. It talks  
14 about who can be a project sponsor.

15 MS. DOCTORS: Let the record note  
16 that's Section 225.130.

17 MR. RIESER: Now does the potential  
18 for a conflict list primarily with respect to  
19 these energy efficiency issues or does it also  
20 reflect to things that a utility -- excuse me,  
21 electrical generator might do at this facility.

22 MR. COOPER: I don't believe we had  
23 any specific group in mind. I believe this was  
24 in effect covering our basis in the event that

1           this event did arise in the future. I don't  
2           believe there was any specific people we were  
3           attempting to prevent this from taking place. We  
4           simply wanted it put forward that we will not, in  
5           the event of two people fighting over the same  
6           chunk of allowances, we wanted nothing to do with  
7           REA beings over Part B?

8                         MR. RIESER: Looking at the definition  
9           it says, Project sponsor be the person -- project  
10          sponsor means a person including the owner or  
11          operator of electric generating units that  
12          implements or helps implement an energy  
13          efficiency and conservation for renewable energy  
14          or clean technology project as listed in certain  
15          sections of the rule. So it's a person that  
16          implements or helps to implement which is a  
17          pretty broad -- broad universe. What were you  
18          trying to capture with that universe?

19                        MR. COOPER: I believe we were trying  
20          to capture the specific people undertaking the  
21          activity. I guess it is conceivable that  
22          through, again, in my lighting change example, as  
23          a form of payment to the contractual negotiation  
24          it could be worked out that in addition to

1           whatever sum of money providing a service, we  
2           will get your allowance.  So I think we -- our  
3           aim was for the ones undertaking the project.

4                       MR. RIESER:  Okay.  Is it your  
5           intention, again turning to the example of an  
6           EGU, that if a -- for example, the State of  
7           Illinois brings an action against an EGU owner  
8           under the state rule that requires certain  
9           activities that be done that falls within the  
10          CASA definitions, that the State of Illinois  
11          would be eligible of a project sponsor because it  
12          helped to implement those projects?

13                      MR. COOPER:  No, I do not believe that  
14          is our intent.

15                      MR. RIESER:  Okay.  So when you say  
16          helps to implement, what did you have in mind?

17                      MR. COOPER:  My thinking is that in  
18          this ESCO scenario where we, the Agency, are not  
19          experts on lighting, HVAC, things like that,  
20          third party firms that specialize in that, I  
21          believe, they would be who I would classify as  
22          the helper.

23                      MR. RIESER:  Okay.  And so what you're  
24          describing, correct me if I'm wrong, is a

1 situation where a company that, I guess I would  
2 characterize as a consultant, goes it a building  
3 owner and says, look, you can redo your building  
4 for achieving a lot of energy efficiency, that  
5 consultant could then independent of the building  
6 owner apply for CASA allowances?

7 MR. COOPER: Conceivably. And therein  
8 lies the -- not act as the mediator. I believe  
9 we were attempting to allow the flexibility that  
10 if you as -- Let's take a school. Maybe a school  
11 wants nothing to do with allowances because they  
12 don't watch the allowance market. They don't  
13 want any of that, but the energy efficiency firm  
14 does. And in that case if they arrange  
15 contractually, I believe certainly by the  
16 language, that we would allow them. Now if the  
17 school change their mind later, says, you know  
18 what, the contract aside, we want it, that's  
19 where the no mediator portion is.

20 MS. BASSI: Mr. Rieser, can I ask a  
21 question?

22 MR. RIESER: Yes.

23 MS. BASSI: Using your example of the  
24 school doing something like this, if I were a



1 member of the school board and, therefore,  
2 affiliated with the school or if I were the  
3 principal at the school and, therefore,  
4 affiliated with the school, could I as an  
5 individual affiliated with the school but not on  
6 behalf of the school apply for those credits?

7 MR. COOPER: If you fell within the  
8 definition of project sponsor.

9 MR. RIESER: What about the truck  
10 driver that drives the material to the school?

11 MR. COOPER: I think a dose of reality  
12 is needed. We could continue this all the way to  
13 the people that manufacture the light bulbs. We  
14 assume everyone helps. The intent was for the  
15 person or persons or organization that undertakes  
16 the project. If that language is not clear, I  
17 think we can work on that.

18 MR. BONEBRAKE: I think we're all  
19 wrestling with the language helps to implement  
20 and what that means.

21 MR. RIESER: Well, and especially in  
22 the situation, for example, again turning to an  
23 EGU, an EGU retaining a consultant to do an  
24 energy efficiency project and obviously contract

1 with that energy efficiency, would that  
2 consultant to say you're not entitled to these  
3 allowances, it may or may not occur to the EGU  
4 not present in this room and not represented by  
5 the people in this room to review those contracts  
6 and make that decision and so you would have a  
7 situation where consultant -- what seems to be  
8 allowable is the consultant who helps -- who is  
9 retained to help an EGU perform an energy  
10 efficiency project would be entitled to claim the  
11 allowances, and I'm not sure if that's where the  
12 Agency really wants to go with that or --

13 MR. COOPER: I do not believe that is  
14 the intent as written. It appears that is  
15 allowable. I would say it is anyone's due  
16 diligence undertaking those kind of projects that  
17 it's your job to know the rules. If someone in  
18 the EGU realm is undertaking this kind of  
19 project, I would hope that they read the rules  
20 and would predict the kind of problems and  
21 contractually enter into their business  
22 arrangement that these are ours or these are  
23 yours, we will take a lower payment or --

24 MR. RIESER: Yeah, I guess the

1 suggestion is probably going to be in response  
2 that the Agency might want to review the policy  
3 behind the helps to implement language.

4 MR. COOPER: I believe that is a very  
5 good comment.

6 MR. BONEBRAKE: Just a couple of  
7 follow-up questions. The term clean coal  
8 technology project as used in the definition on  
9 the project sponsor, is that intended to include  
10 pollution control upgrade projects, that that  
11 latter term is otherwise used in these  
12 regulations?

13 MR. COOPER: I don't believe so. Can  
14 you repeat the question?

15 MR. BONEBRAKE: Well, there's a term  
16 used in project sponsor clean -- clean technology  
17 projects or clean technology project, do you see  
18 that?

19 MR. COOPER: Yes, I do.

20 MR. BONEBRAKE: Does that include  
21 pollution control projects and existing EGUs?

22 MR. COOPER: I believe it does, yes.

23 MR. BONEBRAKE: And also as the Agency  
24 considers provisions, I think this situation

1           should also be considered.  Is it not true that  
2           there are some projects that could have been  
3           performed even before today that would be  
4           eligible for CASA allowance?

5                         MR. COOPER:  Yes, I believe that when  
6           I present -- I will discuss, I believe, with that  
7           briefly the look back for eligibility period  
8           where we establish certain lines in the sand  
9           where you are in or you are out.

10                        MR. BONEBRAKE:  And you mentioned that  
11           a party should pay attention to what the  
12           regulations are, but parties that were involved  
13           with projects that could have generated CASA  
14           allowances where the projects occur before this  
15           rule was even proposed could not have -- could  
16           not have had notice of this proposal; right?

17                        MR. COOPER:  Not at the time  
18           potentially.

19                        MR. BONEBRAKE:  So there would have  
20           been no way for them to provide any contract  
21           unless they were clairvoyant to provide them such  
22           a contract for the allocations of CASA  
23           allowances, is that not also correct?

24                        MR. COOPER:  That is correct.  It is a

1 very good comment.

2 MR. BONEBRAKE: So there are some  
3 parties here who will undertaken activities which  
4 the Agency has determined worthy of CASA  
5 allowances would not have been -- not have been  
6 in a position to protect themselves with respect  
7 to the project sponsor definition, is that also  
8 correct?

9 MR. COOPER: I believe that is  
10 accurate.

11 MR. RIESER: I am ready to move on to  
12 225.460(c)(1).

13 CHAIRMAN GIRARD: Before you do that,  
14 Mr. Rieser, I'm trying to get a handle on this  
15 project sponsor idea so I would just ask a  
16 general question. Is it the Agency's position  
17 then that if Clean Air Set-Asides are only  
18 available to owners or operators, it's less  
19 flexible than if we interject this new concept of  
20 a project sponsor?

21 MR. COOPER: Repeat, please.

22 HEARING OFFICER KNITTLE: Pardon?

23 MR. COOPER: Repeat the question,  
24 please.

1 HEARING OFFICER KNITTLE: You're  
2 asking who to repeat the question? You want Dr.  
3 Girard to repeat the question or the court  
4 reporter?

5 MR. COOPER: Either or.

6 HEARING OFFICER KNITTLE: Ask me if  
7 you want the court reporter to read it back and  
8 I'll decide if we should do that, okay. You can  
9 repeat that.

10 (The Reporter read from the record as  
11 follows: Before you do that, Mr.  
12 Rieser, I'm trying to get a handle on  
13 this project sponsor idea so I would  
14 just ask a general question. Is it  
15 the Agency's position then that if  
16 Clean Air Set-Asides are only  
17 available to owners or operators,  
18 it's less flexible than if we  
19 interject this new concept of a  
20 project sponsor?)

21 MR. COOPER: I -- I don't believe the  
22 project sponsor is a new concept. I believe our  
23 intent was to try to make it as broad and  
24 encompassing as possible to open the universe of

1 sources of people that could apply. Conceivably  
2 a neighborhood association that installs solar  
3 cells on each and every one of the houses in the  
4 block, is that block aggravated enough to be  
5 eligible, we wanted them to fall under the scope.

6 CHAIRMAN GIRARD: And will that still  
7 work if the owners or operators, in that case  
8 owners of the buildings, could apply for the  
9 CASA? Why do we have to interject this new  
10 outfit project sponsor?

11 MR. JOHNSON: He said homeowners  
12 association.

13 CHAIRMAN GIRARD: Well, homeowners  
14 association.

15 MR. COOPER: Individually they would  
16 not reach the magnitude, I believe, of the point  
17 five or greater to roll over but as a collective  
18 they would.

19 HEARING OFFICER KNITTLE: Mr. Davis?

20 MR. DAVIS: Also, we're thinking  
21 about, for instance, EGU could sponsor an  
22 efficiency project with another entity and be  
23 able to apply -- to apply for the CASA credits  
24 for that efficiency measure. So they wouldn't

1 necessarily be the owner/operator of the business  
2 that's making the upgrades or efficiency  
3 measures, taking the efficiency measures.  
4 However, they can still sponsor that project  
5 through perhaps discounted electric rates on a  
6 commercial level or -- it doesn't necessarily  
7 have to be -- the project sponsor doesn't  
8 necessarily have to be the owner/operator of the  
9 facility undertaking the measures.

10 MR. ROSS: I believe owner/operator is  
11 a legal term that is confined by a definition.  
12 It's used in regard to stationary sources. So  
13 when we say project sponsor, we bring in others  
14 from example he's given so I don't think -- I  
15 think owner/operator was limiting and, therefore,  
16 we added a definition of project sponsor to  
17 broaden those eligible for the set aside.

18 CHAIRMAN GIRARD: Thank you. That's  
19 -- I was trying to get more examples into the  
20 record.

21 MR. COOPER: Would you like more?

22 CHAIRMAN GIRARD: Do you have more?  
23 Go ahead.

24 MR. COOPER: Wind farms, a local



1 farmer you can go on the internet and you  
2 yourself can purchase your own multi kilowatt  
3 wind turbine. In that example farmers could put  
4 in a group of them and in that case maybe one  
5 guy, one farmer does have multiple people's  
6 properties. In that case he would be the  
7 owner/operator or project sponsor of those even  
8 though they would be on other properties. Is  
9 that the example you were looking for?

10 CHAIRMAN GIRARD: So sort of like a  
11 farmers wind farm association?

12 MR. COOPER: Which they have. The --  
13 I believe I talked about that in the TSD in  
14 Chicago. The Chicago Solar Partnership, if  
15 memory serves, it's -- the last time I looked it  
16 was a collection of some 28 odd independent  
17 sites. Those sites aggregate to something on the  
18 order of two megawatts worth of solar capacity.  
19 That would be another example where perhaps the  
20 Solar Partnership is the project sponsor rather  
21 than all the independent 28 independents. For  
22 the moment I'm out.

23 MR. JOHNSON: Essentially you want to  
24 encourage these types of environmentally friendly

1 projects as well as encourage corporate  
2 landowners?

3 MR. COOPER: The attempt was to make  
4 -- to open a program's doors as wide as possible  
5 to allow as many as possible that are eligible to  
6 take advantage of the program. We attempted not  
7 to say you the homeowner, we don't want to mess  
8 with you. You the farmers cooperative, we don't  
9 want to mess with you. You 28 solar, no. We  
10 tried within the confines of the rule to open the  
11 doors wide enough so that virtually anyone  
12 qualified can come in.

13 HEARING OFFICER KNITTLE: Yes? Sir,  
14 can you identify yourself?

15 MR. NILLES: Bruce Nilles with the  
16 Sierra Club. If the City of Springfield decides  
17 to retrofit a certain number of low income  
18 housing -- low income homes and generates a  
19 certain amount of energy daily with the NOX  
20 reduction, is that the kind of project you think  
21 would be eligible?

22 MR. COOPER: I believe that would be  
23 on the -- yes, I believe that would be. That is  
24 a form of demand side management.

1                   MR. NILLES:  And the idea is to reward  
2                   the city to do a good project for the city in  
3                   order to save energy as well as generating energy  
4                   savings for low income residents?

5                   MR. COOPER:  Absolutely.

6                   MS. BASSI:  In your example -- in that  
7                   example, if the allowance were sold, who would  
8                   get the income?

9                   MR. COOPER:  If the allowance was sole  
10                  by whom?

11                  MS. BASSI:  So the city of -- In this  
12                  example, does the City of Springfield get the  
13                  allowance?

14                  MR. HILLES:  Yes, the City of the  
15                  Springfield would be the recipient of the NOX  
16                  credit and would be putting up the resources to  
17                  be able to allow the low income housing to be  
18                  retrofitted.

19                  MR. RIESER:  Was your question  
20                  answered?

21                  MS. BASSI:  Yes.  Thank you.

22                  HEARING OFFICER KNITTLE:  Mr. Rieser,  
23                  are you ready to continue?

24                  MR. RIESER:  I am.  We were -- I was

1 pointing you to 225.460(c)(1) which describes  
2 both eligible and ineligible air pollution  
3 control upgrade projects. Among the ineligible  
4 projects are over fire air techniques and I want  
5 to ask the basis for excluding over fire air  
6 techniques as opposed to including selective  
7 non-catalytic reduction technologies?

8 MR. ROSS: We wanted to provide cost  
9 recovery ability to those controls that cost the  
10 greatest amount. As we discussed earlier, and  
11 that gets the greatest benefit that add-on  
12 controls or coal-fired EGUs such as FGDs, FDRs,  
13 FMCRs and baghouses can cost tens of millions to  
14 hundreds of millions of dollars. And they also  
15 potentially provide the greatest benefit in  
16 regards to reductions of emissions, and so that's  
17 where we focus our attention, on those types of  
18 controls.

19 MR. RIESER: If it could be  
20 demonstrated that a technology such as over fire  
21 air provided equal or greater benefits to SMCR at  
22 less cost, isn't that an activity that ought to  
23 be eligible for CASA allowance?

24 MR. ROSS: I mean, we are willing to

1 look at that, but, again, cost is a factor.  
2 There are -- A trading program in general  
3 benefits a -- the addition of a control device in  
4 that by reducing your emissions you are, in  
5 essence, bringing up allowances to be sold,  
6 traded, used as the company sees fit. And if  
7 that control option, in this case an over fire  
8 air combustion modification, I believe, if it's  
9 inexpensive, there may be little need for  
10 additional cost recovery such as that provided by  
11 the CASA. So we're certainly willing to look at  
12 something like that but cost is a factor.

13 MR. RIESER: When -- Well, for one,  
14 would it be useful to impedovise (phonetic) the  
15 installation of lower cost but equally effective  
16 control strategies to preserve the pool but also  
17 -- to preserve the allowance pool but also to  
18 provide for equal -- equal control measures?

19 MR. ROSS: Perhaps. I mean, I can see  
20 where you -- one could argue that, yes. But,  
21 again, the cap and trade program in itself  
22 provides an incentive. What we're looking for  
23 with CASA is to provide additional incentive to  
24 add-on controls which are more expensive and,

1           therefore, less likely to be undertaken or as  
2           readily undertaken as something that's multiple  
3           times lower in cost. I believe when over fire  
4           air is a NOX control option, SCR is a NOX  
5           controlled option, SCR is an add-on control  
6           device which can cost in the neighborhood, you  
7           know, anywhere, I believe, from 20 million  
8           upwards to 60 million. A lot of it intended on  
9           the size of the generating unit. Over fire air  
10          on the other hand, as my understanding and I  
11          believe we expressed this in our Technical  
12          Support Document, where we have tables addressing  
13          the cost of different control options, it's  
14          multiple times lower in cost than SCR. So,  
15          therefore, any additional cost recovery provided  
16          to installing an SCR makes that type of control  
17          more likely to be installed.

18                         MR. RIESER: When you say that you're  
19                         willing to take a look at this, is that in the  
20                         context of this regulatory process, or would you  
21                         consider language that allowed for those types of  
22                         individual technology demonstrations to allow for  
23                         eligibility within the rule itself?

24                         MR. ROSS: Say that again, I'm sorry.

1                   MR. RIESER: As soon as I got two  
2 thirds of the way through that I knew it was  
3 going to make no sense at all so I'm going to  
4 break it down. You said you would take a look at  
5 this issue --

6                   MR. ROSS: Right.

7                   MR. RIESER: -- and is it your  
8 intention to take a look at it in the context of  
9 this -- the regulatory language that we've got  
10 before the Board?

11                  MR. ROSS: Well, I would say that we  
12 looked at it already and decided against over  
13 fire air. I believe it was primarily based on  
14 cost is what I previously discussed. Given to  
15 the extent that we are provided additional  
16 information, we are willing to look further into  
17 that and other issues that are being raised at  
18 the hearing. And if an amendment to the rule is  
19 determined appropriate, then we are willing to do  
20 that.

21                  MR. RIESER: Would that consideration  
22 include adding language to this eligibility  
23 discussion that you got in C1 that would provide  
24 for an unnamed -- either technologies that are

1 currently named or for future developed unnamed  
2 technology to be presented to the Agency for  
3 eligibility and have the Agency make a  
4 determination regarding its eligibility at the  
5 time it's presented to them?

6 MR. ROSS: I believe the answer to  
7 your question is yes. We could potentially amend  
8 the rule to include something like that. And  
9 what I am currently looking at is something  
10 similar to that already exists in the rule.  
11 Because I know we had discussed and contemplated  
12 that in our internal meeting. Again, that there  
13 may be some new technology that comes on to the  
14 scene that can provide substantial reductions in  
15 NOX or SO2 that we would like to provide an  
16 incentive for. And given that, we would be open  
17 to amending the rule or giving CASA such a  
18 project and I think we incorporated that in to  
19 some degree into the rule.

20 MR. RIESER: 460(e).

21 MS. DOCTORS: Section 225.460(e)?

22 MR. RIESER: But this does not allow  
23 for the inclusion of anything that is  
24 specifically excluded under 460(c)?



1                   MR. ROSS: It does not allow for the  
2 inclusion of over fire air which is what you have  
3 specifically raised, that's correct.

4                   MR. RIESER: And would there be any  
5 consideration to softening that not specifically  
6 excluded language?

7                   MR. ROSS: Yes, we could give  
8 consideration based on information provided in a  
9 review -- internal review that would indicate  
10 that it's appropriate to even include something  
11 such as over fire air.

12                  MR. BONEBRAKE: Okay. I have a  
13 follow-up just on that section if you don't mind.  
14 Section C, Subsection C that we were just talking  
15 about, the delete in language is clean technology  
16 project and then below that we have two subparts,  
17 Subpart 1 refers to air pollution and control  
18 equipment and Subpart 2 clean coal technologies.  
19 And when I first read C, I had been under the  
20 impression that both -- both C1 and C2 were both  
21 categories of clean coal technology. And if you  
22 go to, however, 225.465, which is the next  
23 Section A, Subpart 2 refers to air pollution  
24 control equipment and Subpart 3 separately refers

1 to clean coal technology which created an  
2 ambiguity in my mind at least. So my question  
3 was: Subpart C of 225.460, which Mr. Rieser was  
4 just asking you about which refers to clean coal  
5 technologies, are clean coal technologies, as  
6 that term is used in this rule, intended to  
7 capture all of the projects that are identified  
8 both in C1 and C2?

9 MS. DOCTORS: Mr. Cooper needs to  
10 answer that question.

11 MR. COOPER: I apologize.

12 MR. KIM: I apologize.

13 MR. BONEBRAKE: You need all that  
14 again?

15 MR. COOPER: I believe so.

16 MR. BONEBRAKE: I have practice so  
17 I'll try to make this quick. 225.465(a)(2)  
18 refers to air pollution control equipment and A3  
19 clean coal technologies, do you see that, Mr.  
20 Cooper?

21 MR. COOPER: A2 and A3?

22 MR. BONEBRAKE: Right.

23 MR. COOPER: 465.

24 MR. BONEBRAKE: That's where my

1 question starts and I'll go back to 460.

2 MR. COOPER: A2 and A3, yes.

3 MR. BONEBRAKE: And that suggested to  
4 me that air pollution control equipment of the  
5 category was separate and apart from clean coal  
6 technology?

7 MR. COOPER: It is, yes, I believe.

8 MR. BONEBRAKE: Now if we go back to  
9 460(c).

10 MR. COOPER: It says clean technology  
11 projects, not clean coal technology.

12 MR. BONEBRAKE: So clean technology  
13 projects include both air pollution control  
14 equipment upgrades and clean coal technology?

15 MR. COOPER: I believe, yes.

16 MR. BONEBRAKE: Okay. So whenever we  
17 see the term clean technology projects in the  
18 proposed rule, we are attending to capture both  
19 of those categories?

20 MR. COOPER: I believe so, yes.

21 HEARING OFFICER KNITTLE: Ms. Bassi?

22 MS. BASSI: I'd like to go back to  
23 460(d) and (e), please.

24 MR. COOPER: 460 what?

1 MS. BASSI: Subsection D and E. Okay.  
2 In Subsection E it appears to me that this is the  
3 other category where something is not  
4 specifically listed, someone could apply to the  
5 Agency for a CASA allowance for those things  
6 unless they are not specifically excluded by  
7 Subsection D. Subsection D appears to exclude  
8 only nuclear power projects, projects required to  
9 meet emission standards required by other state  
10 or federal laws except for baghouses or projects  
11 required to meet the -- to comply with the  
12 consent decree or SEP; is that correct? Whoever  
13 is answering.

14 MR. COOPER: I missed your question.  
15 You read it but I missed your question.

16 MS. BASSI: Well, did I read it  
17 correctly?

18 MR. COOPER: I believe you read the  
19 words.

20 MS. BASSI: That's all I asked so far.  
21 Okay. If that is the case, would not an over  
22 fire air project be eligible for consideration  
23 under E because it's not excluded under D?

24 MR. COOPER: I believe it's excluded

1 under the definition of the clean -- I believe  
2 it's excluded under the definition of clean  
3 technology project.

4 MS. BASSI: But E does not say what is  
5 excluded under A and C. This is for projects  
6 other than those that are listed under A and C?

7 MS. DOCTORS: E1 through C23.

8 MS. BASSI: What?

9 MR. BLOOMBERG: It is listed in C. It  
10 is a project specifically listed and excluded in  
11 C.

12 MS. BASSI: But E doesn't say the ones  
13 that are excluded in C.

14 MR. BLOOMBERG: No, but it is  
15 specifically listed. It says for projects that  
16 are not specifically listed in Subsections A  
17 through C. Over fired air is listed in C. It  
18 also happens to be excluded in C.

19 MS. BASSI: But it's listed -- it is  
20 not listed in C as one of the types of projects  
21 that would be in other, in quotes, under E?

22 MR. BLOOMBERG: That's not what E  
23 says. It says not specifically listed. And over  
24 fired air is specifically listed in C. It is

1 also specifically excluded in C, but the more  
2 importantly in this case it is specifically  
3 listed in C.

4 MS. BASSI: With all do respect, I  
5 don't think that's very clear and something you  
6 might consider.

7 MR. BLOOMBERG: Okay.

8 MS. BASSI: Because it appears -- it  
9 appears from the reading of this, the only  
10 exclusion are the ones that are listed in D.

11 MR. BLOOMBERG: I'm sure we can work  
12 on some clarifying language.

13 MS. BASSI: But Mr. Rieser wants it  
14 included on the other.

15 MR. BLOOMBERG: We know.

16 MR. RIESER: And I think we'll be  
17 happy to submit our comment on what we prefer.

18 MS. BASSI: Just trying to help.

19 HEARING OFFICER KNITTLE: Mr. Rieser,  
20 I think we're back to you.

21 MR. RIESER: The next series of  
22 questions I have have to do with the -- what I  
23 call the pour over among the different  
24 categories, so I don't know if that's suited for

1 Mr. Bloomberg or is a Mr. Cooper question.

2 MR. BLOOMBERG: Do you mean the  
3 overflow?

4 MR. RIESER: Yeah.

5 MR. BLOOMBERG: Mr. Cooper will be  
6 specifically addressing that in his presentation.

7 MR. RIESER: Then I'll hold those  
8 until he does that.

9 HEARING OFFICER KNITTLE: Are you  
10 finished with your remaining questions, Mr.  
11 Reiser?

12 MR. REISER: Yes.

13 HEARING OFFICER KNITTLE: Ms. Bugel?

14 MS. BUGEL: I have nothing. Thank  
15 you.

16 HEARING OFFICER KNITTLE: Let's go off  
17 the record a second.

18 (A discussion was held off the  
19 record.)

20 HEARING OFFICER KNITTLE: Let's meet  
21 back at three o'clock.

22 (A short break was taken.)

23 HEARING OFFICER KNITTLE: Let's go  
24 back on the record. We're going to have a brief

1 presentation from Mr. Cooper and then -- so we're  
2 going to vacate the front table and then come  
3 back up before we start the questioning.

4 MS. DOCTORS: This would be Agency  
5 Exhibit 11.

6 HEARING OFFICER KNITTLE: Is there  
7 going to be any objection to the Exhibit 9,  
8 Agency Exhibit 9? Seeing none, this will be  
9 admitted into the record as Exhibit 9. No, no.  
10 I'm way off. It's Agency Exhibit No. 11.

11 MR. RIESER: Which one is this?

12 HEARING OFFICER KNITTLE: What you  
13 have in front of you is Agency Exhibit No. 9, the  
14 presentation.

15 MR. REISER: Thank you.

16 MR. COOPER: Good afternoon.

17 Everybody situated? Yeah. This is a  
18 presentation that briefly summarizes the CASA  
19 which is unique to Illinois. I don't believe  
20 we've tried something like this before. This  
21 presentation is very similar to a presentation  
22 that was performed during the outreach, so for  
23 some of you it will be old hat and for the Board  
24 hopefully it clarifies and summarizes some of



1 what we're trying to get across.

2 As you can see by this slide, these  
3 are the topics we'll be covering. As we've  
4 discussed at great length there are four  
5 categories of which Illinois' CASA attempts to  
6 incentivise. Energy efficiency/renewable  
7 projects, pollution control upgrades, clean coal  
8 technology and early adopters which is somewhat  
9 of a confusing term. I'm liking it to a timing  
10 bonus. Some acceptable projects are those before  
11 you. We've mentioned a couple of them yet today.  
12 I believe actually the demand side management  
13 came up as an example from Mr. Nilles. We've  
14 also anticipated that there may be energy  
15 efficient new construction would be green  
16 buildings and the like, supply side energy  
17 efficiency which would specifically supply to a  
18 generating unit; high efficient power; wind,  
19 solar and the rest. Next please.

20 Specifically under pollution control  
21 upgrades, as the rule is currently proposed,  
22 there are only four types that would be  
23 allowable: The FGD, baghouse, SCR/SNCR. And as  
24 was discussed earlier, there are a host of

1 projects which are specifically excluded at least  
2 in the current draft. As far as clean coal  
3 technology, not to specifically be confused with  
4 clean technology, there are IGCC, integrated  
5 gasification combined cycle plants, as well as  
6 fluidized bed coal combustion. The timing bonus  
7 quite simply are projects that come in prior to  
8 those within that window of time, effectively,  
9 the early adopter category is an attempt to gain  
10 emissions sooner through this -- or gain emission  
11 reductions, pardon my misstatement, emission  
12 reduction sooner than someone otherwise perhaps  
13 would have done. It provides basically an  
14 additional kick of allowances as we'll talk about  
15 a little bit later. Next, please.

16 We won't go through all these  
17 calculations. They were provided for  
18 completeness. We will touch on just a few, but  
19 they all generally work the same way. As you can  
20 see for the energy efficiency and conservation  
21 projects, it's a rather simple formula where a  
22 number of allowances is directly related to the  
23 megawatt hours that a project offsets. The 1.5  
24 is a constant, the 2000 is a conversion to tons.

1 Next, please.

2 A short example, a very real example,  
3 a facility like this or any other across the  
4 entire state undergoes a lighting and motor  
5 upgrade project. And in this particular  
6 hypothetical example they offset 10,000 megawatts  
7 hours. You plug it in and it equates out very  
8 simply that. And, again, we won't go through all  
9 of these. The exact same procedure, the only  
10 difference being in this case is the amount  
11 generated rather than conserved and there's a  
12 different multiplier. There's a short example.  
13 Again, same basic form at a different multiplier.  
14 Example for your own.

15 Now we'll pause for a moment on this  
16 one. Air pollution control upgrades as we  
17 previously stated: FGD, SCR/SNCR and then there  
18 is baghouse, that comes later. There's a  
19 separate equation. Essentially what that  
20 equation says is that during -- or we create a  
21 baseline emission, so two years prior to the  
22 installation of the control device, we are going  
23 to create a baseline. That's the ERB factor.  
24 ERA then is every years annual average. Allowing

1 for this difference actually provides incentive  
2 to the utility to operate their equipment as low  
3 as possible as to them as economically viable.  
4 The K factor is a de-rating factor to keep the --  
5 because the megawatts generate for a plant are so  
6 large so the K factor brings it down in scope.  
7 And as you can see there is a difference for the  
8 K, for NOX and SO2 and the difference being the  
9 drastic reductions in NOX -- or in SO2, excuse me,  
10 that could be had from an FGD.

11 A small example here, again a very  
12 real example. There's -- This is not a  
13 particular plant. This is totally made up data.  
14 This is no one in specific. But a plant chooses  
15 to undergo a project. Their prior two year  
16 baseline was 1.8 pound per megawatt hour, not  
17 million BTU, and after the upgrade they were able  
18 to achieve a 50% reduction apparently. And in a  
19 given year they generated 2.8 million megawatts.  
20 As you can see, all of factors plug into the  
21 equation and we arrive at 126 allowances.

22 So the baghouse, not quite as  
23 complicated of an equation, same as before except  
24 a different factor. Similar example. Again, a

1 utility installs the baghouse, 2.8 million. We  
2 plug them in and we arrived with 280 allowances.  
3 Very similar except we've defined in this case  
4 with the 1.0 as to what we are considering a  
5 baseline of clean is. An example.

6 So here's the early adopter, and  
7 people that qualify by the way of the structure  
8 of the formula is they should qualify for at  
9 least one. That's the leading factor. But  
10 centrally it's 10% of the sum of everything else  
11 that they otherwise qualified for. So if they  
12 installed within a period of time a controlled  
13 device as well as a wind farm, we're going to  
14 recognize that. In this case in one of the  
15 previous examples, the wind farm was installed  
16 prior to the -- or within the window of time and  
17 the equation runs as such. Had there been more  
18 than one project, there would be more than one in  
19 the summation.

20 Allowance distribution period. The  
21 slide pretty well speaks for itself, I believe.  
22 I don't know what more I can say on that at this  
23 point. Look back for eligibility. This is, I  
24 believe, verbatim from the proposed rule. There

1 are windows of time which we have allowed a  
2 project in the not too distance past to qualify  
3 for.

4 Here we get to the topic of under and  
5 over subscription which has been the topic of  
6 some of the debate I'm to understand. The first  
7 goal of this -- and there will be a slide that  
8 follows. I don't know if it helps to look at  
9 that now before we go on. But the first aim is  
10 that a category doubles, so it's business as  
11 usual until a category doubles. Once the  
12 category doubles, that excess then is eligible to  
13 spill to its neighboring categories. Our aim is  
14 to first apply that spillover to those other  
15 categories that are over subscribed. Once the  
16 over subscribed categories are filled to the zero  
17 line where all requests have been met, then those  
18 allocations begin to fill the neighboring  
19 categories that have not yet doubled.

20 And as has been brought up earlier, if  
21 under some scenario all categories were to  
22 eventually become full by double their amount,  
23 there is flexibility for the Agency to retire  
24 those excess allowances. What I was reminded of

1 is that this slide is not indicative of the rule  
2 as it is currently written per se. The coming  
3 amendment which is close --

4 MS. DOCTORS: Close.

5 MR. COOPER: Close. This is the aim  
6 of the current amendment. I believe that it's a  
7 -- for the most part a clarification of what our  
8 intent was, what the new language is saying. But  
9 any rate, here's a purely hypothetical scenario.  
10 Again, this is not -- it is sort of based on  
11 reality but at the same time perhaps not. We can  
12 see that four categories. These categories are  
13 roughly to scale. In this case the first, and  
14 we're looking at the before side, the first set  
15 of columns have the EE/RE category has filled  
16 beyond its first full point. It is working on  
17 becoming doubly full. In this scenario the  
18 pollution control upgrade category is completely  
19 over subscribed. There are the red boxes  
20 indicating that there are more requests than  
21 allowances available.

22 In the next category, the clean coal  
23 technology category, apparently in this example  
24 there wasn't much interest and it has much more

1 than doubled in its size. And the last category,  
2 zero the adopters is also over subscribed. How  
3 this, with the amendment, would be run now, we're  
4 on the right-hand side, the after filling  
5 portion. The box over clean coal technology,  
6 that represents that amount of allocations has  
7 spilled to those that are over subscribed first.  
8 As you can see in the picture by the now white  
9 boxes with the dotted lines, their needs have  
10 been fully met.

11 MS. DOCTORS: Is this slide number 25?

12 MR. COOPER: It's what it says. This  
13 is slide number 25. Is that what I was supposed  
14 to say?

15 MS. DOCTORS: Yes.

16 MR. COOPER: Fair enough. Pause on  
17 that note. I was saying something about filling.  
18 Okay. So we've -- our first priority has been to  
19 meet the needs of their requests that have been  
20 over subscribed, and in this particular example  
21 we were able to achieve that. So both the  
22 pollution control upgrade category as well as the  
23 early adopter categories were able to have every  
24 request met. And as this example would have it,



1           there turned out to be a little extra. That  
2           little extra then gets divvied amongst the other  
3           remaining categories in an attempt now to fill  
4           them to their doubling point. I think we're  
5           holding. So I hope that gives a visual  
6           representation of what the amended language is  
7           trying to achieve. I'm not sure that it does. I  
8           hope it does. I hope it brings it more into  
9           focus what our goals are.

10                         First and foremost we don't waste a  
11           drop. Once something is doubled, every effort is  
12           made to fill the need. Not one -- one allowance  
13           will be retired until every need is met. I think  
14           that's important to stress.

15                         Preempting a potential question for  
16           later, I decided to throw this in and this  
17           essentially gives a justification for the waiting  
18           choices in the various equations. Briefly the  
19           point five as noted, I believe, in the TSD as  
20           well is less than the other amounts. The reason  
21           being, those particular units will generate NOX.  
22           An example of this would be a landfill gas  
23           methane to energy project. While we do want to  
24           encourage that, at the same time we do recognize

1           that there is a NOX consequence and, therefore,  
2           the lower rate. The 1.0 is what we're deeming as  
3           a clean unit and, as stated, necessary for  
4           attainment. The 1.5 is fairly standard. I  
5           believe the standard allocation methodology uses  
6           that. And the final point, the 2.0, the reason  
7           this is more is because these units generate  
8           electricity with no associated emissions. So  
9           that's something we first want to very heavily  
10          promote as well as its definitely in step with  
11          the Governor's goals.

12                         A combination of set asides, as can be  
13          read, we fully encourage entities to undertake as  
14          many projects that would fall within these  
15          categories. And we definitely will allow you to  
16          reap each category that you can get.

17                         As was stated earlier, I believe,  
18          there are almost innumerable projects, so that's  
19          what the first bullet point is referring to. The  
20          pollution control upgrade category I felt was  
21          important to note that it is specifically denoted  
22          for the EGUs and then, as taken from the rule,  
23          commercially generating for eight years is what  
24          we're going to call an existing unit.

1                   Building off the first bullet point  
2                   from the last slide, the pollution control  
3                   upgrade category represents 20% of our CASA.  
4                   Again, the sole beneficiaries of that category  
5                   are the EGUs.  Additionally, in the EE/RE  
6                   category, there would be supply side energy  
7                   projects.  Again, the only people that would be  
8                   eligible for that would be the EGUs.  So those  
9                   are two earmark sections designed for those  
10                  sources.

11                  HEARING OFFICER KNITTLE:  Thank you,  
12                  Mr. Cooper.  It's my understanding that Ms.  
13                  Doctors has some preliminary questions she wants  
14                  to ask of Mr. Cooper before you start asking  
15                  questions of him; is that correct?

16                  MS. DOCTORS:  Yes.  I'd start by  
17                  getting his testimony admitted as if read.  I  
18                  believe this is Agency Exhibit 12.  Yesterday  
19                  there was a question --

20                  HEARING OFFICER KNITTLE:  Can you just  
21                  hold on a second, please.  We need to get a copy  
22                  of the testimony and get it in the record.  Any  
23                  objection to the admission of the testimony as if  
24                  read into the record?  That will be admitted as

1 Agency Exhibit No. 12. All right, Ms. Doctors,  
2 you may proceed.

3 MS. DOCTORS: Okay. Yesterday Ms.  
4 Bassi asked for information on the current  
5 construction projects. We have an exhibit off of  
6 our Website, I believe.

7 MR. COOPER: Yes.

8 MS. DOCTORS: This would be marked as  
9 Agency Exhibit 13. I'd like to have this  
10 admitted.

11 HEARING OFFICER KNITTLE: Is this --

12 MR. COOPER: Ms. Bassi had asked a  
13 question earlier about the number of projects,  
14 utility projects. And during the break I was  
15 able to run and produce a document that lists  
16 them all. I thought it would be useful.

17 HEARING OFFICER KNITTLE: Very  
18 efficient.

19 MR. COOPER: Thank you.

20 HEARING OFFICER KNITTLE: Ms. Bassi,  
21 is there going to be any objection to this?

22 MS. BASSI: I'd like to see it first.

23 HEARING OFFICER KNITTLE: Mr. Rieser,  
24 any objection to this?

1 MR. REISER: No.

2 HEARING OFFICER KNITTLE: This will be  
3 admitted as well as Exhibit 13. I'm sorry. Ms.  
4 Doctors, you may proceed.

5 MS. DOCTORS: Okay. Ms. Bassi had  
6 also and Mr. Reiser had asked which states had  
7 output -- output based allocation schemes or  
8 methodology. This is from UCPA's Website, I  
9 believe. I'd like to mark it as Agency Exhibit  
10 14. Mr. Cooper, could you tell us a little bit  
11 about this document.

12 MR. COOPER: This document is titled  
13 as the -- or done by EPA and the CHP Partnership.  
14 There is a table on the first page that answers  
15 -- partially answers the question from Mr.  
16 Davis's testimony as to what are the benefits of  
17 efficiency on page 3, I believe. There is also a  
18 table of current state output based regulations.

19 HEARING OFFICER KNITTLE: Any  
20 objection to the admission of this document?

21 MR. BONEBRAKE: No objection.

22 HEARING OFFICER KNITTLE: Seeing none,  
23 this be admitted as Agency Exhibit No. 14.

24 MS. BASSI: Can I ask a question about

1 this?

2 MR. COOPER: Sure.

3 MS. BASSI: Am I reading this  
4 correctly, these are the states that currently  
5 have state output based regulations as opposed to  
6 those that are proposing them under the CAIR; is  
7 that correct?

8 MR. COOPER: I'm reading it the same  
9 way you are. Table 1 states output based  
10 regulations. I made an effort to go and pull  
11 this data also at the break. And I believe it  
12 addresses at least in part some of your previous  
13 questions.

14 MS. BASSI: Thank you.

15 MR. BONEBRAKE: And in that same Table  
16 1 there's a reference to DG rule, do you know  
17 what that means?

18 MR. DAVIS: I do. Distributed  
19 generations.

20 MR. COOPER: Yes. I believe it states  
21 the abbreviation for that at the top of page 2,  
22 third -- second bullet point emission limits for  
23 small distributed generations (DG). Second page,  
24 top right column, second bullet point.

1 MR. BONEBRAKE: And to your knowledge,  
2 Mr. Cooper, is Table 1 an exhaustive list of  
3 state regulations that have output based  
4 regulations?

5 MR. COOPER: I am not aware of that.

6 HEARING OFFICER KNITTLE: I'm sorry.  
7 Ms. Doctors?

8 MS. DOCTORS: We have three more  
9 documents.

10 HEARING OFFICER KNITTLE: Okay. Were  
11 all these copied by Mr. Cooper on a break?

12 MS. DOCTORS: No. We'd like to have  
13 -- we've -- there was a question raised by Mr.  
14 Rieser and Ms. Bassi concerning the 15% set aside  
15 and the guidance that we dated from the NOX SIP  
16 Call.

17 MR. REISER: I'm not sure I asked that  
18 question.

19 MS. DOCTORS: No, I'm sorry. Wrong  
20 person. Mr. Bonebrake asked it and Kathleen  
21 Bassi.

22 MR. BONEBRAKE: It all looks the same  
23 on the transcript.

24 MS. DOCTORS: I'm sorry. I misspoke.

1 This is -- we had asked about what states had  
2 done in terms of set asides and this document  
3 dated from September 16th, 2005, draft is a draft  
4 report prepared by the Climate Protection  
5 Partnership Division, that's a division of USEPA,  
6 and that would be marked Agency Exhibit 14.

7 HEARING OFFICER KNITTLE: 15.

8 MS. DOCTORS: 15.

9 MR. COOPER: Specific interest with  
10 reference to that document, I believe, is page 3.  
11 Page 3 provides a Table 1 size of set aside  
12 account by state.

13 HEARING OFFICER KNITTLE: Before we  
14 get into this, let's see if we're going to admit  
15 it. Do you have any objections? Do you need a  
16 minute to take a look at this?

17 MR. BONEBRAKE: Give us just a minute.

18 MS. BASSI: Is this a year-old draft;  
19 is that correct?

20 MR. COOPER: That is the date on the  
21 document.

22 HEARING OFFICER KNITTLE: Yes, Mr.  
23 Rieser?

24 MR. REISER: Yeah. Do you know



1           whether this is -- whether there is a final  
2           version of this?

3                       MR. COOPER:  No, I do not.  The last  
4           time I looked at this was during the drafting --  
5           during our initial round table period.

6                       MR. REISER:  So you haven't looked  
7           back to where this was to verify whether this has  
8           been finalized or not?

9                       MR. COOPER:  I have not.

10                      MR. REISER:  Maybe if we could suggest  
11           that that be done just to verify whether there is  
12           a more recent and final document.

13                      HEARING OFFICER KNITTLE:  Yeah, I  
14           think that would be a good idea for the Agency to  
15           do that.

16                      MR. REISER:  Subject to that I don't  
17           have any objection.

18                      MR. BONEBRAKE:  That will be my only  
19           concern as well.

20                      HEARING OFFICER KNITTLE:  We'll admit  
21           this as Agency Exhibit No. 15, but we direct the  
22           Agency to attempt to discover whether there is a  
23           more recent version of this draft.

24                      MS. DOCTORS:  We will.  This next one

1 discusses the 15% -- I mean, guidance on set  
2 asides and it's alternative NOX allowance  
3 allocation language for the Clean Air Interstate  
4 Act and that would be Agency -- would be Agency  
5 Exhibit 16.

6 MR. REISER: I think we have to start  
7 taking shorter breaks.

8 HEARING OFFICER KNITTLE: Yeah, I  
9 think you're probably right.

10 MS. BASSI: Could I make a  
11 clarification about Exhibit 15 again also,  
12 please?

13 HEARING OFFICER KNITTLE: Ms. Bassi?

14 MS. BASSI: The title of Exhibit 15,  
15 this draft report, it refers to the NOX budget  
16 trading program, would you stipulate that that is  
17 NOX SIP Call?

18 MR. COOPER: I believe so.

19 MS. BASSI: Okay. Thank you.

20 MS. DOCTORS: Okay. We have one more  
21 document.

22 HEARING OFFICER KNITTLE: One second,  
23 Ms. Doctors. You move this for admission;  
24 correct?

1 MS. DOCTORS: Yes, I do.

2 HEARING OFFICER KNITTLE: Any  
3 objection to the admission of this document?

4 MR. BONEBRAKE: Can we hear a little  
5 bit about the source from somebody from the IEPA  
6 side of the table describe what this document is  
7 first?

8 MS. DOCTORS: You talking about which  
9 one, the alternative?

10 MR. BONEBRAKE: The one that says  
11 about STAPPA and ALAPCO on the front.

12 HEARING OFFICER KNITTLE: That's  
13 right. Agency No. 16.

14 MS. BASSI: You should issue  
15 magnifying glasses.

16 MR. COOPER: Your question was what?

17 MR. BONEBRAKE: What is the source of  
18 this document and if you could just briefly  
19 describe what it is?

20 MR. COOPER: I believe it's STAPPA and  
21 ALAPCO, the State and Territorial Air Pollution  
22 Program Administrators; ALAPCO, Association of  
23 Air Pollution Control Officials.

24 MR. BONEBRAKE: Is this a publicly

1 available document?

2 MR. COOPER: I believe so, yes.

3 MR. BONEBRAKE: I have no objection to  
4 it as an exhibit.

5 HEARING OFFICER KNITTLE: Mr. Rieser?

6 MR. REISER: No objection.

7 HEARING OFFICER KNITTLE: Ms. Bugel?

8 MS. BUGEL: No objection.

9 HEARING OFFICER KNITTLE: This will be  
10 admitted as Agency Exhibit No. 16. And, Ms.  
11 Doctors, you may now proceed.

12 MS. DOCTORS: Agency Exhibit 17. This  
13 is another document that was prepared for the  
14 Energy Services Coalition. Also discusses state  
15 emissions allocation -- allowance set aside  
16 programs. That has been a question has other  
17 states done emission allowance set asides.

18 HEARING OFFICER KNITTLE: Ms. Bugel,  
19 any objection to the introduction of this as an  
20 exhibit?

21 MS. BUGEL: No objection.

22 HEARING OFFICER KNITTLE: Mr. Rieser?

23 MR. REISER: I guess can you tell us  
24 the source and what the Energy Emission Coalition

1 and what is this about?

2 MR. COOPER: In all honesty, I don't  
3 recall what specific sources it was pulled from.  
4 It was a web resource pulled off as a PDF.

5 MR. RIESER: Okay. And was this a  
6 part of the Agency's thinking or analysis as it  
7 was putting this program together?

8 MR. COOPER: I wouldn't necessarily  
9 classify it as that. This was ground level  
10 research into what other states had done. Toward  
11 the tail end of the document is a summary of what  
12 other states had done. I don't know that it  
13 wasn't relied upon.

14 MR. REISER: Thank you. No objection.

15 MR. BONEBRAKE: No objection.

16 HEARING OFFICER KNITTLE: This will be  
17 admit as Agency Exhibit No. 17.

18 MR. BONEBRAKE: I do have a question  
19 pertaining to this document. Though given the  
20 date, September 2001, would the Agency agree that  
21 Exhibit 17 relates to the NOX SIP Call?

22 MR. COOPER: I would agree with that.

23 MS. DOCTORS: For the OTC trading  
24 program.

1                   MR. COOPER: As a follow-up to that, I  
2 believe it was stated earlier that at the time we  
3 undertook this, and I believe still is the case,  
4 there aren't many other states, it was somewhat  
5 new territory so we had to use data that we --  
6 that was available.

7                   MR. BONEBRAKE: Which at that time  
8 would have related to the NOX SIP Call?

9                   MR. COOPER: In this case, yes.

10                  MR. BONEBRAKE: And was that -- was  
11 this it for the additional documents?

12                  MS. DOCTORS: Yeah, I think there  
13 were -- That was it.

14                  MR. BONEBRAKE: I did have a follow-up  
15 question. My impression had been from the  
16 dialogue we had yesterday there was some IEPA  
17 authored document that might be a summary of  
18 what's -- what states were doing with respect to  
19 the CAIR rules. And maybe I misunderstood that  
20 but my impression there was such a document.

21                  MR. COOPER: With respect to CAIR?

22                  MR. BONEBRAKE: Yes.

23                  MR. COOPER: I don't --

24                  MR. DAVIS: I believe I testified I

1 can try to track that information down. I don't  
2 know if there is a composite in the document.

3 MR. BONEBRAKE: If there is such a  
4 document, we would like to see that.

5 MS. DOCTORS: Let me just clarify,  
6 what you're looking for is to see if the Agency  
7 has compiled a list of other states proposed CAIR  
8 rule and whether they have set asides?

9 MR. BONEBRAKE: Or adopted. I imagine  
10 there was may be some adopted CAIR rules but CAIR  
11 implementation rules at this point in time.

12 MS. DOCTORS: That I'm not sure.  
13 There may be.

14 MR. BONEBRAKE: And first glance it  
15 looks to the extent that these documents are  
16 memorializing what states have done in connection  
17 with the NOX SIP Call as opposed to CAIR NOX rule?

18 MS. DOCTORS: I have a couple  
19 clarifying questions.

20 HEARING OFFICER KNITTLE: Yes, you may  
21 proceed.

22 MS. DOCTORS: There was a question  
23 that came up about exhibit -- it refers to the  
24 15% NOX. We had introduced some guidance dated

1 from 1999 that concerned the NOX SIP Call and  
2 whether -- the question was raised as to whether  
3 it was relevant in the CAIR -- the -- this CAIR  
4 rulemaking proceeding. Do you have any other  
5 information about types of guidance that -- that  
6 -- that USEPA recommended for developing the CAIR  
7 rule in set asides?

8 MR. COOPER: I believe the Federal  
9 Register, it looks like page 25279, I believe it  
10 was dated somewhere. I don't have the date  
11 handy, but it was 8D1B. It spoke briefly on the  
12 topic.

13 MS. DOCTORS: We're looking at the  
14 final CAIR rule dated May 12, 2005, on page  
15 25279.

16 MR. COOPER: There's a paragraph on  
17 that page that includes, The EPA maintains that  
18 offering such flexibility -- this is in reference  
19 to set asides, The EPA maintains that offering  
20 such flexibility as it did in the NOX SIP Call  
21 does not compromise the effectiveness of the  
22 trading program.

23 MS. DOCTORS: Is there any other  
24 document?



1 MR. COOPER: The STAPPA and ALAPCO  
2 document which was just recently handed out dated  
3 August 2005.

4 MS. DOCTORS: This is Agency Exhibit  
5 16.

6 MR. COOPER: Page 10 of that document  
7 and, again, this -- this document developed by  
8 STAPPA and ALAPCO specifically for the Clean Air  
9 Interstate Rule, page 10 they state, EPA has  
10 developed certain guidance documents on the  
11 allocation of EE/RE set aside. And I believe the  
12 documents they are referring to are the -- the  
13 one document was the -- I don't know the  
14 referenced number but Ms. Bassi had called  
15 concern to it.

16 MS. BASSI: I believe the one was  
17 Exhibit E to the Statement of Reasons or the TSD.  
18 Is that the March 1999 document is what you were  
19 referring to?

20 MR. COOPER: Yeah, EE/RC set aside, I  
21 believe.

22 MS. BASSI: Yeah.

23 MS. DOCTORS: I think that's all.

24 MR. COOPER: Yeah, that was my only

1 comment on that.

2 MS. DOCTORS: And in some statements  
3 made about what the purpose -- primary purpose of  
4 the CASA was.

5 MR. COOPER: Yes, I wanted to  
6 emphasize the point, I believe, there were  
7 questions earlier from Mr. Bonebrake to Jim Ross  
8 on what the purpose of the CASA is -- was. And I  
9 wanted to drive home the point that since  
10 outreach -- all of the outreach documents as well  
11 as in the TSD, page 12, the primary purpose of  
12 the CASA has been as an incentive, not  
13 specifically directly to lower emissions. I  
14 wanted to make that point as a point of  
15 clarification.

16 MR. BONEBRAKE: A follow-up question  
17 to you is incentive to do what?

18 MR. COOPER: To install wind farm, to  
19 undertake a pollution control upgrade project, to  
20 partake in those particular categories.

21 MR. BONEBRAKE: And what does the  
22 Agency expect will come from such projects.

23 MR. COOPER: A benefit to the  
24 environment.

1                   MR. BONEBRAKE: In the form of reduced  
2                   emissions?

3                   MR. COOPER: That would be one.

4                   MS. DOCTORS: What other benefits are  
5                   you thinking?

6                   MR. COOPER: There potentially could  
7                   be economic benefits if someone installs a wind  
8                   farm in Illinois, a construction firm would be  
9                   required, materials would be needed. So there  
10                  are other benefits other than emission reduction  
11                  associated with undertaking CASA.

12                  MS. DOCTORS: Okay. We're -- that was  
13                  --

14                  HEARING OFFICER KNITTLE: Nothing  
15                  further, Ms. Doctors?

16                  MS. DOCTORS: Nothing further.

17                  HEARING OFFICER KNITTLE: Were you  
18                  willing to present Mr. Cooper for questions then  
19                  I take it?

20                  MS. DOCTORS: I think it's open.

21                  HEARING OFFICER KNITTLE: Let's  
22                  proceed to questions.

23                  MR. BONEBRAKE: A follow-up question.  
24                  I first had a question as to what has been marked

1 as Exhibit No. 13 and I think you indicated, Mr.  
2 Cooper, this is a document that was generated  
3 from IEPA's Website?

4 MR. COOPER: Excuse me?

5 MR. BONEBRAKE: It's entitled Electric  
6 Power Plant Generating Unit Construction  
7 Projects.

8 MR. COOPER: Yes.

9 MR. BONEBRAKE: And you said you  
10 printed this off IEPA Website; is that correct?

11 MR. COOPER: Yes, the Website is at  
12 the bottom.

13 MR. BONEBRAKE: Can you identify for  
14 us what types of projects are listed on page 1  
15 and running over to page 2 of this document?

16 MR. COOPER: As the headings read,  
17 page 1 listing of new coal and solid fuel fired  
18 units; page 2 listing of simple cycle turbine  
19 projects; page 3 listing of active combined cycle  
20 turbine projects.

21 MR. BONEBRAKE: With respect to the  
22 first heading listing of new coal and solid fuel  
23 fired unites, are these units that's have been  
24 built or permitted, or what is the status of

1           these units and how is it that they arrive on  
2           this list?

3                         MR. COOPER:  I believe the status is  
4           the right most column.  It denotes whether a  
5           permit was issued.  For example, of the CWLP or  
6           Christian County Generation, application under  
7           review.

8                         MR. BONEBRAKE:  So have any of these  
9           projects then listed in the listing of new coal  
10          and solid fuel fire -- have any of the units in  
11          this category been listed as constructed -- have  
12          they have been constructed at this point in time?

13                        MR. COOPER:  I missed your question.

14                        MR. BONEBRAKE:  With respect --

15                        MR. COOPER:  Has anything been built?

16                        MR. BONEBRAKE:  Yes.

17                        MR. COOPER:  On this particular  
18          listing?

19                        MR. BONEBRAKE:  Correct.

20                        MR. COOPER:  The first page of the  
21          entire document?

22                        MR. BONEBRAKE:  Well, what I  
23          specifically was asking about was the listing of  
24          new coal and solid fuel fired units.

1                   MR. COOPER: To my knowledge on this  
2 particular listing it looks like the Southern  
3 Illinois Power Cooperative unit is the only one  
4 to my knowledge, second page.

5                   MR. BONEBRAKE: And that dates back to  
6 yet an application date of July 12, 2000?

7                   MR. COOPER: That is what the date  
8 application received appears to be.

9                   MR. BONEBRAKE: So any new coal and  
10 solid fuel fired unit for which there was an  
11 application submitted in 2000 or thereafter is  
12 reflected in this first listing of units; is that  
13 correct?

14                   MR. COOPER: To my knowledge. I don't  
15 generate this list. I have nothing to do with  
16 maintaining this. I merely printed it as is. So  
17 I'm taking this at face value.

18                   MR. ROSS: And just to provide an  
19 update, I believe Taylorville Energy Center  
20 project, that permit has gone to public notice.  
21 I believe a hearing is scheduled in November in  
22 Taylorville.

23                   CHAIRMAN GIRARD: I have a question,  
24 Mr. Cooper. On page 2 at the bottom there's some

1 notes that refer to some of the abbreviations of  
2 the table. What -- what would be the difference  
3 between an I or E date permit issued or date  
4 permit effective?

5 MR. COOPER: I believe I would state  
6 that --

7 MS. BASSI: If I could jump in. An  
8 example of that is in the Prairie State  
9 Generating Project. It has --

10 MR. ROSS: Right.

11 MS. BASSI: -- an R, an I and an E.

12 MR. ROSS: After -- I don't want to  
13 make assumptions here, but after a permit is  
14 issued, it can be appealed in which case it is  
15 not effective. They cannot construct under that  
16 permit until the appeal is resolved.

17 MS. BUGEL: If you look underneath the  
18 graph it says R, the date of the application is  
19 received, I is the date the permit issued, and E  
20 is the state the permit is effective. Was that  
21 the question?

22 CHAIRMAN GIRARD: Well, what I was  
23 trying to understand was why the Southern  
24 Illinois Power Coop is operating when it has a

1 date permit issued and the Prairie State, for  
2 example, has a permit issued on April 28th, '05,  
3 and it has an effective permit on August 24th,  
4 '06. So if it relates to appeals, that might  
5 help explain it.

6 MR. ROSS: Absent an appeal, a permit  
7 would be effective the date it's issued. Those  
8 two dates would be identical.

9 MR. BONEBRAKE: Although, wouldn't  
10 that May 16, '01, permit reference for SIPC have  
11 been a construction permit for that particular  
12 unit? Would you know, Mr. Ross, if that permit  
13 was appealed?

14 MR. ROSS: I do not believe the SIP  
15 Call permit was appealed.

16 MS. BASSI: And these permits and  
17 dates and so forth, these are all construction  
18 permits, correct, of various types as opposed to,  
19 for example, Title 5 permits.

20 MR. ROSS: I believe so, yes. They're  
21 certainly not Title 5 permits, I can tell you  
22 that.

23 CHAIRMAN GIRARD: Well, I'm curious  
24 about Enviropower down there, the last item on



1 the table, where the permit was issued in '01 and  
2 the project status is now under investigation.  
3 What does that mean?

4 MR. ROSS: Well, for a construction  
5 permit there must be a continual process of  
6 construction. If there's a certain lapse time  
7 frame in which no construction occurs, the permit  
8 is no longer considered effective, so I believe  
9 Enviropower had a period where no construction  
10 was taken place. And, I believe, I would have to  
11 discuss this with our legal department, but I  
12 believe it's our position that their permit may  
13 no longer be valid due to this last period of no  
14 construction period.

15 CHAIRMAN GIRARD: Probably enough said  
16 since we may see an appeal at some point. Okay.  
17 I won't ask any more questions. Thank you.

18 MS. BASSI: May I start?

19 HEARING OFFICER KNITTLE: Oh, yes,  
20 please do.

21 MS. BASSI: Thank you. Mr. Cooper, I  
22 had a couple of questions about your slide.

23 MR. COOPER: Sure.

24 MS. BASSI: You told me I had to wait.

1           On 519, 519 provides an example of the  
2           installation of a fluidized bed combustion boiler  
3           and then there's a formula down below on the  
4           second dot. And I was looking at that compared  
5           with the Agency's Exhibit No. 1, number 11 on  
6           number 1, this is the errata sheet and it appears  
7           that the formula in number 11 B1 in Exhibit 1 is  
8           different from the formula on Slide 19. And I  
9           just want to be sure that Exhibit 1 is the -- is  
10          the formula that applies?

11                       MS. DOCTORS: Your number -- which  
12          number on your --

13                       MS. BASSI: It was number 11.

14                       MR. BONEBRAKE: It's on page 2.

15                       MS. BASSI: Yeah.

16                       MS. DOCTORS: We're cross referencing  
17          it with Section 225.465.

18                       MS. BASSI: And I did not do that  
19          cross reference. I apologize.

20                       MS. DOCTORS: Okay. Do you want to  
21          ask your question?

22                       MS. BASSI: Well, my question is: Is  
23          number 11 on Exhibit 1 talking about the same  
24          thing as Slide 19?

1                   MR. COOPER: I -- I believe the errata  
2 sheet does not translate well to which -- I  
3 believe the first sentence does not -- if you  
4 look at 225.465(b)(1), that is the equation.  
5 This is not saying fluidized coal combustion is  
6 this equation. That equation is as remains on  
7 225.465(b)(5).

8                   MS. BASSI: Okay. Which is the same  
9 as what you have in Slide 1?

10                  MR. COOPER: It should, yes.

11                  MS. BASSI: Okay. Thank you.

12                  MR. COOPER: You're welcome.

13                  MR. BONEBRAKE: And I'm sorry, Mr.  
14 Cooper, the item 11 on page 2 of Exhibit 1 has a  
15 1.5 pound per megawatt hour entry whereas item 5  
16 in the portion of the rule that you just  
17 mentioned has a 1.0 megawatt hour corresponding  
18 reference, so which of those numbers is what the  
19 Agency intends?

20                  MS. DOCTORS: It -- We did not change  
21 -- there was no intent with the errata sheet to  
22 change that equation.

23                  MR. COOPER: If you look at  
24 225.465(b)(1), the equation is missing a left

1 paren.

2 MR. BONEBRAKE: Well, okay, and item  
3 11 reads Section 225.465(a) -- I see. So the  
4 only thing you're intending for subdivision five  
5 of that part of the rule was the additional  
6 reference to clean coal technology --

7 MS. DOCTORS: Correct.

8 MR. BONEBRAKE: -- in lieu of IGCC.  
9 Thank you for that clarification.

10 MS. BASSI: I have a question also  
11 about Slide 25 which is the spillover. Should I  
12 go over that? Anybody have questions about this?

13 MR. BONEBRAKE: We can get into that  
14 now.

15 MS. BASSI: On Slide 27. 27, please.

16 MR. COOPER: 27?

17 MS. BASSI: 27.

18 MR. COOPER: Yes.

19 MS. BASSI: Do I understand this slide  
20 correctly and your presentation of this correctly  
21 to mean that a single project could apply for  
22 allowances under the CASA in multiple categories  
23 as they may apply. So, for example, if I were  
24 going to add to my pulverized coal boiler in my

1 back yard, a solar panel and I'm going to put on  
2 a baghouse and I'm going to do all of this early  
3 before the rule is applicable, can I get a  
4 pollution control upgrade, because theoretically  
5 it has something already, and a zero emission  
6 safe for the solar panel which is connected to  
7 the boiler and an early adopter?

8 MR. COOPER: I believe that is the  
9 point, yes.

10 MS. BASSI: Okay. Thank you.

11 MR. BONEBRAKE: Mr. Cooper, I had some  
12 questions related to your testimony and also the  
13 regulation and exhibit that was presented  
14 yesterday. First, with respect to your written  
15 testimony on page 1, you refer to the fact that  
16 you have assisted in developing a number of  
17 regulatory programs, stationary sources. Other  
18 than the Illinois CAIR rule, can you identify  
19 what regulatory programs you would have assisted?

20 MR. COOPER: I have participated to  
21 some extent with the IC Engine Rule, coming IC  
22 Engine Rule, as well as upcoming NOX RACT rule.

23 MR. BONEBRAKE: And what has been your  
24 involvement with respect --

1 MS. BASSI: Wait. He might not be  
2 done.

3 MR. BONEBRAKE: I'm sorry. Were you  
4 finished?

5 MR. COOPER: Quite.

6 MR. BONEBRAKE: What was your  
7 involvement with respect to those two  
8 rulemakings?

9 MR. COOPER: They are upcoming so the  
10 involvement is continuing, but in a similar  
11 manner is this rule a representative from the  
12 permit section providing insight and the tax  
13 assigned.

14 MR. BONEBRAKE: Do either of those two  
15 rulemakings involve emission trade, allowance  
16 trade?

17 MR. COOPER: No.

18 MR. BONEBRAKE: On page 2 of your  
19 written testimony, the first full paragraph in  
20 the Clean Air Set-Aside overview section, the  
21 last sentence reads, The set aside of CAIR, NOX  
22 allowances is not a reduction of the overall NOX  
23 budget as it is not a retirement of allowances.  
24 Do you see that, Mr. Cooper?

1 MR. COOPER: I do.

2 MR. BONEBRAKE: There was a slide that  
3 you presented regarding what happens to  
4 allowances in categories that are under  
5 subscribed. After completion of the refilling of  
6 other -- other categories, is it true that the  
7 Agency has discretion to retire allowances at  
8 that juncture?

9 MR. COOPER: As the rule is written,  
10 yes.

11 MR. BONEBRAKE: And what are the  
12 factors that the Agency will consider in whether  
13 to retire allowances?

14 MR. COOPER: That won't be a decision  
15 that I will make. I'm not --

16 MR. ROSS: Those factors are similar  
17 to as we discussed for the new source set aside.  
18 At that time we will make a decision. The  
19 retirement of those allowances is appropriate  
20 based upon a need to benefit air quality and  
21 public health.

22 MR. BONEBRAKE: And when is it that  
23 the Agency will make that -- make those kind of  
24 decisions?

1                   MR. ROSS:  When there are excess  
2 allowances such that all the over subscribed  
3 categories are filled -- well, I think each  
4 category has to be double, that's correct, right,  
5 and there have to be a total of excess allowances  
6 that the category would essentially not be deemed  
7 used to any great level so that there was a  
8 spillover -- all the more at least double and  
9 there was spillover.

10                   MR. BONEBRAKE:  And can you envision a  
11 circumstance, Mr. Ross, where -- when that  
12 scenario presents itself that the Agency would  
13 not retire NOX allowances?

14                   MR. ROSS:  Potentially.

15                   MR. BONEBRAKE:  Can you describe for  
16 us what you have in mind when you say  
17 potentially?

18                   MR. ROSS:  Well, we could make a  
19 decision to leave those set asides there.  If, as  
20 for the new sources, it would envision that there  
21 could be an increasing need or they would serve a  
22 greater purpose to the public health and  
23 environment if we left them there for future use.

24                   MR. BONEBRAKE:  Is there any provision



1 set forth in the proposal for view of the  
2 Agency's decision concerning retirement of  
3 allowances in the circumstances we've been  
4 talking about?

5 MR. ROSS: No, there is not.

6 MR. BONEBRAKE: And what would the  
7 reason for the Agency's decision not to include  
8 such a provision?

9 MR. ROSS: We believe that was our  
10 decision to make.

11 MS. BASSI: Will that decision be  
12 published somehow?

13 MR. ROSS: I would -- I believe it  
14 would be made known. We would probably seek  
15 input from stakeholders, I believe, and we  
16 certainly wouldn't do it in a vacuum.

17 MS. BASSI: Are there provisions for  
18 that in the rule?

19 MR. ROSS: No.

20 MR. BONEBRAKE: The next sentence in  
21 that same paragraph, Mr. Cooper, starting with  
22 the word instead, Instead the CASA are intended o  
23 be allocated to eligible applicants who in turn  
24 are expected to trade those allowances to the

1 utilities for their compliance needs. Do you see  
2 that?

3 MR. COOPER: I sure do.

4 MR. BONEBRAKE: And by the use of the  
5 term utilities in that sentence, do you mean  
6 electric generators?

7 MR. COOPER: That is the intended  
8 meaning, yes.

9 MR. BONEBRAKE: And is it true that if  
10 allowances are traded through such generators, in  
11 fact, the generators are buying those allowances?

12 MR. COOPER: Possibly.

13 MR. BONEBRAKE: Wouldn't you expect,  
14 Mr. Cooper, that generators in order to acquire  
15 allowances from another party would have to buy  
16 them?

17 MR. COOPER: I would expect that is  
18 not the only way.

19 MR. BONEBRAKE: So would you also  
20 expect that if CASA allowances are, in fact,  
21 allocated to a third party, that the allocation  
22 of the third party has an -- increases the cost  
23 of compliance for generators because generators  
24 must purchase allowances from such third parties?

1 MR. COOPER: I'm unsure.

2 MR. BONEBRAKE: I want to work a  
3 little bit through your discussion of the -- I'll  
4 call it the stop over into other categories for  
5 lack of a better word. I'm going to work a  
6 little bit with the regulations in terms of both  
7 application and then what happens to the Agency's  
8 processes. And 225.470 addresses CASA  
9 applications; is that correct?

10 MR. COOPER: That appears to be, yes.

11 MR. BONEBRAKE: And then 225.475 is a  
12 separate section that addresses Agency action on  
13 applications for CASA allowances; is that right?

14 MR. COOPER: Yes.

15 MR. BONEBRAKE: Now under 225.470, as  
16 we were talking about a little bit earlier,  
17 applications for CASA allowances need to be  
18 submitted by May 1st; is that correct? I'm  
19 looking --

20 MR. COOPER: I believe in 225.470(b).

21 MR. BONEBRAKE: That's what I'm  
22 looking at, that's correct.

23 MR. COOPER: Yes.

24 MR. BONEBRAKE: And it says, By May 1

1 of the control period for which the allowances  
2 are being requested.

3 MS. DOCTORS: I think -- I think Mr.  
4 Bloomberg may have to answer some of these  
5 application questions rather than the more  
6 technical. Why don't you go ahead with your  
7 question.

8 MR. BONEBRAKE: What I was trying to  
9 understand then is when the -- the timing  
10 deadline there is suggesting that the application  
11 needs to be submitted before May 1 in the year  
12 for which you are actually seeking the CASA  
13 allowances; is that correct?

14 MR. BLOOMBERG: That is my  
15 understanding.

16 MR. COOPER: And in a scenario where  
17 multiple applications would be -- are submitted  
18 for CASA allowances from the same category and  
19 the total amount of allowances is greater than  
20 the allowances in that category, will you walk me  
21 through the process on how the Agency will  
22 determine who gets how many allowances?

23 MR. BLOOMBERG: If there's more than  
24 we have available, and part of this is not going

1 to track exactly with the rule because we do have  
2 this commitment coming, but I apologize for  
3 knowing something that you guys haven't seen yet.  
4 But when it comes in, we will -- the Agency will  
5 approve the project, approve the amount that is  
6 to be allocated. If there is more than in the  
7 category and there is no overflow, then it will  
8 be allocated pro rata according to the approved  
9 amount. So in other words, if -- if there are  
10 100 allowances available and two companies or two  
11 project sponsors ask for 500 allowances each,  
12 they would each get 50. However, if one was  
13 approved for 600 and one was approved for 400,  
14 the one would get 60 and the other would get 40.  
15 Now, again, that is presuming that there is not  
16 any overflow. If there is overflow, as Mr.  
17 Cooper showed in the slide, then an attempt would  
18 be made to fulfill the entire approved amount  
19 with that overflow.

20 MR. BONEBRAKE: And a couple of  
21 related questions for you. You just described a  
22 pro rata distribution. In that circumstance as  
23 contemplated by the proposed rule, is the  
24 sequence of the applications of any consequence

1           so long as all the applications are submitted by  
2           May 1st?

3                         MR. BLOOMBERG:  No.

4                         MR. BONEBRAKE:  And are you familiar  
5           with the concept of FIFO, first in first out with  
6           respect --

7                         MR. BLOOMBERG:  Familiar with it.

8                         MR. BONEBRAKE:  I take it from the way  
9           you described the NOX CASA process, that the  
10          Agency is not using a FIFO process; is that  
11          correct?

12                        MR. BLOOMBERG:  Correct.  It's not  
13          erased.

14                        MS. BASSI:  Excuse me.  What does  
15          their being erased have to do with FIFO?

16                        MR. BLOOMBERG:  Well, it's not erased.  
17          If everything is due by May 1st and someone  
18          submits April 28th, they're not going to get a  
19          benefit over someone who submits April 29th.

20                        MS. BASSI:  In the concept of first in  
21          first out, looking at this at slightly a  
22          different way, the first allowances -- the older  
23          allowances are the first ones into a category and  
24          those under a FIFO concept those would be the

1 first ones that are allocated when you have  
2 accumulated several years worth of allowances in  
3 a category, is that your understanding of FIFO?

4 MR. BLOOMBERG: My understanding from  
5 Mr. Bonebrake was saying first in first out is  
6 the first people to get in here with an  
7 application would get the allowances. If  
8 misunderstood, I apologize.

9 MR. BONEBRAKE: No, my question was  
10 just limited to just the first in first out in  
11 terms of the application process for that  
12 particular time period. That's all I was asking  
13 about.

14 MS. BASSI: Okay. Then I -- then this  
15 needs to be clarified -- in terms -- and because  
16 this needs to be clarified because the vintage  
17 year of an allowance will have some meaning under  
18 the MPS; is that correct?

19 MR. ROSS: It does.

20 MS. BASSI: And so considering that  
21 the vintage year of allowances have meaning under  
22 the MPS, does the Agency intend to -- if a source  
23 came in that is -- that has opted into the MPS  
24 and is qualifying for some allowances for

1           whatever reason related to the MPS and those --  
2           and it's qualifying for these allowances in 2013,  
3           will he be issued 2010 allowances because they're  
4           in the category?

5                         MR. BLOOMBERG:  I don't believe it's  
6           something we specifically addressed, but under  
7           normal circumstances for other trading programs,  
8           first in first out does generally apply.  So if  
9           there were still 2010 allowances sitting in the  
10          pool and as well as 11, 12, and 13, then the 10  
11          would likely be the ones to go first.

12                        MS. BASSI:  I would like to suggest  
13          that might be something that you consider as a  
14          clarification in your rule someplace.

15                        MR. BLOOMBERG:  I think we'll consider  
16          it.

17                        MS. BASSI:  Thank you.

18                        MR. BONEBRAKE:  And similar just to  
19          follow-up to a question that Ms. Bassi had, in  
20          the scenario where there's a pro rata  
21          distribution then the vintage of allowance  
22          question, I guess, also arises how the Agency  
23          would handle that -- the vintage question in the  
24          context of a pro rata distribution.



1                   MR. BLOOMBERG: We could evenly divide  
2                   the vintages up as well. Although, it -- I mean,  
3                   in all likelihood if we're down to the point  
4                   where we have depleted an entire category, then  
5                   probably they will all be the vintage. If there  
6                   are varying vintages, it would make sense to --  
7                   if it is an issue, it would make sense to divide  
8                   up the vintages pro rata as well.

9                   MR. BONEBRAKE: And is there anything  
10                  in the proposed rule currently that describes or  
11                  identifies what -- what vintage allowances would  
12                  be allocated when out of CASA?

13                  MR. BLOOMBERG: No.

14                  MR. BONEBRAKE: You also mentioned in  
15                  your prior answer the concept of overflow when  
16                  you were talking about the pro rata distribution  
17                  and I wasn't sure of the timing that you had in  
18                  mind that we were discussing overflow. Can you  
19                  tell us when the overflow allowance is -- would  
20                  the allocated to those who only had received a  
21                  partial distribution and when?

22                  MR. BLOOMBERG: Under the amendment  
23                  the -- It is all done at once. And that's a  
24                  clarification of the process describing the

1 initial proposed rule because the initial  
2 proposed rule is kind of an iterative process.  
3 It smooths it out it, it takes place all at once.  
4 So if there is an over subscription, the overflow  
5 will take place immediately to fill that same  
6 season or year, the same control period, I guess.

7 MR. KIM: If you're at a stopping  
8 point, I can wait, but I have the Motion to Amend  
9 the Rulemaking that we've been promising for so  
10 long. I can hand it out now or I can wait until  
11 you're done with this line of questioning. We  
12 just found it on the Board's COOL page, so these  
13 are just courtesy copies of the motion itself.

14 HEARING OFFICER KNITTLE: Any  
15 preference from anybody?

16 MR. BONEBRAKE: I guess my thought  
17 would be let's finish up this line of questioning  
18 and --

19 HEARING OFFICER KNITTLE: Yes, Mr.  
20 Rieser?

21 MR. REISER: And, again, this may be  
22 answered when we see the new rule, but is there a  
23 time frame -- is there a time frame set out in  
24 the rule for when the pour overs occur? What the

1 rule sets out is basically two days -- three  
2 days, actually, for this particular process. Is  
3 it the May 1st date by which applications have to  
4 be submitted, the Agency has 90 days to make a  
5 determination as to whether the allocation should  
6 be recorded given those applications and then  
7 there's another date for which, I think, is about  
8 30 days after that 90 day date by which the  
9 Agency submits its allocations -- submits it's  
10 allocation to USEPA, correct?

11 MS. DOCTORS: Not more.

12 MR. REISER: More or less?

13 MS. DOCTORS: The CASA allowances go  
14 to USEPA December 1st.

15 MR. REISER: December 1st. So a  
16 longer time period?

17 MS. DOCTORS: I'd like to --

18 MS. SIMS: Look at 430(b).

19 MS. DOCTORS: He's asked a different  
20 question. And I believe I'm going to show Mr.  
21 Bloomberg Section 225.475(a). Is there another  
22 date?

23 MR. BLOOMBERG: By October 1st is when  
24 the Agency shall determine the total number of

1 allowances that are approvable for allocation  
2 project sponsors based on the application.

3 MR. REISER: And that's -- this is --  
4 unfortunately, this is a side issue, but that's a  
5 different date than the notification that is  
6 indicated in 225.475(a)(1) that goes out 90 days  
7 after an application is submitted, that's a  
8 different notice than what's described in A,  
9 475(a).

10 MR. BLOOMBERG: Right. Because A1  
11 talks about the Agency notifying the project  
12 sponsor if it is approvable, non-approvable or  
13 additional information is needed. And so if  
14 they're due May 1st, 90 days, July, August, it  
15 gives the project sponsors a certain amount of  
16 time to come back and -- and as discussed before,  
17 there's no specific deadline that says they have  
18 to come back, but obviously the drop dead date  
19 will be sometime before October 1st because  
20 that's when they made the final determination.

21 MR. RIESER: And then after you make  
22 the final determination on October 1st, there's  
23 another 60 days before that determination is  
24 reported to USEPA; correct?

1                   MR. BLOOMBERG: That's my  
2 understanding based on what it says.

3                   MR. REISER: Okay. Where in that time  
4 frame do you make the decisions about these pour  
5 overs from one category to another?

6                   MR. BLOOMBERG: According to the new  
7 language that was just filed, what it states is  
8 that if any allowances remain more than double  
9 and it does -- it does not specify a date, okay.  
10 It just talks about that the remaining allowances  
11 will accrue. If there are excess overflow, then  
12 these shall be allocated for any over subscribed  
13 category or distributed and allocated.

14                  MR. REISER: Is that decision -- is  
15 that decision made only once per control period,  
16 I should say this context, once per year or is --  
17 is it possible there could be two or more of  
18 those types of decisions during the year  
19 depending on sort of the flow of the projects and  
20 what's approved and what's not approved?

21                  MR. BLOOMBERG: In this case it's  
22 better to use control period because there is a  
23 seasonal and an annual so it should only occur  
24 once per control period because the Agency will

1 determine what's been approved and what, if  
2 anything, is over subscribed, is there any  
3 overflow, this will all be done at once.

4 MR. REISER: And the functional  
5 manner, whether it's in the regulation or not,  
6 does the Agency have either an idea or intention  
7 or a plan as to when in the process this will  
8 occur before October 1st, after October 1st?

9 MR. BLOOMBERG: It should occur after  
10 October 1st because -- well, the rule -- what the  
11 rule says is by October 1st. So it is possible  
12 we could do it -- the Agency could do it sooner.

13 MR. RIESER: Well, by October 1st is  
14 when the Agency --

15 MR. BLOOMBERG: Determines the total  
16 number of allowances that are approvable for  
17 allocation. So once that number has been  
18 determined, that is what will then tell the  
19 Agency do we any over subscribed categories, do  
20 we have any categories that are more than  
21 doubled, so first a determination has to be made  
22 as to the number of approvable allowances.

23 MR. RIESER: And isn't it possible  
24 that once you make that first decision and then

1           there is reorganization of categories, then you  
2           have other decisions to make because now there  
3           are allowances that are available that weren't  
4           previously available?

5                         MR. BLOOMBERG:  No, they're separate  
6           -- and, again, part of this is because I got this  
7           year.  Like I said, it was previously an  
8           iterative process in the version that I know you  
9           guys have.  But it's really two separate things.  
10          First, the Agency approves the project, okay, and  
11          that takes place outside of any determination of  
12          what's available.  It's simply this much is  
13          approved.

14                        MR. RIESER:  And hence the language in  
15          A that are approvable --

16                        MR. BLOOMBERG:  Correct.

17                        MR. RIESER:  -- for allocation?

18                        MR. BLOOMBERG:  Correct.

19                        MR. RISER:  And so the actual  
20          allocation doesn't happen until the report is  
21          made to USEPA on December 1st; is that correct?

22                        MR. BLOOMBERG:  Right.

23                        MR. BONEBRAKE:  David, a suggestion at  
24          this point in time since the witness is starting

1 to talk about specifics of the amendment which  
2 isn't before the rest of us, I think it would  
3 probably make some sense to distribute that  
4 document now so we can all be on the same page  
5 literally and figuratively.

6 HEARING OFFICER KNITTLE: Mr. Rieser,  
7 do you have any problem with that?

8 MR. REISER: Not at all.

9 HEARING OFFICER KNITTLE: Let's go off  
10 the record a second.

11 (A short break was taken.)

12 HEARING OFFICER KNITTLE: I was going  
13 to ask your -- Mr. Kim or Ms. Doctors, are you  
14 intending to introduce this as an exhibit?

15 MR. KIM: I think we were just  
16 offering it demonstratively.

17 HEARING OFFICER KNITTLE: Everybody's  
18 information?

19 MR. KIM: Yes.

20 HEARING OFFICER KNITTLE: And you  
21 represent that this was filed today before the  
22 Board on COOL?

23 MR. KIM: Yes.

24 HEARING OFFICER KNITTLE: Which is



1 Clerks Office on Line. So this is a public  
2 record for anyone to see and it has the same --  
3 is a Motion to Amend the Rulemaking Proposal.  
4 There's, of course, a 14-day response period  
5 which I'm sure you guys can take advantage of if  
6 you like. Off the record we discussed whether or  
7 not to proceed today or whether or not to take  
8 some time to digest this, but I think we have  
9 some questions that don't really touch on the  
10 Motion to Amend that we want to proceed with.  
11 Ms. Bassi?

12 MS. BASSI: I have a quick question on  
13 Section 470(b) and (c) where we were before.  
14 This is a just a clarification to be sure I  
15 understand what the rule says, make sure I  
16 understand it correctly. In Subsection B it says  
17 that a person can apply by May 1st for CASA  
18 allowances, and then Subsection C it says the  
19 allocation will be based on electricity conserved  
20 or generated in the control period preceding the  
21 calendar year in which the application is  
22 submitted. So just by way of example, if someone  
23 applied for a CASA allowance by May 1st, 2009,  
24 would the project for which the allowance was

1 applied for have to have occurred in 2008?

2 MR. BLOOMBERG: I'm told that may be a  
3 typo. Excuse one moment. I'm sorry. Okay. No  
4 typo. Sorry. Of course, I've forgotten the  
5 question by this point but I believe that --  
6 well, you just better restate it, Ms. Bassi.

7 MS. BASSI: All right. If I applied  
8 for a CASA allowance by May 1st of 2009, did the  
9 project have to have done its emissions or done  
10 its electricity savings in 2008?

11 MR. BLOOMBERG: Yes.

12 MS. BASSI: So then the allowances  
13 that one is applying for are after the fact,  
14 they're after the fact of activity for which  
15 you're applying for the allowances?

16 MR. BLOOMBERG: Yes. And that ensures  
17 that we know exactly what was done.

18 MS. BASSI: Is that the same for the  
19 NUSA, new unit set aside? Does somebody --

20 MS. SIMS: I don't -- I don't  
21 understand your question.

22 MS. BASSI: When you're applying for  
23 allowances under the new unit set aside, is it  
24 the same concept where you apply after you've

1 done the emitting, so I would apply in 2010 for  
2 emissions that occurred in 2009?

3 MS. SIMS: Yes. But you would get  
4 allocations for that previous -- for that  
5 previous year you were operating.

6 MS. BASSI: I would get allowances for  
7 operation in 2009 allocated to me in 2010; is  
8 that correct?

9 MS. DOCTORS: Can I ask a clarifying  
10 question? Isn't it true that source -- I'm  
11 looking at Section 225.445 of the proposal.  
12 Isn't it true that sources -- new units report  
13 their data after the close of the control period?

14 MS. SIMS: Which section are you  
15 looking at again?

16 MS. DOCTORS: Subsection B. They  
17 report them January 15th.

18 MS. SIMS: B. I thought you said D.  
19 B as in boy?

20 MS. DOCTORS: Yes, B as in boy.

21 MS. SIMS: That is correct.

22 MS. DOCTORS: And isn't it true that  
23 in Subsection G it states the Agency shall  
24 allocate the CAIR NOX allowances to new units no

1 later than February 15 after the applicable  
2 control period?

3 MS. SIMS: That's true.

4 MS. DOCTORS: And is this before, you  
5 know, the allowance transfer deadline for the --  
6 in your example, the 2009 control period?

7 MS. SIMS: I don't understand what you  
8 mean by transfer deadline.

9 MS. DOCTORS: The deadline that  
10 sources need to have allowances in their account,  
11 isn't that prior to?

12 MS. SIMS: Yes.

13 MS. BASSI: It's still after the fact  
14 but prior to the time you have to surrender them?

15 MS. DOCTORS: Correct.

16 MS. BASSI: Thank you.

17 MR. BONEBRAKE: Just a related  
18 question for Mr. Bloomberg in the scenario that  
19 Ms. Bassi described where the party has the  
20 activity generating whatever it is that its  
21 seeking the CASA allowances for in 2008 and make  
22 a submission of an application in 2009 for CASA  
23 allowances. What would be the vintage on the  
24 allocation that would be provided in response to

1           that application?

2                         MR. BLOOMBERG:  In that particular  
3           example, 2009.  And then, I guess, what I would  
4           suggest at this point, I think, Mr. Nilles, you  
5           were indicating you had some questions that were  
6           not implicating the amendment set forth in the  
7           motion so I guess maybe what we could do is  
8           proceed with that.

9                         CHAIRMAN GIRARD:  Before we go to  
10          that, let me ask a question to Mr. Cooper that  
11          goes to dates.  Mr. Cooper, on page 4 of your  
12          testimony -- if you look at that page 4, it's the  
13          second full paragraph there, in this paragraph I  
14          think it relates to the draft proposal.  It's  
15          Section 225.470 but it's in this paragraph you  
16          talk about the time frames in which project  
17          construction must begin in order for a project to  
18          be eligible for the NOX allowances from the Clean  
19          Air Set-Asides.

20                        MR. COOPER:  Which paragraph are you  
21          referring to?

22                        CHAIRMAN GIRARD:  It's the second full  
23          paragraph on page 4.

24                        MR. COOPER:  Yes.

1                   CHAIRMAN GIRARD:  And you got -- we've  
2                   got three different dates there depending on what  
3                   type of project it is.  Either commence either by  
4                   January 1st, 2003, or January 1st, 2001, or after  
5                   July 1st, 2006, to be eligible for the  
6                   allowances.  Why were three different dates  
7                   picked, and why do some of these dates go five  
8                   years in the past before the rule's even in  
9                   place?

10                  MR. COOPER:  Before I answer that, Jim  
11                  would you like to answer that?

12                  CHAIRMAN GIRARD:  Well, I can -- I  
13                  mean, the question is you're looking at the  
14                  second full paragraph there on page 4 also  
15                  relates the dates of Section 225.470 and that  
16                  detailed the time frames in which construction  
17                  must begin to be eligible for these, you know, NOX  
18                  allowances from the CASA.  But you got three  
19                  different dates there depending on what type of  
20                  project it is:  January 1st, 2003; January 1st,  
21                  2001; July 1st, 2006.  First of all, why do you  
22                  have three different dates and, second, you know,  
23                  why are we going back to January 1st, 2001, for  
24                  the commence of some of these projects?

1                   MR. ROSS: Well, we contemplated two  
2                   different approaches: One, just looking forward  
3                   and starting from the date the rule is -- is  
4                   promulgated on; two, looking back some amount of  
5                   time in giving some credit to sources that have  
6                   undertaken projects that are environmentally  
7                   beneficial in order to further incur or further  
8                   promote and provide some level of cost recovery  
9                   to those projects. We went with the second  
10                  approach. That is, in particular, for the  
11                  fluidized bed boilers we decided for a look back  
12                  until 2001 to give some level of credit to  
13                  companies that undertook what we would consider a  
14                  clean technology, clean coal project.

15                  MR. JOHNSON: So are there specific  
16                  sources that you know of that have done that?

17                  MR. ROSS: Yes, there is. Southern  
18                  Illinois Power Company is eligible for that set  
19                  aside.

20                  MS. BASSI: Is this the only source  
21                  eligible for that set aside as of today that  
22                  you're aware of?

23                  MR. COOPER: You asking are there  
24                  others that we're aware of?

1 MS. BASSI: Uh-huh.

2 MR. COOPER: I'm not directly certain.  
3 Although, that category the language in the rule  
4 reads, I believe, fluidized bed coal combustion  
5 is highly efficient power generation and there  
6 are -- is -- there is definition for highly  
7 efficient projects, so that may encompass other  
8 projects. I'm not certain.

9 HEARING OFFICER KNITTLE: Excuse me.  
10 Ms. Bugel?

11 MS. BUGEL: Mr. Ross, why is there an  
12 incentive needed for projects that are already  
13 constructed and not operating?

14 MR. ROSS: I wouldn't say it was an  
15 incentive. It was perhaps more of an  
16 acknowledgement that they constructed a boiler  
17 that is generally less polluting than pulverized  
18 coal-fired boilers which by far is the typical  
19 type of boiler in Illinois.

20 HEARING OFFICER KNITTLE: Yes, sir?

21 MR. NILLES: On the point of the TSD  
22 boiler you're stating it is generally cleaner,  
23 where in the RACT is there any information the  
24 TSD boilers are, in fact, cleaner than pulverized



1 coal?

2 MR. ROSS: Where specifically? I  
3 believe it's addressed in our Technical Support  
4 Document that would certainly -- there are  
5 emission factors readily available, AP-42 in  
6 particular, in which we can provide which shows  
7 that the factors for the emissions of NOX from  
8 fluidized bed boilers is a lower emission factor  
9 than for any type of pulverized coal boiler. By  
10 any type, whether it's tangentially fired  
11 boilers, cyclone fired boilers, so in general  
12 fluidized bed boilers are lower emitting for the  
13 pollutants of concern than the pollutant  
14 addressed in CAIR.

15 MR. NILLES: But isn't the Southern  
16 Illinois facility that you have carved out the  
17 exception for, does that have any post combustion  
18 control?

19 MR. ROSS: Yes, I believe the  
20 fluidized bed boiler, SIPCO has a baghouse and an  
21 SNCR, selective non-catalytic reduction.

22 MR. NILLES: And it's your  
23 understanding it has lower emission than the  
24 pulverized coal plants with post combustion

1 control?

2 MR. ROSS: It has lower emissions than  
3 many pulverized coal-fired boilers, but in  
4 general what I'm speaking to is the emissions  
5 prior to add-on control devices, that's where we  
6 make our comparison, so it's a cleaner starting  
7 point for a boiler, then the next step of  
8 controlling the emissions from a boiler would be  
9 add-on control device much like there are many  
10 uncontrolled pulverized coal-fired boilers in  
11 Illinois and they can reduce their emissions  
12 through add-on control devices. So you would  
13 have a fluidized bed boiler prior to any add-on  
14 control devices when compared to a pulverized  
15 coal-fired boiler prior to any add-on control  
16 device. The fluidized bed boiler would be the  
17 many less NOX and SO2.

18 MR. NILLES: I guess I'm trying to  
19 understand the rationale. There are pulverized  
20 coal boilers in Illinois, Havana Unit 9 is a  
21 great example -- Havana Unit 9 has pulverized  
22 coal boiler with a post combustion control of an  
23 SCR, has a much lower NOX rate than an Illinois  
24 project that we're singling out as a cleaner coal

1 project. And I guess I'm trying to understand  
2 why we're rewarding Southern Illinois when there  
3 are other pulverized coal plants that are doing  
4 better? What's the rationale? What we care  
5 about is air pollution, we don't care about what  
6 their inherent -- I mean, if what we care about  
7 is what's coming out of smokestacks rather than  
8 making smart investments?

9 MR. ROSS: I have to examine the  
10 emissions from Havana Unit 9 to verify what you  
11 are saying, but in general a fluidized bed boiler  
12 is cleaner prior to add-on control. What you're  
13 saying is Havana Unit 9 has an SCR. I stated  
14 that the SIPCO unit has an SNCR so perhaps we  
15 have to examine these in a little bit more detail  
16 or knowledge that I have readily available but  
17 perhaps the Havana unit has spent more money to  
18 reduce emissions, perhaps the SCR costs more and  
19 is not as cost effective, but I would say in  
20 general the emissions of particulate matter from  
21 the SIPCO unit are in all likelihood much less  
22 than from Havana Unit 9 and that is because  
23 the --

24 MR. NILLES: We're talking about NOX.

1 I'm sorry.

2 MR. ROSS: Well, we're talking about  
3 NOX but in greater picture of what CAIR is  
4 intended to do, we're talking about PM2.5 and  
5 ozone.

6 HEARING OFFICER KNITTLE: Ms. Bugel?  
7 Oh, I'm sorry.

8 MR. NILLES: The question about  
9 singling out circulating fluidized beds for  
10 preferential treatment, this one unit, isn't it  
11 true that circulating fluidized bed boilers often  
12 put out a large amount of nitrous oxide,  
13 otherwise known as N2O, at a pulverized coal  
14 plant and coal classification projects don't?

15 MR. ROSS: Yeah, I believe due to the  
16 lower temperature that fluidized bed boilers  
17 operate at, they do emit more N2O, nitrous oxide,  
18 laughing gas than --

19 MR. NILLES: Laughing gas, isn't it  
20 very potent to global warming.

21 MR. ROSS: Yes, I believe it's greater  
22 than 250 times or at least one document site,  
23 that it is 250 times worse for greenhouse -- the  
24 greenhouse effect than PO2 which that was

1 recently brought to our attention by you, I might  
2 add, and we appreciate that and we are examining  
3 that document. In fact, we have assigned some  
4 staff to review this issue of fluidized bed  
5 boilers emitting N2O and we will take it from  
6 there. We'll see what our research finds. We  
7 also believe that there is the possibility that  
8 fluidized bed boilers may emit some amount less  
9 of CO2. We're uncertain there. We're examining  
10 that also. CO2 is also a greenhouse gas that  
11 we're looking at, that relationship, so based  
12 upon new information that recently has been or  
13 made -- we've been made aware of, we'll reexamine  
14 our treatment of fluidized bed boilers.

15 MR. NILLES: One quick question back  
16 to the presentation, on page 29, Mr. Cooper, I  
17 believe, you mentioned coal-fired utilities are  
18 also eligible for supply side energy efficiency  
19 projects. Can you elaborate what you mean by  
20 supply side?

21 MS. DOCTORS: Before we go into supply  
22 side, we have a couple of documents that may help  
23 with the Agency's position on the fluidized  
24 boiler issue, the AP-42 factors, and we have a

1 fact sheet briefed by the Department of Energy  
2 that talks about the relative emissions.

3 CHAIRMAN GIRARD: Let me ask one final  
4 question of Mr. Ross before we get too far away  
5 from these dates here. So getting back to that  
6 Section 225.470 which has these different  
7 eligibility dates for these projects, I mean,  
8 would there be a problem if we had one date, say,  
9 you know, projects that have commenced  
10 construction on or after July 1st, 2006?

11 MR. ROSS: Well, that certainly is a  
12 -- is a possibility that would eliminate the  
13 availability of the CASA for SIPCO. It is one thing  
14 that we could do. It would --

15 CHAIRMAN GIRARD: But there aren't any  
16 legal regulatory problems?

17 MR. ROSS: The dates are somewhat  
18 arbitrary in that we arrived at them through  
19 discussion, debate and selected certain dates.  
20 So, no, I don't think they're set in stone in any  
21 way, shape or form by any legal obligation  
22 somewhere. They can be altered as appropriate.

23 CHAIRMAN GIRARD: And the primary  
24 purpose of the CASA program is to provide

1 incentives?

2 MR. ROSS: That's correct.

3 CHAIRMAN GIRARD: For energy  
4 efficiency?

5 MR. ROSS: And the other categories.

6 CHAIRMAN GIRARD: And the other  
7 categories?

8 MR. ROSS: That's correct.

9 CHAIRMAN GIRARD: Thank you.

10 MS. MOORE: And could I just follow-up  
11 to help me understand. There's a finite number  
12 of set asides?

13 MR. ROSS: Correct.

14 MS. MOORE: So if we go back to 2001  
15 and those allocations are made, that's reduced  
16 from our finite number of set asides that would  
17 be available to incentivise others putting in new  
18 equipment; is that correct?

19 MR. ROSS: Well, there's a -- there's  
20 a finite number each year, so going back and  
21 giving credit to SIPCO does reduce the available  
22 set aside for others in the event that there  
23 would only be so many set asides to give out.  
24 That is, if that particular category came over

1 subscribed somehow, other units would apply for  
2 that and, yes, SIPCO -- the amount of credit  
3 given to SIPCO would be unavailable to others.

4 MR. JOHNSON: For that year?

5 MR. ROSS: For that year and following  
6 years since the credit --

7 MS. MOORE: That is in the control  
8 period?

9 MR. ROSS: For clean coal technology  
10 is ongoing for that absent the (inaudible).

11 COURT REPORTER: I'm sorry. I didn't  
12 hear you.

13 HEARING OFFICER KNITTLE: First, Mr.  
14 Bonebrake?

15 MR. BONEBRAKE: Mr. Ross, do you  
16 recall when the SIPCO Unit 1, 2, 3 the fluidized  
17 bed boiler was constructed?

18 MR. ROSS: Recently. I believe 2003,  
19 2004.

20 MR. BONEBRAKE: And did it replace  
21 older units?

22 MR. ROSS: Yes, it did. And it  
23 replaced an older, dirtier unit.

24 MR. BONEBRAKE: So there was an



1 environmental benefit associated with  
2 construction of Unit 1, 2, 3?

3 MR. ROSS: Yes.

4 MR. BONEBRAKE: And SIPCO operated  
5 more than one unit at Marion?

6 MR. ROSS: Yes, they do.

7 MR. BONEBRAKE: And do companies make  
8 dispatch decisions, that is, which unit they will  
9 run based upon economic drivers?

10 MR. ROSS: I believe so.

11 MR. BONEBRAKE: And would the  
12 variability of additional allowances for a unit  
13 potentially increase the situations in which a  
14 boiler would be operated or potentially operated  
15 at higher level of capacity because of the  
16 economics associated with the additional  
17 allowance?

18 MR. ROSS: Perhaps.

19 MR. BONEBRAKE: So, in fact, the  
20 variability of allowances for a fluidized bed  
21 boiler could provide continuing incentives into  
22 the future to operate a low emitting unit; is  
23 that correct?

24 MR. ROSS: That's true.

1 HEARING OFFICER KNITTLE: Ms. Bugle  
2 was next and then Ms. Bassi.

3 MS. BUGEL: Mr. Ross, with the debate  
4 that we've had about what's cleaner PC with  
5 control, PC without control, fluidized beds with  
6 control or without control. Would an easier way  
7 to achieve the same goal to be simply set an  
8 emission level that projections would have to  
9 meet to be eligible for credit in the Clean Air  
10 Set-Aside?

11 MR. ROSS: That would be one way to  
12 approach it.

13 MR. DAVIS: Not the way we selected.  
14 We actually do that with an emission level than a  
15 clean coal technology has. We have an emission  
16 level that a clean coal technology has to be  
17 below and they get the difference between that  
18 and it's one mega -- it's one pound per megawatt  
19 hour, so anything below you will receive that  
20 much credit, as Mr. Cooper's example showed, if a  
21 plant was operating at .07 pounds per megawatt  
22 hour, they would get .3 pounds per megawatt hour  
23 credit. So there is that level they have to  
24 operate below in order to earn any CASA credit.

1 MS. BUGEL: Is it possible to  
2 translate that to pounds per million BTU?

3 MR. DAVIS: .7, or its factor.

4 MR. COOPER: .07.

5 MS. BUGEL: And generally in new units  
6 that are being permitted, new facilities that are  
7 being permitted in Illinois, do you know what  
8 they're being permitted at?

9 MR. ROSS: I think .07 pounds per  
10 million BTU as a NOX emission rate is generally  
11 recognized as low, clean -- a clean rate.

12 MS. BUGEL: To back up a little bit,  
13 you said that -- did the Agency consider not  
14 specifying technology and just including an  
15 emission rate?

16 MR. COOPER: Say it again, please.

17 MR. BUGEL: Did the Agency consider  
18 not specifying technology such as CFBs and just  
19 including an emission rate perhaps something  
20 lower than?

21 MR. COOPER: In terms of a CASA?

22 MS. BUGEL: Yes.

23 MR. COOPER: Not to my recollection.

24 MR. DAVIS: I should point out the

1           CASA gives credit to SCR and clean coal  
2           technology.

3                       MS. BUGEL: One more question, page 18  
4           of the slide, what does highly efficient power  
5           generation mean, is that --

6                       MR. COOPER: It's defined.

7                       MS. BUGEL: Okay.

8                       MR. COOPER: By the rule. It  
9           establishes criteria for what it needs be, highly  
10          efficient.

11                      MS. BUGEL: So on this page that is  
12          not a substitute for CFB, is it?

13                      MR. COOPER: I don't believe that is  
14          the intent, no. The CFB is included in the  
15          definition of clean coal technology.

16                      MS. BUGEL: Okay. Thank you. That  
17          was --

18                      MR. COOPER: We --

19                      HEARING OFFICER KNITTLE: Before we  
20          pass out the documents, Ms. Bassi had a question.

21                      MS. BASSI: Just to provide another  
22          level of perspective, Mr. Cooper, how many  
23          allowances are in the CASA category from which  
24          SIPC [sic] would -- would apply for allowances

1 for its CFB?

2 MR. COOPER: The clean coal technology  
3 category as a whole is 6% of the CASA, 4,573  
4 annual allowances, 1,842 seasonal allowances.

5 MS. BASSI: And does the Agency have  
6 an estimate of how many allowances SIPC would be  
7 eligible for from that annual category?

8 MS. DOCTORS: I'd like to note that  
9 the witness is looking at Exhibit 5 that -- so  
10 that you still have questions on, Mr. Bonebrake.

11 HEARING OFFICER KNITTLE: Agency  
12 Exhibit 5?

13 MS. DOCTORS: Yes. Okay.

14 MR. COOPER: Table 1 of that.

15 HEARING OFFICER KNITTLE: Looking at  
16 that, what is your answer, sir?

17 MR. COOPER: My answer is I don't have  
18 that particular calculation in front of me.

19 MS. BASSI: Do you have it somewhere?

20 MR. COOPER: Perhaps long ago. It  
21 could be regenerated, but I don't --

22 MS. BASSI: Is it less than a  
23 thousand?

24 MR. COOPER: Honestly, I don't recall.

1 I would have to run the math.

2 MS. BASSI: Can we have that tomorrow  
3 maybe?

4 MR. COOPER: Excuse me?

5 MS. BASSI: Can we have that tomorrow  
6 maybe?

7 MR. COOPER: I can make an attempt,  
8 yes.

9 MS. BASSI: Thank you.

10 MR. COOPER: I have to call the  
11 relevant data, and I don't want to make a  
12 guarantee if the Website is down.

13 MS. BASSI: Right.

14 MR. NILLES: Just a quick  
15 clarification. So the data we're asking for is  
16 what was the NOX emission for the 2005 for the  
17 SIPCO unit we're working out of how much of the  
18 Clean Coal Set-Aside would consume, is that what  
19 we're trying to do?

20 MS. BASSI: Yes, approximately -- an  
21 estimate how much of the Clean Coal Set-Aside  
22 SIPC would consume from the 4,000 allowances on  
23 an annual basis.

24 MR. COOPER: This is 2005?

1 MS. BASSI: Oh, I don't care what  
2 year. 2005 is fine.

3 HEARING OFFICER KNITTLE: Do you have  
4 any other questions not related to the new motion  
5 to amend? One more. Yes, you.

6 MR. HILLES: Page 29 of the slide  
7 talks about the supply side energy efficiency  
8 project of EGUs.

9 MR. COOPER: Yes.

10 MS. DOCTORS: I was trying to get the  
11 2010.

12 HEARING OFFICER KNITTLE: Oh, I'm  
13 sorry, sir. You'll have a shot in just a second.  
14 Ms. Doctors, you have documents you want to  
15 submit?

16 MS. DOCTORS: Yes, I thought I was  
17 done, but I have two more.

18 HEARING OFFICER KNITTLE: Let's submit  
19 those and we'll finish up with the questions and  
20 then we'll go home.

21 MS. DOCTORS: Agency Exhibit 19 and  
22 it's just the relevant emission factors from  
23 1842.

24 MS. BASSI: What's Exhibit 18?

1 MS. DOCTORS: Is it 18 or -- Okay, 18.

2 HEARING OFFICER KNITTLE: We're on  
3 Agency Exhibit 18.

4 MR. COOPER: This document represents  
5 the compilation of air pollution -- air pollutant  
6 emission factor. The document encompasses many  
7 types of combustion technology among which it  
8 provides emission factors for both pulverized  
9 coal boilers of many different types as well as  
10 two different types of fluidized boilers.

11 MS. DOCTORS: And the second document  
12 it's called -- it's from the -- this would be  
13 Agency Exhibit 19. He's going to --

14 MR. COOPER: The second document is  
15 just a simple two-page cut sheet developed  
16 apparently by the US Department of Energy's NETL,  
17 the National Energy Technology Laboratory, and in  
18 this particular document they make several  
19 references to both the efficiencies as well as  
20 the pollutant emission rates for this type of  
21 boiler. The second page has a table that details  
22 both apparently typical SO2 and NOX rates and on  
23 the left-hand side there's couple of relevant  
24 facts.



1 HEARING OFFICER KNITTLE: Do you have  
2 -- we have any objections to Agency Exhibit No.  
3 18, the Compilation of Air Pollutant Emission  
4 Factors? Seeing none, that will be admitted as  
5 Agency Exhibit 18. How about Agency Exhibit 19,  
6 the Program facts on Fluidized Bed Combustion  
7 Program?

8 MS. BASSI: No objection.

9 MR. NILLES: I would just note it's  
10 outdated regarding to old performance standards  
11 -- it's outdated. The fact sheet talks about new  
12 performance standards and it's dated 2000 -- it's  
13 dated 2000 and it's comparing circulating  
14 fluidized bed technology to the new source  
15 performance standards that were in effect in  
16 2000. Since 2000 this NSPS has been updated. So  
17 the comparison of CFBS and NSPS are all outdated.  
18 So in terms of showing benefits, I just point out  
19 these numbers are outdated.

20 HEARING OFFICER KNITTLE: We're going  
21 to admit that with your clarification duly noted.  
22 And, Ms. Doctors, do you have any other documents  
23 you would like to submit?

24 MS. DOCTORS: Not at this time?

1 HEARING OFFICER KNITTLE: And it was  
2 Mr. Nilles?

3 MR. NILLES: Nilles.

4 HEARING OFFICER KNITTLE: You had some  
5 additional questions you wanted to ask?

6 MR. NILLES: I just want to go back to  
7 the CFB versus pulverized coal. The City of  
8 Springfield just received a permit for pulverized  
9 coal boiler, it's the cleanest coal boiler permit  
10 in the state, pulverized coal.

11 HEARING OFFICER KNITTLE: Question?

12 MR. NILLES: It's in the process of  
13 agreeing to a limit that it's significantly lower  
14 than SIPCO units to CFBs. My question is: Why  
15 would the Agency be rewarding CILCO which has a  
16 much dirtier unit as NOX and excluding the City of  
17 Springfield with a pulverized boiler when it's  
18 going further achieving our overall goal of  
19 NOx --

20 MR. RIESER: CILCO or SIPCO?

21 MR. NILLES: SIPCO. Sorry.

22 MR. ROSS: Well, you say the City of  
23 Springfield has agreed to lower emission rates in  
24 a permit. I think I've seen those rates. I'm

1 not certain that they've been demonstrated.  
2 There's no testing of those rates. They're  
3 theoretically achievable emission rates; correct?

4 MR. NILLES: The Agency issued a  
5 permit and the federal complied (inaudible).

6 COURT REPORTER: I'm sorry, I didn't  
7 hear you.

8 MR. ROSS: I think the emission rate  
9 you're referring to are attachment to the permit;  
10 correct?

11 MR. NILLES: Correct.

12 MR. ROSS: They weren't limits set per  
13 se by the Agency. They were limits that were  
14 agreed to by -- agreed to by City Water, Light  
15 and Power and Sierra Club is my understanding.  
16 And to say that, I believe City Water, Light and  
17 Power would be eligible for the set aside, for  
18 any -- they would be eligible for NUSA, new  
19 source set asides, new unit set aside.

20 MS. BASSI: Would they be eligible for  
21 early adopter set aside possibly?

22 MR. COOPER: They wouldn't be  
23 undertaking any projects.

24 MS. BASSI: Would they be eligible for

1 the control devices that they're putting in?

2 MR. ROSS: No, that's for existing  
3 units.

4 MR. COOPER: That's where the rule  
5 specifically states existing units have to be  
6 commercially operated for a minimum of eight  
7 years.

8 MR. ROSS: We're certainly not in any  
9 way, shape or form punishing you, City Water,  
10 Light and Power for agreeing to lower emission  
11 limits. The fact of the matter is though that a  
12 fluidized bed boiler is -- if City Water, Light  
13 and Power would have chosen a fluidized bed  
14 boiler they may have, I can't say this with  
15 certainty, but they may have been able to agree  
16 to even lower limits than what was agreed to  
17 between the Sierra Club and City Water, Light and  
18 Power, that being based upon the theory that they  
19 be starting from a lower emission rate.  
20 Fluidized bed boilers uncontrolled prior to the  
21 installation of the control equipment emit less  
22 NOX and SO2 than pulverized coal boilers. So city  
23 Water, Light and Power is putting on pulverized  
24 -- or installing, proposing to install a new

1 pulverized coal boiler with several items of  
2 add-on control equipment in order to reach this  
3 greed upon limit. They could perhaps, as I  
4 mentioned, agree to an even lower limit with a  
5 fluidized bed boiler.

6 MR. NILLES: I guess to get back, our  
7 request is that you consider the way it's set up  
8 now which seems to be helping the 2001 project  
9 and there's a 2006 project being proposed as much  
10 cleaner does not get the benefit because you're  
11 depicting one technology, CFB, over pulverized  
12 coal. And our point is what we care about is  
13 emission rate so let's help emission rate  
14 problems rather than technology. We're  
15 reiterating our request that that be done.

16 MS. BASSI: Would such an emission  
17 rate coincide with the heat input based for  
18 allocation.

19 MR. ROSS: It's probably not  
20 printable.

21 MR. HILLES: Page 29 of the  
22 presentation, supply side energy efficiency  
23 project, the last bullet.

24 MR. COOPER: Yes.

1 MR. NILLES: What are those?

2 MR. COOPER: I would refer back to the  
3 document that was provided during outreach. It's  
4 still available on our Website even yet today.  
5 Are you looking for examples?

6 MR. NILLES: Yes, please.

7 MR. COOPER: Turbine upgrade,  
8 performance optimization, smart software  
9 management, high efficiency motors, pumps --  
10 sorry, turbine upgrade, performance optimization,  
11 smart software management, high efficiency  
12 motors, pumps, compressors, steam systems, fans,  
13 transformers, air pre-heaters or condensers and  
14 as far as we're concerned these are effectively  
15 parasitic losses from the plant. These are --  
16 these are the types of things that chew out of  
17 gross and then leaves net, potentially improve  
18 maintenance activities, other heat rate  
19 improvements. In that particular outreach  
20 document there's actually an example provided  
21 from the Southern Company, I believe, that  
22 details one particular scenario and what their  
23 effort were able to achieve.

24 MR. NILLES: Let me ask. We have a

1 challenge. We have 22 old, very old coal burning  
2 power plants in the state. It's an ongoing  
3 source of much discussion about should they be  
4 retired, should they be upgraded, should they put  
5 them on pollution control. And my question is:  
6 Supply side energy efficiency projects seem to  
7 get awfully close to overhauling power plants  
8 which triggers a whole fleet of obligations under  
9 the new source program and how -- how is the  
10 Agency planning on making sure that facilities  
11 aren't rebuilding and triggering their  
12 obligations to put on modern pollution control  
13 that many of us was thinking happened decades  
14 ago?

15 MR. COOPER: The exact same way that  
16 even without the CASA. Wipe the CASA off the  
17 board today, what would prevent a company from  
18 going in and performing anything that would  
19 trigger new source review. Nothing. It's our  
20 monitoring, our recordkeeping, our recording and  
21 our inspection process that we catch new source  
22 review violators and then through the subsequent  
23 legal process do we enforce upon them and consent  
24 court orders and whatnot. That same mechanism is

1 in place. This -- And I believe this exact  
2 question was brought up during outreach. This  
3 does not waive or negate the right, the  
4 requirement for a EGU to file the appropriate  
5 permit if necessary.

6 MR. BLOOMBERG: I might add it's an  
7 additional piece of information that they will be  
8 submitting to us, tell us that they're doing it  
9 that they would not otherwise have to file with  
10 us thereby possibly alerting us to any potential  
11 issues.

12 MR. NILLES: And that emission will  
13 all be public; right?

14 MR. ROSS: I believe so subject to a  
15 Freedoms of Information Act request. So, yes, it  
16 would be public, available to the public.

17 HEARING OFFICER KNITTLE: Ms. Bugel?

18 MS. BUGEL: Nothing further for me.

19 Thank you.

20 HEARING OFFICER KNITTLE: Let's wrap  
21 up today. Thank you all very much for your time  
22 and attention today. See you back here tomorrow  
23 morning at nine.

24 (Hearing recessed at 5:45 p.m.)



1 STATE OF ILLINOIS

2 COUNTY OF FAYETTE

3

4 C E R T I F I C A T E

5

6 I, BEVERLY S. HOPKINS, a Notary Public

7 in and for the County of Fayette, State of

8 Illinois, DO HEREBY CERTIFY that the foregoing

9 156 pages comprise a true, complete and correct

10 transcript of the proceedings held on October

11 11th, 2006, at the Illinois Pollution Control

12 Board, 1021 North Grand Avenue East, Springfield,

13 Illinois, in proceedings held before Hearing

14 Officer John Knittle, and recorded in machine

15 shorthand by me.

16 IN WITNESS WHEREOF I have hereunto set

17 my hand and affixed by Notarial Seal this 15th

18 day of October, 2006.

19

20

21 Beverly S. Hopkins, CSR, RPR  
22 Notary Public, Fayette County  
23 CSR License No. 084-004316

24

25

26