BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
PROPOSED NEW CAIR SO_2, CAIR NO_X	)	
ANNUAL AND CAIR NO_X OZONE SEASON	)	R06-26
TRADING PROGRAMS, 35 ILL. ADM.	)	(Rulemaking- Air)
CODE 225, CONTROL OF EMISSIONS	)	
FROM LARGE COMBUSTION SOURCES,	)	
SUBPARTS A, C, D and E	)	

NOTICE

TO: Dorothy Gunn, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board a MOTION TO AMEND RULEMAKING PROPOSAL, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: _____
John J. Kim
Managing Attorney
Air Regulatory Unit
Division of Legal Counsel

DATED: November 27, 2006

1021 North Grand Avenue East
P.O. Box 19276
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217.782.5544
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THIS FILING IS SUBMITTED ON RECYCLED PAPER

STATE OF ILLINOIS)
) **SS**
COUNTY OF SANGAMON)
)

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have served electronically the attached MOTION TO AMEND RULEMAKING PROPOSAL upon the following person:

Dorothy Gunn
Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph St., Suite 11-500
Chicago, IL 60601-3218

and mailing it by first-class mail from Springfield, Illinois, with sufficient postage affixed to the following persons:

SEE ATTACHED SERVICE LIST

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

_____

John J. Kim
Managing Attorney
Air Regulatory Unit
Division of Legal Counsel

Dated: November 27, 2006

1021 North Grand Avenue East
Springfield, Illinois 62794-9276
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SERVICE LIST
R06-26

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS FOR STATIONARY SOURCES

PART 225
CONTROL OF EMISSIONS FROM LARGE COMBUSTION SOURCES

SUBPART A: GENERAL PROVISIONS

Section

SUBPART C: CAIR SO_2 TRADING PROGRAM

Section

SUBPART D: CAIR NO_x ANNUAL TRADING PROGRAM

Section

SUBPART E: CAIR NO_x OZONE SEASON TRADING PROGRAM

Section

AUTHORITY: Implementing Section 10, and authorized by Sections 27 and 28 of the Illinois Environmental Protection Act [415 ILCS 5/10, 27 and 28].

SOURCE: Adopted in Docket R06- at Ill. Reg. , effective , 200~~6~~7 .

SUBPART A: GENERAL PROVISIONS

Section 225.120 Severability

If any Section, subsection or clause of this Part is found invalid, a~~such~~ finding will~~shall~~ not affect the validity of this Part as a whole or any Section, sentence or clause not found invalid.

Section 225.103 Abbreviations

Unless otherwise specified within this Part, the abbreviations used in this Part will~~shall~~ be the same as those found in 35 Ill. Adm. Code 211. The following abbreviations and acronyms are used in this Part:

Act Environmental Protection Act [415 ILCS 5 *et seq.*]

Agency	Illinois Environmental Protection Agency
Btu	British thermal unit
CAA	Clean Air Act [42 U.S.C. 7401]
CAAPP	Clean Air Act Permit Program [415 ILCS 5/39.5]
CEMS	continuous emissions monitoring systems
EGU	electric generating unit
GO	Gross electrical output
HI	heat input
hr	hour
kg	kilogram
mmBtu	million Btu
MW	megawatt
MWe	megawatt electrical
MWh	megawatt hour
NO_x	nitrogen oxides
ORIS	Office of Regulatory Information Systems
O_2	oxygen
SO_2	sulfur dioxide
USEPA	United State Environmental Protection Agency
yr	year

Section 225.130 Definitions

The following definitions ~~contained in this Section~~ apply ~~only to~~ for the ~~provisions~~ purposes of this Part. Unless otherwise defined in this Section ~~and unless~~ or a different meaning for ~~of~~ a term is clear from its context, the ~~definitions of~~ terms used in this Part shall have the meanings specified ~~for those terms~~ in 35 Ill. Adm. Code 211, and 40 CFR §§ 96.102, 96.202, and 96.302, as incorporated by reference in Section 225.140 ~~of this Subpart~~.

"Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other medium.

"Bottoming-cycle cogeneration unit" means a cogeneration unit in which the energy input to the unit is first used to produce useful thermal energy and at least some of the reject heat from the useful thermal energy application or process is then used for electricity production.

"CAIR authorized account representative" means, ~~with regard to~~for the purpose of general accounts, a responsible natural person who is authorized, in accordance with 40 CFR 96 subparts BB, FF, BBB, FFF, ~~and~~ BBBB, and FFFF to transfer and otherwise dispose of CAIR NO_x ~~and~~ SO_2, and NO_x Ozone Season allowances, as applicable, held in the CAIR NO_x, SO_2, and NO_x Ozone Season general account, and ~~with regard to~~for the purpose of a CAIR NO_x compliance account, a CAIR SO_2 Allowance System Tracking account, or a CAIR NO_x Ozone Season compliance account, the CAIR designated representative of the source.

"CAIR designated representative" means for a CAIR NO_x source, ~~and~~ a CAIR SO_2 source, and a CAIR NO_x Ozone Season source and each CAIR NO_x unit, ~~and~~ CAIR SO_2 unit and CAIR NO_x Ozone Season unit at the source, the natural person who is authorized by the owners and operators of the source and all such units at the source, in accordance with 40 CFR 96 subparts BB, FF, BBB, FFF, ~~and~~ BBBB, and FFFF as applicable, to represent and legally bind each owner and operator in matters pertaining to the CAIR NO_x Annual Trading Program, CAIR SO_2 Trading Program, and the CAIR NO_x Ozone Season Trading Program, as applicable. For any unit that is subject to one or more of the following programs: CAIR NO_x Annual Trading Program, the CAIR SO_2 Trading Program, the CAIR NO_x Ozone Season Trading Program, or the federal Acid Rain Program, the designated representative for the~~such~~ unit ~~shall~~must be the same natural person for all programs ~~all~~ applicable to the unit.

~~"CAIR NO_x compliance account" means, for the purposes of Subparts D and E of this Part, a CAIR NO_x Allowance Tracking System account, established by USEPA for a CAIR NO_x source under 40 CFR 96 subparts FF and FFFF in which any CAIR NO_x allowance allocations for the affected units at the source are initially recorded and in which are held any CAIR NO_x allowances available for use for a control period in order to meet the source's CAIR NO_x emissions limitations in accordance with Sections 225.410 and 225.510 of this Part, and 40 CFR §§ 96.154 and 96.354, as incorporated by reference in Section 225.140 of this Subpart.~~

"CAIR Trading Programs" means the requirements of this Part, and those provisions of the federal CAIR NO_x Annual Season, CAIR SO_2, or CAIR NO_x Ozone Season Trading Programs set forth in 40 CFR 96, as incorporated by reference in Section 225.140 ~~of this Subpart~~.

"Coal-fired" means:

a) For purposes of Subparts B, D, and E, combusting any amount of coal or coal-derived fuel, alone or in combination with any amount of any other fuel, during a specified year;

b) For purposes of Subpart C, combusting any amount of coal or coal-derived fuel, alone, or in combination with any amount of any other fuel.

"Cogeneration unit" means, for the purposes of Subparts C, D, and E, a stationary, fossil fuel-fired boiler or stationary, fossil fuel-fired combustion turbine:

a) Having equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy; and

b) Producing during the 12-month period starting on the date the unit first produces electricity and during any calendar year after the calendar year in which the unit first produces electricity:

1) For a topping-cycle cogeneration unit:

i) Useful thermal energy not less than 5 percent of total energy output; and

ii) Useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5 percent of total energy input, if useful thermal energy produced is 15 percent or more of total energy output, or not less than 45 percent of total energy input, if useful thermal energy produced is less than 15 percent of total energy output.

2) For a bottoming-cycle cogeneration unit, useful power not less than 45 percent of total energy input.

"Combined cycle system" means a system comprised of one or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

"Combustion turbine" means:

An enclosed device comprising a compressor, a combustor, and a turbine and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine; and

If the enclosed device pursuant to the~~under~~ paragraph above is combined cycle, any associated duct burner, heat recovery steam generator and steam turbine.

"Commence commercial operation" means, with respect to Subparts C, D and E ~~of this Part~~, with regard to a unit serving a generator:

a) To have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation, except as provided in 40 CFR ~~§~~ 96.105, 96.205, or 96.305, as incorporated by reference in Section 225.140 ~~of this Subpart~~.

1) For a unit that is a CAIR SO_2 unit, CAIR NO_x unit, or a CAIR NO_x Ozone Season~~an affected~~ unit pursuant to~~under~~ 40 CFR ~~§~~ 96.104, 96.204 or 96.304, respectively, on the date the unit commences commercial operation on the later of November 15, 1990 or the date the unit commence commercial operation as defined in paragraph (a) of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date will~~shall~~ remain the unit's date of

commencement of commercial operation, which willshall continue to be treated as the same unit.

2) For a unit that is a CAIR SO_2 unit, CAIR NO_x unit, or a CAIR NO_x Ozone Seasonan affected unit under pursuant to 40 CFR § 96.104, 96.204 or 96.304, respectively, on the later of November 15, 1990 or the date the unit commences commercial operation as defined in paragraph (a) of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date willshall remain the replaced unit's date of commencement of commercial operation, and the replacedment unit willshall be treated as a separate unit with a separate date for commencement of commercial operation as defined in paragraphs (a) or (b) of this definition as appropriate.

b) Notwithstanding paragraph (a) of this definition and except as provided in 40 CFR § 96.105, 96.205, or 96.305 for a unit that is not a CAIR SO_2 unit, CAIR NO_x unit, or a CAIR NO_x Ozone Seasonan affected unit pursuant tounder Section 225.305, 225.405, or 225.405, respectively,40 CFR § 96.104, 96.204 or 96.304 on the later of November 15, 1990 or the date the unit commences commercial operation as defined in paragraph (a) of this definition, the unit's date for commencement of commercial operation willshall be the date on which the unit becomes an affected unit under pursuant to Section 225.305, 225.405, or 225.405, respectively40 CFR § 96.104, 96.204, or 96.304.

1) For a unit with a date for commencement of commercial operation as defined in paragraph (b) of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date willshall remain the unit's date of commencement of commercial operation, which shall continue to be treated as the same unit.

2) For a unit with a date for commencement of commercial operation as defined in paragraph (b) of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), such date willshall remain the replacedment unit's date of commencement of commercial operation, and the replacedment unit willshall be treated as a separate unit with a separate date for commencement of commercial operation as defined in paragraph (a) or (b) of this definition as appropriate.

~~c) Notwithstanding paragraphs (a) and (b) of this definition, for a unit not serving a generator producing electricity for sale, the unit's date of commencement of operation shall also be the unit's date of commencement of commercial operation.~~

"Commence construction" means, for the purposes of Section 225.460(f) and 225.560(f), that the owner or his designee has obtained all necessary preconstruction approvals (e.g. zoning) or permits and either has:

a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

b) Entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time. For purposes of this definition:

1) "Construction" shall be determined as any physical change or change in the method of operation, including but not limited to fabrication, erection, installation, demolition, or modification of projects eligible for CASA allowances, as set forth in Sections 225.460 and 225.560.

2) "A reasonable time: shall be determined considering but not limited to the following factors: the nature and size of the project, the extent of design engineering, the amount of off-site preparation, whether equipment can be fabricated or can be purchased, when the project begins (considering both the seasonal nature of the construction activity and the existence of other projects competing for construction labor at the same time, the place of the environmental permit in the sequence of corporate and overall governmental approval), and the nature of the project sponsor (e.g., private, public, regulated).

"Commence operation," for purposes of Subparts ~~of~~ C, D and E ~~of this Part~~, means:

a) To have begun any mechanical, chemical, or electronic process, including, ~~with regard to~~for the purpose of a unit, start-up of a unit's combustion chamber, except as provided in 40 CFR § 96.105, 96.205, or 96.305, as incorporated by reference in Section 225.140 ~~of this Subpart~~.

b~~1~~) For a unit that undergoes a physical change (other than replacement of the unit by a unit at~~as~~ the same source) after the date the unit commences operation~~s~~ as defined in paragraph (a) of this definition, such date will~~shall~~ remain the date of commencement of operation of the unit, which will~~shall~~ continue to be treated as the same unit.

c~~2~~) For a unit that is replaced by a unit at the same source (e.g., repowered), after the date the unit commences operation as defined in paragraph (a) of this definition, such date will~~shall~~ remain the replaced unit's date of commencement of operation, and the replacement unit will~~shall~~ be treated

as a separate unit with a separate date for commencement of operation as defined in paragraphs (a), ~~or~~ (b), or (c) of this definition as appropriate.

~~b) Notwithstanding paragraph (a) of this definition and solely for the purposes of 40 CFR 96, subparts HH, HHH, and HHHH, for a unit that is not an affected unit under 40 CFR § 96.104, 96.204, or 96.304 on the later of November 15, 1990 or the date the unit commences operation as defined in paragraph (a) of this definition and subsequently becomes an affected uni, the unit's date for commencement of operation shall be the date on which the unit becomes an affected unit under 40 CFR § 96.104, 96.204, or 96.304.~~

~~1) For a unit with a date for commencement of operation as defined in paragraph (b) of this definition and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), such date shall remain the unit's date of commencement of operation.~~

~~2) For a unit with a date for commencement of operation as defined in paragraph (b) of this definition and that is subsequently replaced by a unit at the same source (e.g., repowered), the replacement unit shall be treated as a separate unit with a separate date for commencement of operation as defined in paragraphs (a) or (b) of this definition as appropriate.~~

"Common stack" means a single flue through which emissions from two or more units are exhausted.

"Compliance account" means, for the purposes of Subparts D and E , a CAIR NO_x Allowance Tracking System account, established by USEPA for a CAIR NO_x source or CAIR NO_x Ozone Season source pursuant to 40 CFR 96 subparts FF and FFFF in which any CAIR NO_x allowance or CAIR NO_x Ozone Season allowance allocations for the CAIR NO_x units or CAIR NO_x Ozone Season units at the source are initially recorded and in which are held any CAIR NO_x or CAIR NO_x Ozone Season allowances available for use for a control period in order to meet the source's CAIR NO_x or CAIR NO_x Ozone Season emissions limitations in accordance with Sections 225.410 and 225.510, and 40 CFR 96.154 and 96.354, as incorporated by reference in Section 225.140. CAIR NO_x allowances may not be used for compliance with the CAIR NO_x Ozone Season Trading program and CAIR NO_x Ozone Season allowances may not be used for compliance with the CAIR NO_x Annual Trading program.

"Control period" means:

For the CAIR SO_2 and NO_x Annual Trading programs in Subparts C and D ~~of this Part~~, the period beginning January 1 of a calendar year, except as provided in Sections 225.310(d)(3) and 225.410(d)(3) ~~of this Subpart~~, and ending on

December 31 of the same year, inclusive; or

For the CAIR NO_x Ozone Season Trading Program in Subpart E ~~of this Part~~, the period beginning May 1 of a calendar year, except as provided in Section 225.510(d)(3) ~~of this Subpart~~, and ending on September 30 of the same year, inclusive.

"Electric generating unit (EGU)" means a fossil fuel-fired stationary boiler, combustion turbine or combined cycle system that serves a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale.

"Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material.

"Fossil fuel-fired" means the combusting any amount of fossil fuel, alone or in combination with any other fuel in any calendar year.

"Generator" means a device that produces electricity.

"Gross electrical output" means the total electrical output from an ~~electric generating unit (~~EGU~~)~~ before making any deductions for energy output used in any way related to the production of energy. For an ~~electric generating unit~~EGU generating only electricity, the gross electrical output is the output from the turbine/generator set.

"Heat input" means, for the purposes of~~with regard~~ Subparts C, D, and E ~~of this Part~~, ~~with regard to~~ a specified period of time, the product (in mmBtu/hr) of the gross calorific value of the fuel (in Btu/lb) divided by 1,000,000 Btu/mmBtu and multiplied by the fuel feed rate into a combustion device (in lb of fuel/time), as measured, recorded and reported to USEPA by the CAIR designated representative and determined by USEPA in accordance with 40 CFR 96, subpart HH, HHH, or HHHH , if applicable, and excluding the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

"Higher heating value (HHV)" means the total heat liberated per mass of fuel burned (Btu per pound), when fuel and dry air at standard conditions undergo complete combustion and all resultant products are brought to their standard states at standard conditions.

"Integrated gasification combined cycle (IGCC)" means a coal-fired electric utility steam generating unit that burns a synthetic gas derived from coal in a combined-cycle gas turbine. No coal is directly burned in the unit during operation.

"Nameplate Capacity" means, starting from the initial installation of a generator, the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings) as of such installation as specified by the manufacturer of the

generator or, starting from the completion of any subsequent physical change in the generator resulting in an increase in the maximum electrical generating output (in MWe) that the generator is capable of producing on a steady state basis and during continuous operation (when not restricted by seasonal or other deratings), such increased maximum amount as of such completion as specified by the person conducting the physical change.

"Oil-fired unit" means a unit combusting fuel oil for more than 15.0 percent of the annual heat input in a specified year and not qualifying as coal-fired.

~~"Project sponsor" means a person, including the owner or operator of an electric generating unit that implements or helps to implement an energy efficiency and conservation, renewable energy, or clean technology project as listed in Sections 225.460 and 225.560 of this Part.~~

"Potential electrical output capacity" means 33 percent of a unit's maximum design heat input, expressed in mmBtu/hr divided by 3.413 mmBtu/MWh, and multiplied by 8,760 hr/yr.

"Project sponsor" means a person or an entity, including but not limited to the owner or operator of an EGU or a not-for-profit group, that provides the majority of funding for an energy efficiency and conservation, renewable energy, or clean technology project as listed in Sections 225.460 and 225.560, unless another person or entity is designated by a written agreement as the project sponsor for the purpose of applying for NO_x allowances or NO_x Ozone Season allowances from the CASA.

"Rated-energy efficiency" means the percentage of thermal energy input that is recovered as useable energy in the form of gross electrical output, useful thermal energy, or both that is used for heating, cooling, industrial processes, or other beneficial uses as follows:

For electric generators, rated energy efficiency is calculated as one kilowatt hour (3,413 Btu) of electricity divided by the unit's design heat rate using the higher heating value of the fuel, and expressed as a percentage.

For combined heat and power projects, rated-energy efficiency is calculated using the following formula:

$$REE = ((GO + UTE)/HI) \times 100$$

Where:

REE = Rated-energy efficiency, expressed as percentage.
GO = Gross electrical output of the system expressed in Btu/hr.
UTE = Useful thermal output from the system that is used for heating, cooling, industrial processes or other beneficial uses, expressed in Btu/hr.
HI = Heat input, based upon the higher heating value of fuel, in

Btu/hr.

"Repowered" means, ~~with regard to~~for the purpose of a~~an electric generating~~ unit, replacement of a coal-fired boiler with one of the following coal-fired technologies at the same source as the coal-fired boiler:

Atmospheric or pressurized fluidized bed combustion;

Integrated gasification combined cycle;

Magnetohydrodyamics;

Direct and indirect coal-fired turbines;

Integrated gasification fuel cells; or

As determined by the USEPA, a derivative of one or more of the technologies listed above, and any other coal-fired technology capable of controlling multiple combustion emissions simultaneously with improved boiler generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of January 1, 2005.

"Total energy output" means, with respect to a cogeneration unit, the sum of useful power and useful thermal energy produced by the cogeneration unit.

"Useful thermal energy" means, ~~with regard to~~for the purpose of a cogeneration unit, the thermal energy that is made available to an industrial or commercial process, excluding any heat contained in condensate return or makeup water:

Used in a heating application (e.g., space heating or domestic hot water heating); or

Used in a space cooling application (e.g., thermal energy used by an absorption chiller).

Section 225.140 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions.

a) CAIR SO_2 Trading Program, 40 CFR 96, subpart AAA (CAIR SO_2 Trading Program General Provisions, excluding 40 CFR §§ 96.204, and 96.206); 40 CFR 96, subpart BBB (CAIR Designated Representative for CAIR SO_2 Sources); 40 CFR 96, subpart FFF (CAIR SO_2 Allowance Tracking System); 40 CFR 96, subpart GGG (CAIR SO_2 Allowance Transfers); and 40 CFR 96, subpart HHH (Monitoring and Reporting) (2006).

b) CAIR NO_x Annual Trading Program, 40 CFR 96, subpart AA (NO_x Annual Trading Program General Provisions, excluding 40 CFR ~~§§~~ 96.104, 96.105(b)(2), and 96.106); 40 CFR 96, subpart BB (CAIR Designated Representative for CAIR NO_x Sources); 40 CFR 96, subpart FF (CAIR NO_x Allowance Tracking System); 40 CFR 96, subpart GG (CAIR NO_x Allowance Transfers); and 40 CFR 96, subpart HH (Monitoring and Reporting) (2006).

c) CAIR NO_x Ozone Season Trading Program 40 CFR 96, subpart AAAA (CAIR NO_x Ozone Season Trading Program General Provisions) (excluding 40 CFR ~~§§~~ 96.304, 96.305(b)(2), and 96.306); 40 CFR 96, subpart BBBB (CAIR Designated Representative for CAIR NO_x Ozone Season Sources); 40 CFR 96, subpart FFFF (CAIR NO_x Ozone Season Allowance Tracking System); 40 CFR 96, subpart GGGG (CAIR NO_x Ozone Season Allowance Transfers); and 40 CFR 96, subpart HHHH (Monitoring and Reporting) (2006).

d) 40 CFR 75 (2006~~2005~~).

e) 40 CFR 78 (2006~~2005~~).

f) Federal Energy Management Program, *M&V Measurement and Verification for Federal Energy Projects*, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Version 2.2, DOE/GO-102000-0960 (September 2000).

SUBPART C: CAIR SO_2 TRADING PROGRAM

Section 225.300 Purpose

The purpose of this Subpart C is to control the emissions of sulfur dioxide (SO_2) from ~~electric generating units~~ ~~(~~EGUs~~)~~ annually by implementing the CAIR SO_2 Trading Program pursuant to 40 CFR 96, as incorporated by reference in Section 225.140 ~~of this Subpart~~.

Section 225.305 Applicability

a) Except as provided in subsections (b)(1), (b)(3), and (b)(4) of this Section:

1) The following units are CAIR SO_2 units, and any source that includes one or more such units is a CAIR SO_2 source subject to the requirements of this Subpart C: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2) If a stationary boiler or stationary combustion turbine that pursuant to subsection (a)(1) of this Section, is not a CAIR SO_2 unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit will become a CAIR SO_2 unit as provided in subsection (a)(1) of this Section on the first date on which it both combusts fossil fuel and serves such generator.

b) The units that meet the requirements set forth in subsections (b)(1), (b)(3), and (b)(4) of this Section will not be CAIR SO_2 units and units that meet the requirements of subsections (b)(2) and (b)(5) of this Section are CAIR SO_2 units:

1) Any unit that is a CAIR SO_2 unit pursuant to subsection (a)(1) or (a)(2) of this Section and:

A) Qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

B) Does not serve at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying any calendar year more than one-third of the of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution for sale.

2) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of subsection (b)(1) of this Section for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO_2 unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no onger meets the requirements of subsection (b)(1)(B) of this Section.

3) Any unit that is a CAIR SO_2 unit pursuant to subsection (a)(1) or (a)(2) of this Section commencing operation before January 1, 1985 and:

A) Qualifies as a solid waste incineration unit; and

B) With an average annual fuel consumption of non-fossil fuel for 1985-1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

4) Any unit that is a CAIR SO_2 unit under subsection (a)(1) or (a)(2) of this Section commencing operation on or after January 1, 1985: and

A) Qualifies as a solid waste incineration unit; and

B) With an average annual fuel consumption of non-fossil fuel the first three years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

5) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(3) or (b)(4) of this Section for at least three consecutive years, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO2 unit starting on the earlier of January 1 after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fuel of 20 percent or more.

~~a) A fossil fuel-fired stationary boiler, combustion turbine is an electric generating unit if it serves a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale and is not included in Appendix D of 35 Ill. Adm. Code Part 217. An electric generating unit is subject to the SO_2 Trading Program contained in this Subpart and is a CAIR SO_2 unit or an affected unit for the purposes of this Subpart.~~

~~b) Notwithstanding subsection (a) of this Section, an EGU shall not be an affected unit and is not subject to the CAIR SO_2 Trading Program contained in this Subpart if it meets the requirements of either subsection (b)(1)(A) or (b)(2)(A) of this Section, as follows:~~

~~1) A unit that:~~

~~A) Meets the definition of a cogeneration unit in Section 225.130 of this Part; and~~

~~i) Qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity, and continues to qualify as a cogeneration unit; and~~

~~ii) Does not serve at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with a nameplate capacity of more than 25 MWe, and which supplies in any calendar year more than one-third of the unit's potential electrical output capacity or 219,000 MWh, whichever is greater, to a utility power~~

~~distribution system for sale.~~

~~B) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity but subsequently no longer qualifies as a cogeneration unit, the unit shall be subject to subsection (a) of this Section starting on the January 1 after which the unit first no longer qualifies as a cogeneration unit.~~

~~2) A unit that:~~

~~A) Qualifies as a solid waste incineration unit as defined by Section 129(g) of the CAA [42 U.S.C. § 7429(g)]; and~~

~~i) Commences operation on or after January 1, 1985; and~~

~~ii) Has an average annual fuel consumption of non-fossil fuel for the first three calendar years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).~~

~~B) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(2)(A) of this Section for at least three consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become an affected unit starting on the January 1 after which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more.~~

Section 225.310 Compliance Requirements

a) The owner or operator of a CAIR SO_2 ~~an affected~~ unit ~~shall~~must comply with the requirements of the CAIR SO_2 Trading Program for Illinois as set forth in this Subpart C and 40 CFR 96, subpart AAA (CAIR SO_2 Trading Program General Provisions, excluding 40 CFR ~~§§~~ 96.204, and 96.206); 40 CFR 96, subpart BBB (CAIR Designated Representative for CAIR SO_2 Sources); 40 CFR 96, subpart FFF (CAIR SO_2 Allowance Tracking System); 40 CFR 96, subpart GGG (CAIR SO_2 Allowance Transfers); and 40 CFR 96, subpart HHH (Monitoring and Reporting); as incorporated by reference in Section 225.140 ~~of this Part~~.

b) Permit requirements:

1) The owner or operator of each source with one or more CAIR SO_2~~affected~~ units at the source must apply for a permit issued by the Agency with federally enforceable conditions covering the CAIR SO_2 Trading Program

("CAIR ~~SO_2~~ permit") that complies with the requirements of Section 225.320 ~~of this Subpart~~ (Permit Requirements).

2) The owner or operator of each CAIR SO_2 ~~affected~~ source and each CAIR SO_2 ~~affected~~ unit at the source must operate the CAIR SO_2 ~~affected~~ unit in compliance with its~~such~~ CAIR ~~SO_2~~ permit.

c) Monitoring requirements:

1) The owner or operator of each CAIR SO_2 ~~affected~~ source and each CAIR SO_2 ~~affected~~ unit at the source must comply with the monitoring requirements of 40 CFR 96, subpart HHH. The CAIR designated representative of each CAIR SO_2 ~~affected~~ source and each CAIR SO_2 ~~affected~~ unit at the CAIR SO_2 ~~affected~~ source must comply with those sections of the monitoring, reporting and recordkeeping requirements of 40 CFR 96, subpart HHH, applicable to the CAIR designated representative.

2) The compliance of each CAIR SO_2 ~~affected~~ source~~unit~~ with the emissions limitation pursuant to~~under~~ subsection (d) of this Section will~~shall~~ be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart HHH and 40 CFR 75.

d) Emission requirements:

1) By the allowance transfer deadline, March 1, 2011, and by March 1 of each subsequent year, the owner or operator~~CAIR designated representative~~ of each CAIR SO_2 ~~affected~~ source and each CAIR SO_2 ~~affected~~ unit at the source ~~shall~~must hold a tonnage equivalent in CAIR SO_2 allowances available for compliance deductions pursuant to~~under~~ 40 CFR ~~§§~~ 96.254(a) and (b) in the CAIR SO_2 ~~affected~~ source's CAIR SO_2 Allowance System Tracking account. The allowance transfer deadline means by midnight of March 1 (if it is a business day) or midnight of the first business day thereafter. The number of allowances held may~~shall~~ not be less than the total tons of SO_2 emissions for the control period from all CAIR SO_2 ~~affected~~ units at the CAIR SO_2 ~~affected~~ source~~, rounded to the nearest whole ton~~, as determined in accordance with 40 CFR 96, subpart HHH~~, plus any number of allowances necessary to account for actual utilization (e.g., for testing, start-up, malfunction, and shut-down)~~.

2) Each ton of SO_2 emitted by a CAIR SO_2 ~~an affected~~ unit in excess of the tonnage authorization~~number~~ of CAIR SO_2 allowances held by the owner or operator for each CAIR SO_2 ~~affected~~ unit in its CAIR SO_2 Allowance System Tracking account for each day of the applicable control period will~~shall~~ constitute a separate violation of this Subpart C, the Clean Air Act, and the Act.

3) Each CAIR SO_2 ~~affected~~ unit will~~shall~~ be subject to the monitoring ~~and compliance~~ requirements of subsection~~s~~ (c)(1) ~~and (d)(1)~~ of this Section starting on the later of January 1, 2009~~2010~~, or the deadline for meeting the unit's monitoring certification requirements pursuant to~~under~~ 40 CFR ~~§~~ 96.270(b)(1) or (2) and for each control period thereafter.

4) CAIR SO_2 allowances ~~shall~~must be held in, deducted from, or transferred into or among allowance accounts in accordance with this Subpart and 40 CFR 96, subparts FFF and GGG.

5) In order to comply with the requirements of subsection (d)(1) of this Section, a CAIR SO_2 allowance may not be deducted~~utilized~~ for compliance according to subsection (d)(1) of this Section, for a control period in a calendar year before~~prior to~~ the year for which the allowance is allocated.

6) A CAIR SO_2 allowance ~~allocated by USEPA under the CAIR SO_2 Trading Program~~ is a limited authorization to emit SO_2 in accordance with the CAIR SO_2 Trading Program. No provision of the CAIR SO_2 Trading Program, the CAIR ~~SO_2~~ permit application, the CAIR ~~SO_2~~ permit, or a retired unit exemption pursuant to~~under~~ 40 CFR ~~§~~ 96.205, and no provision of law, will~~shall~~ be construed to limit the authority of the United States or the State to terminate or limit this authorization.

7) A CAIR SO_2 allowance allocated by USEPA pursuant to~~under~~ the CAIR SO_2 Trading Program does not constitute a property right.

8) Upon recordation by USEPA pursuant to~~under~~ 40 CFR 96, subpart FFF or 40 CFR 96, subpart GGG, every allocation, transfer, or deduction of a CAIR SO_2 ~~an~~ allowance to or from a CAIR SO_2 ~~an affected~~ source's compliance account is deemed to amend automatically, and become a part of, any CAIR ~~SO_2~~ permit of the CAIR SO_2 ~~affected~~ source. This automatic amendment of the CAIR ~~SO_2~~ permit will~~shall~~ be deemed an operation of law and will not require any further review.

e) Recordkeeping and reporting requirements:

1) Unless otherwise provided, the owner or operator of the CAIR SO_2 ~~affected~~ source and each CAIR SO_2~~affected~~ unit at the source ~~shall~~must keep on site at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(D) of this Section for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time prior to the end of five years, in writing by the Agency or USEPA.

A) The certificate of representation for the CAIR designated representative for the source and each CAIR SO_2 ~~affected~~ unit at the source, all documents that demonstrate the truth of the statements in the certificate of representation, provided that the certificate and documents must be retained on site at the source beyond such five-year period until the ~~such~~ documents are superseded because of the submission of a new certificate of representation pursuant to ~~under~~ 40 CFR ~~§~~ 96.213, changing the CAIR designated representative.

B) All emissions monitoring information, in accordance with 40 CFR 96, subpart HHH.

C) Copies of all reports, compliance certifications, and other submissions and all records made or required pursuant to ~~under~~ the CAIR SO_2 Trading Program or documents necessary to demonstrate compliance with the requirements of the CAIR SO_2 Trading Program or with the requirements of this Subpart C.

D) Copies of all documents used to complete a CAIR ~~SO_2~~ permit application and any other submission or documents used to demonstrate compliance pursuant to ~~under~~ the CAIR SO_2 Trading Program.

2) The CAIR designated representative of a CAIR SO_2 ~~an affected~~ source and each CAIR SO_2 ~~affected~~ unit at the source must submit to the Agency and USEPA the reports and compliance certifications required pursuant to ~~under~~ the CAIR SO_2 Trading Program, including those pursuant to ~~under~~ 40 CFR 96, subpart HHH.

f) Liability:

1) No revision of a permit for a CAIR SO_2 ~~an affected~~ unit may ~~shall~~ excuse any violation of the requirements of this Subpart C or the requirements of the CAIR SO_2 Trading Program.

2) Each CAIR SO_2 ~~affected~~ source and each ~~affected~~ CAIR SO_2 unit ~~shall~~ must meet the requirements of the CAIR SO_2 Trading Program.

3) Any provision of the CAIR SO_2 Trading Program that applies to CAIR SO_2 ~~an affected~~ source (including any provision applicable to the CAIR designated representative of a CAIR SO_2 ~~an affected~~ source) will ~~shall~~ also apply to the owner and operator of the ~~such~~ CAIR SO_2 ~~affected~~ source and to the owner and operator of each CAIR SO_2 ~~affected~~ unit at the source.

4) Any provision of the CAIR SO_2 Trading Program that applies to a CAIR

SO_2~~an affected~~ unit (including any provision applicable to the CAIR designated representative of a CAIR SO_2~~an affected~~ unit) will~~shall~~ also apply to the owner and operator of the~~such~~ CAIR SO_2~~affected~~ unit. ~~Except with regard to the requirements applicable to affected units with a common stack under 40 CFR 96, subpart HHH, the owner, the operator, and the CAIR designated representative of an affected unit shall not be liable for any violation by any other affected unit of which they are not an owner or operator or the CAIR designated representative.~~

5) The CAIR designated representative of a CAIR SO_2~~an affected~~ unit that has excess SO_2 emissions in any control period ~~shall~~must surrender the allowances as required for deduction pursuant to~~under~~ 40 CFR ~~§~~ 96.254(d)(1).

6) The owner or operator of a CAIR SO_2~~an affected~~ unit that has excess SO_2 emissions in any control period ~~shall~~must pay any fine, penalty, or assessment or comply with any other remedy imposed pursuant to~~under~~ the Act and 40 CFR ~~§~~ 96.254(d)(2).

g) Effect on other authorities. No provision of the CAIR SO_2 Trading Program, a CAIR ~~SO_2~~ permit application, a CAIR ~~SO_2~~ permit, or a retired unit exemption pursuant to~~under~~ 40 CFR ~~§~~ 96.205 will~~shall~~ be construed as exempting or excluding the owner and operator and, to the extent applicable, the CAIR designated representative of a CAIR SO_2~~an affected~~ source or a CAIR SO_2~~affected~~ unit, from compliance with any other regulation promulgated pursuant to~~under~~ the CAA, the Act, any State regulation or permit, or a federally enforceable permit.

Section 225.315 Appeal Procedures

The appeal procedures for decisions of USEPA pursuant to~~under~~ the CAIR SO_2 Trading Program are set forth in 40 CFR 78, as incorporated by reference in Section 225.140 ~~of this Part~~.

Section 225.320 Permit Requirements

a) Permit requirements:

1) The owner or operator of each source with a CAIR SO_2~~an affected~~ unit is required to submit:

A) A~~ a~~ complete permit application addressing all applicable CAIR SO_2 Trading Program requirements for a permit meeting the requirements of this Section 225.320, applicable to each CAIR SO_2~~affected~~ unit at the source. Each CAIR ~~SO_2~~ permit must~~shall~~ contain elements required for a complete CAIR ~~SO_2~~ permit application pursuant to~~under~~ subsection (b)(2) of this Section.

B) Any supplemental information that the Agency determines is necessary in order to review a CAIR permit application and issue a CAIR permit.

2) Each CAIR ~~SO_2~~ permit will be issued pursuant to Section 39 or 39.5 of the Act, must~~shall~~ contain federally enforceable conditions addressing all applicable CAIR SO_2 Trading Program and requirements, and will~~shall~~ be a complete and segregable portion of the source's entire permit pursuant to~~under~~ subsection (a)(1) of this Section.

3) No CAIR ~~SO_2~~ permit may~~shall~~ be issued and no CAIR SO_2 Allowance System Tracking account may~~shall~~ be established for the CAIR SO_2~~an affected~~ source, until the Agency and USEPA have received a complete certificate of representation for a CAIR designated representative or alternate designated representative pursuant to~~under~~ 40 CFR 96, subpart BBB, for a~~an~~ source and the CAIR SO_2~~affected~~ unit at the source.

4) For all CAIR SO_2~~affected~~ units that commenced operation before July 1, 2008, the owner or operator of the~~such~~ unit must submit a CAIR ~~SO_2~~ permit application meeting the requirements of this Section 225.320 on or before July 1, 2008.

5) For CAIR SO_2 ~~affected~~ units ~~and~~ that commence operation on or after July 1, 2008, and that are and are not subject to Section 39.5 of the Act, the owner or operator of such units must submit applications for construction and operating permits pursuant to the requirements of Sections 39 and 39.5 of the Act, as applicable, and 35 Ill. Adm. Code 201 and the~~such~~ applications must specify that they are applying for CAIR ~~SO_2~~ permits, and must address the CAIR ~~SO_2~~ permit application requirements of this Section 225.320.

b) Permit applications:

1) Duty to apply. The owner or operator of any source with one or more CAIR SO_2~~affected~~ units ~~shall~~must submit to the Agency a CAIR ~~SO_2~~ permit application for the source covering each CAIR SO_2~~affected~~ unit pursuant to~~under~~ subsection (b)(2) of this Section by the applicable deadline in subsection (a)(4) or (a)(5) of this Section. The owner or operator of any source with one or more CAIR SO_2~~affected~~ units ~~shall~~must reapply for a CAIR ~~SO_2~~ permit for the source as required by this Subpart, 35 Ill. Adm. Code 201, and, as applicable, Sections 39 and 39.5 of the Act.

2) Information requirements for CAIR ~~SO_2~~ permit applications. A complete CAIR ~~SO_2~~ permit application ~~shall~~must include the following elements concerning the source for which the application is submitted:

A) Identification of the source, including plant name. The ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration ~~shall~~must also be included, if applicable;

B) Identification of each CAIR SO_2~~affected~~ unit at the source; and

C) The compliance requirements applicable to each CAIR SO_2~~affected~~ unit as set forth in Section 225.310 ~~of this Subpart~~.

3) An application for a CAIR ~~SO_2~~ permit will~~shall~~ be treated as a modification of the CAIR SO_2 ~~affected~~ source's existing federally enforceable permit, if such a permit has been issued for that CAIR SO_2~~affected~~ source, and will~~shall~~ be subject to the same procedural requirements. When the Agency issues a CAIR ~~SO_2~~ permit pursuant to the requirements of this Section 225.320, it will~~shall~~ be incorporated into and become part of that CAIR SO_2~~affected~~ source's existing federally enforceable permit.

c) Permit content. Each CAIR permit is deemed to incorporate automatically the definitions and terms pursuant to Section 225.120 and, upon recordation of USEPA under 40 CFR 96, Subparts FFF and GGG as incorporated by reference in Section 225.140, every allocation, transfer, or deduction of a CAIR SO_2 allowance to or from the compliance account of the CAIR SO_2 source covered by the permit.

Section 225.325 Trading Program

a) The CAIR SO_2 Trading Program is administered by USEPA. CAIR SO_2 allowances are issued as described by the definition for allocate in 40 CFR 96.220, as incorporated by reference in Section 225.140~~determined by USEPA pursuant to the Acid Rain Program, Title IV of the CAA, 42 U.S.C. § 7651~~. The amount of ~~such~~ CAIR SO_2 allowances to be credited to a CAIR SO_2~~an affected~~ source's CAIR SO_2 Allowance Tracking System account for a CAIR SO_2~~an affected~~ unit will~~shall~~ be determined in accordance with 40 CFR 96.253, as incorporated by reference in Section 225.140~~by USEPA~~.

b) A CAIR SO_2 allowance is a limited authorization to emit SO_2 during the calendar year for which the allowance is allocated or any calendar year thereafter pursuant to~~under~~ the CAIR SO_2 Trading Program as follows:

1) For one CAIR SO_2 allowance allocated for a control period in a year before 2010, one ton of SO_2~~the retirement ratio shall be one ton of SO_2 to 1.0 CAIR SO_2 allowance~~, except as provided for in the compliance deductions pursuant to~~under~~ 40 CFR ~~§~~ 96.254(b);

2) For one CAIR SO_2 allowance allocated for a control period in 2010 through 2014, 0.5 ton of SO_2~~the retirement ratio shall be one ton of SO_2 to 2.0 CAIR SO_2 allowances~~, except as provided for in the compliance deductions pursuant to~~under~~ 40 CFR ~~§~~ 96.254(b); and

3) For one CAIR SO_2 allowance allocated for a control period in 2015 or later, 0.35 ton of SO_2~~the retirement ration shall be one ton of SO_2 to 2.86 CAIR SO_2 allowances~~, except as provided for in the compliance deductions pursuant to~~under~~ 40 CFR ~~§~~ 96.254(b).

SUBPART D: CAIR NO_x ANNUAL TRADING PROGRAM

Section 225.400 Purpose

The purpose of this Subpart D is to control the annual emissions of nitrogen oxides (NO_x) from ~~electric generating units~~ ~~(~~EGU~~)~~ by determining allocations and implementing the CAIR NO_x Annual Trading Program.

Section 225.405 Applicability

a) Except as provided in subsections (b)(1), (b)(3), and (b)(4) of this Section:

1) The following units are CAIR NO_x units, and any source that includes one or more such units is a CAIR NO_x source subject to the requirements of this Subpart D: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the start-up the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2) If a stationary boiler or stationary combustion turbine that pursuant to subsection (a)(1) of this Section, is not a CAIR NO_x unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producting electricity for sale, the unit will become a CAIR NO_x unit as provided in subsection (a)(1) of this Section on the first date on which it both combusts fossil fuel and serves such generator.

b) The units that meet the requirements set forth in subsections (b)(1), (b)(3), and (b)(4) of this Section will not be CAIR NO_x units and units that meet the requirements of subsections (b)(2) and (b)(5) of this Section are CAIR NO_x units:

1) Any unit that is a CAIR NO_x unit pursuant to subsection (a)(1) or (a)(2) of this Section and:

A) Qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

B) Does not serve at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying any calendar year more than one-third of the of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution for sale.

2) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of subsection (b)(1) of this Section for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subsection (b)(1)(B) of this Section.

3) Any unit that is a CAIR NO_x unit pursuant to subsection (a)(1) or (a)(2) of this Section commencing operation before January 1, 1985 and:

A) Qualifies as a solid waste incineration unit; and

B) With an average annual fuel consumption of non-fossil fuel for 1985-1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

4) Any unit that is a CAIR NO_x unit under subsection (a)(1) or (a)(2) of this Section commencing operation on or after January 1, 1985: and

A) Qualifies as a solid waste incineration unit; and

B) With an average annual fuel consumption of non-fossil fuel the first three years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

5) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(3) or (b)(4) of this Section for at least three consecutive years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x unit starting on the earlier of January 1 after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fuel of 20 percent or more.

~~a) A fossil-fuel-fired stationary boiler, combustion turbine or combined cycle system is an electric generating unit if it serves a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale and is not included in Appendix D of 35 Ill. Adm. Code Part 217. An electric generation unit is subject to the NO_x Trading Program contained in this Subpart and is a CAIR NO_x unit or affected unit for the purposes of this Subpart.~~

~~b) Notwithstanding subsection (a) of this Section, an EGU shall not be an affected unit and is not subject to the NO_x Trading Program contained in this Subpart if it meets the requirements of either subsection (b)(1)(A) or (b)(2)(A) of this Section, as follows:~~

~~1) A unit that:~~

~~A) Meets the definition of a cogeneration unit in Section 225.130 of this Part; and~~

~~i) Qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit; and~~

~~ii) Does not serve at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with a nameplate capacity of more than 25 MWe, and which supplies in any calendar year more than one-third of the unit's potential electrical output capacity or 219,000 MWh, whichever is greater, to a utility power distribution system for sale.~~

~~B) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity but subsequently no longer qualifies as a cogeneration unit, the unit shall be subject to subsection (a) of this Section starting on the January 1 after which the unit first no longer qualifies as a cogeneration unit.~~

~~2) A unit that:~~

~~A) Qualifies as a solid waste incineration unit as defined by Section~~

~~129(g) of the CAA [42 U.S.C. § 7429(g)]; and~~

~~i) Commences operation on or after January 1, 1985; and~~

~~ii) Has an average annual fuel consumption of non-fossil fuel for the first three calendar years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).~~

~~B) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(2)(A) of this Section for at least three consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become an affected unit starting on the January 1 after which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more.~~

Section 225.410 Compliance Requirements

a) The owner or operator of a CAIR NO_x ~~an affected~~ unit ~~shall~~must comply with the requirements of the CAIR NO_x Annual Trading Program for Illinois as~~re~~ set forth in this Subpart D and 40 CFR 96, subpart AA (NO_x Annual Trading Program General Provisions, excluding 40 CFR ~~§§~~ 96.104, 96.105(b)(2), and 96.106); 40 CFR 96, subpart BB (CAIR Designated Representative for CAIR NO_x Sources); 40 CFR 96, subpart FF (CAIR NO_x Allowance Tracking System); 40 CFR 96, subpart GG (CAIR NO_x Allowance Transfers); and 40 CFR 96, subpart HH (Monitoring and Reporting); as incorporated by reference in Section 225.140 ~~of this Part~~.

b) Permit requirements:

1) The owner or operator of each source with one or more CAIR NO_x~~affected~~ units at the source must apply for a permit issued by the Agency with federally enforceable conditions covering the CAIR NO_x Annual Trading Program ("CAIR ~~NO_x~~ permit") that complies with the requirements of Section 225.420 ~~of this Subpart~~ (Permit Requirements).

2) The owner or operator of each CAIR NO_x~~affected~~ source and each CAIR NO_x~~affected~~ unit at the source must operate the CAIR NO_x~~affected~~ unit in compliance with its~~such~~ CAIR ~~NO_x~~ permit.

c) Monitoring requirements:

1) The owner or operator of each CAIR NO_x~~affected~~ source and each CAIR NO_x~~affected~~ unit at the source must comply with the monitoring

requirements of 40 CFR 96, subpart HH and Section 225.450 ~~of this Subpart~~. The CAIR designated representative of each CAIR NO_x ~~affected~~ source and each CAIR NO_x ~~affected~~ unit at the CAIR NO_x ~~affected~~ source must comply with those sections of the monitoring, reporting and recordkeeping requirements of 40 CFR 96, subpart HH, applicable to a CAIR designated representative.

2) The compliance of each CAIR NO_x ~~affected~~ source~~unit~~ with the NO_x emissions limitation pursuant to~~under~~ subsection (d) of this Section will~~shall~~ be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart HH.

d) Emission requirements:

1) By the allowance transfer deadline, March 1, 2010, and by March 1 of each subsequent year, the allowance transfer deadline, the owner or operator~~CAIR designated representative~~ of each CAIR NO_x ~~affected~~ source and each CAIR NO_x ~~affected~~ unit at the source ~~shall~~must hold CAIR NO_x allowances available for compliance deductions pursuant to~~under~~ 40 CFR ~~§~~ 96.154(a) in the CAIR NO_x ~~affected~~ source's CAIR NO_x compliance account. The allowance transfer deadline means by midnight of March 1 (if it is a business day) or midnight of the first business day thereafter. The number of allowances held may~~shall~~ not be less than the tons of NO_x emissions for the control period from all CAIR NO_x ~~affected~~ units at the source, ~~rounded to the nearest whole ton,~~ as determined in accordance with 40 CFR 96, subpart HH~~, plus any number of allowances necessary to account for actual utilization, including, but not limited to testing, start-up, malfunction, and shut down~~.

2) Each ton of NO_x emitted in excess of the number of CAIR NO_x allowances held by the owner or operator for each CAIR NO_x ~~affected~~ unit in its CAIR NO_x compliance account for each day of the applicable control period will~~shall~~ constitute a separate violation of this Subpart D, ~~and~~ the Act, and the CAA.

3) Each CAIR NO_x ~~affected~~ unit will~~shall~~ be subject to the monitoring ~~and compliance~~ requirements of subsections~~s~~ (c)(1) ~~and (d)(1)~~ of this Section starting on the later of January 1, 2009, or the deadline for meeting the unit's monitoring certification requirements pursuant to~~under~~ 40 CFR ~~§~~ 96.170(b)(1) or (b)(2) and for each control period thereafter.

4) CAIR NO_x allowances ~~shall~~must be held in, deducted from, or transferred among allowance accounts in accordance with this Subpart and 40 CFR 96, subparts FF and GG.

5) In order to comply with the requirements of subsection (d)(1) of this

Section, a CAIR NO_x allowance may not be deductedutilized for compliance according to subsection (d)(1) of this Section, for a control period in a year beforeprior to the calendar year for which the allowance is allocated.

6) A CAIR NO_x allowance allocated by the Agency or USEPA pursuant tounder the CAIR NO_x Annual Trading Program is a limited authorization to emit one ton of NO_x in accordance with the CAIR NO_x Trading Program. No provision of the CAIR NO_x Trading Program, the CAIR NO_x permit application, the CAIR NO~x~ permit, or a retired unit exemption pursuant tounder 40 CFR § 96.105, and no provision of law, willshall be construed to limit the authority of the United States or the State to terminate or limit this authorization.

7) A CAIR NO_x allowance allocated by the Agency or USEPA pursuant tounder the CAIR NO_x Annual Trading Program does not constitute a property right.

8) Upon recordation by USEPA pursuant tounder 40 CFR 96, subpart FF or 40 CFR 96, subpart GG, every allocation, transfer, or deduction of a CAIR NO_xan allowance to or from a CAIR NO_x source compliance account is deemed to amend automatically, and become a part of, any CAIR NO_x permit of the CAIR NO_xaffected source. This automatic amendment of the CAIR NO~x~ permit willshall be deemed an operation of law and will not require any further review.

e) Recordkeeping and reporting requirements:

1) Unless otherwise provided, the owner or operator of the CAIR NO_xaffected source and each CAIR NO_xaffected unit at the source shallmust keep on site at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(E) of this Section for a period of five years from the date the document is created. This period may be extended for cause, at any time prior to the end of five years, in writing by the Agency or USEPA.

A) The certificate of representation for the CAIR designated representative for the source and each CAIR NO_xaffected unit at the source, all documents that demonstrate the truth of the statements in the certificate of representation, provided that the certificate and documents must be retained on site at the source beyond such five-year period until thesuch documents are superseded because of the submission of a new certificate of representation pursuant tounder 40 CFR § 96.113, changing the CAIR designated representative.

B) All emissions monitoring information, in accordance with 40 CFR 96, subpart HH.

C) Copies of all reports, compliance certifications, and other submissions and all records made or required pursuant to~~under~~ the CAIR NO_x Annual Trading Program or documents necessary to demonstrate compliance with the requirements of the CAIR NO_x Annual Trading Program or with the requirements of this Subpart D.

D) Copies of all documents used to complete a CAIR NO_x permit application and any other submission or documents used to demonstrate compliance pursuant to ~~under~~ the CAIR NO_x Annual Trading Program.

E) Copies of all records and logs for gross electrical output and useful thermal energy required by Section 225.450 ~~of this Subpart~~.

2) The CAIR designated representative of ~~an~~ a CAIR NO_x~~affected~~ source and each CAIR NO_x~~affected~~ unit at the source must submit to the Agency and USEPA the reports and compliance certifications required pursuant to~~under~~ the CAIR NO_x Annual Trading Program, including those pursuant to~~under~~ 40 CFR 96, subpart HH.

f) Liability:

1) No revision of a permit for a CAIR NO_x~~an affected~~ unit may~~shall~~ excuse any violation of the requirements of this Subpart D or the requirements of the CAIR NO_x Annual Trading Program.

2) Each CAIR NO_x~~affected~~ source and each CAIR NO_x~~affected~~ unit ~~shall~~must meet the requirements of the CAIR NO_x Annual Trading Program.

3) Any provision of the CAIR NO_x Annual Trading Program that applies to a CAIR NO_x~~an affected~~ source (including any provision applicable to the CAIR designated representative of a CAIR NO_x~~an affected~~ source) will~~shall~~ also apply to the owner and operator of the~~such~~ CAIR NO_x~~affected~~ source and to the owner and operator of each CAIR NO_x~~affected~~ unit at the source.

4) Any provision of the CAIR NO_x Annual Trading Program that applies to a CAIR NO_x~~an affected~~ unit (including any provision applicable to the CAIR designated representative of a CAIR NO_x~~an affected~~ unit) will~~shall~~ also apply to the owner and operator of the~~such~~ CAIR NO_x~~affected~~ unit. ~~Except with regard to the requirements applicable to affected units with a~~

~~common stack under 40 CFR 96, subpart HH, the owner, the operator, and the CAIR designated representative or alternate designated representative of an affected unit shall not be liable for any violation by any other affected unit of which they are not an owner or operator or the CAIR designated representative.~~

5) The CAIR designated representative of a CAIR NO_x ~~an affected~~ unit that has excess emissions in any control period ~~shall~~must surrender the allowances as required for deduction pursuant to~~under~~ 40 CFR ~~§~~ 96.154(d)(1).

6) The owner or operator of a CAIR NO_x ~~an affected~~ unit that has excess NO_x emissions in any control period ~~shall~~must pay any fine, penalty, or assessment or comply with any other remedy imposed pursuant to~~under~~ the Act and 40 CFR ~~§~~ 96.154(d)(2).

g) Effect on other authorities. No provision of the CAIR NO_x Annual Trading Program, a CAIR ~~NO_x~~ permit application, a CAIR ~~NO_x~~ permit, or a retired unit exemption pursuant to~~under~~ 40 CFR ~~§~~ 96.105 will~~shall~~ be construed as exempting or excluding the owner and operator and, to the extent applicable, the CAIR designated representative of a CAIR NO_x ~~an affected~~ source or a CAIR NO_x ~~an affected~~ unit, from compliance with any other regulation promulgated pursuant to ~~under~~ the CAA, the Act, any State regulation or permit, or a federally enforceable permit.

Section 225.415 Appeal Procedures

The appeal procedures for decisions of USEPA pursuant to~~under~~ the CAIR NO_x Annual Trading Program are set forth in 40 CFR 78, as incorporated by reference in Section 225.140 ~~of this Part~~.

Section 225.420 Permit Requirements

a) Permit requirements:

1) The owner or operator of each source with a CAIR NO_x ~~an affected~~ unit is required to submit:

A) ~~a~~A complete permit application addressing all applicable CAIR NO_x Annual Trading Program requirements for a permit meeting the requirements of this Section 225.420, applicable to each CAIR NO_x ~~affected~~ unit at the source. Each CAIR ~~NO_x~~ permit ~~shall~~must contain elements required for a complete CAIR ~~NO_x~~ permit application pursuant to~~under~~ subsection (b)(2) of this Section.

B) Any supplemental information that the Agency determines necessary in order to review a CAIR permit application and issue

any CAIR permit.

2) Each CAIR ~~NO$_x$~~ permit will be issued pursuant to Section 39 and 39.5 of the Act, ~~shall~~must contain federally enforceable conditions addressing all applicable CAIR NO_x Annual Trading Program requirements and ~~shall~~must be a complete and segregable portion of the source's entire permit pursuant to~~under~~ subsection (a)(1) of this Section.

3) No CAIR ~~NO$_x$~~ permit may~~shall~~ be issued, and no CAIR NO_x compliance account may~~shall~~ be established for a CAIR NO_x~~an affected~~ source, until the Agency and USEPA have received a complete certificate of representation for a CAIR designated representative pursuant to~~under~~ 40 CFR 96, subpart BB, for the CAIR NO_x~~affected~~ source and the CAIR NO_x~~affected~~ unit at the source.

4) For all CAIR NO_x~~affected~~ units that commenced operation before July 1, 2007, the owner or operator of the~~such~~ unit must submit a CAIR ~~NO$_x$~~ permit application meeting the requirements of this Section 225.420 on or before July 1, 2007.

5) For all CAIR NO_x~~affected~~ units ~~and~~ that commence operation on or after July 1, 2007~~8~~, the owner or operator of these~~such~~ units must submit applications for construction and operating permits pursuant to the requirements of Sections 39 and 39.5 of the Act, as applicable, and 35 Ill. Adm. Code 201 and the~~such~~ applications must specify that they are applying for CAIR ~~NO$_x$~~ permits, and must address the CAIR ~~NO$_x$~~ permit application requirements of this Section 225.420.

b) Permit applications:

1) Duty to apply. The owner or operator of any source with one or more CAIR NO_x~~affected~~ units ~~shall~~must submit to the Agency a CAIR ~~NO$_x$~~ permit application for the source covering each CAIR NO_x~~affected~~ unit pursuant to~~under~~ subsection (b)(2) of this Section by the applicable deadline in subsection (a)(4) or (a)(5) of this Section. The owner or operator of any source with one or more CAIR NO_x~~affected~~ units ~~shall~~must reapply for a CAIR ~~NO$_x$~~ permit for the source as required by this Subpart, 35 Ill. Adm. Code 201, and, as applicable, Sections 39 and 39.5 of the Act.

2) Information requirements for CAIR ~~NO$_x$~~ permit applications. A complete CAIR ~~NO$_x$~~ permit application ~~shall~~must include the following elements concerning the source for which the application is submitted:

A) Identification of the source, including plant name. The ORIS (Office of Regulatory Information Systems) or facility code

assigned to the source by the Energy Information Administration ~~shall~~must also be included, if applicable;

B) Identification of each CAIR NO_x ~~affected~~ unit at the source; and

C) The compliance requirements applicable to each CAIR NO_x ~~affected~~ unit as set forth in Section 225.410 ~~of this Subpart~~.

3) An application for a CAIR ~~NO_x~~ permit will~~shall~~ be treated as a modification of the CAIR NO_x ~~affected~~ source's existing federally enforceable permit, if such a permit has been issued for that source, and will~~shall~~ be subject to the same procedural requirements. When the Agency issues a CAIR ~~NO_x~~ permit pursuant to the requirements of this Section 225.420, it will~~shall~~ be incorporated into and become part of that source's existing federally enforceable permit.

c) Permit content. Each CAIR permit is deemed to incorporate automatically the definitions and terms pursuant to Section 225.120 and, upon recordation of USEPA under 40 CFR 96, Subparts FF and GG as incorporated by reference in Section 225.140, every allocation, transfer, or deduction of a CAIR NO_x allowance to or from the compliance account of the CAIR NO_x source covered by the permit.

Section 225.425 Annual Trading Budget

The CAIR NO_x Annual Trading budget available for allowance allocations for each control period will~~shall~~ be determined as follows:

a) The total base CAIR NO_x Annual Trading budget is 76,230 tons per control period for the years 2009 through 2014, subject to a reduction for two set-asides, the New Unit Set-Aside (NUSA) and the Clean Air Set-Aside (CASA). Five percent of the budget will~~shall~~ be allocated to the NUSA and 25 percent will~~shall~~ be allocated to the CASA, resulting in a CAIR NO_x Annual Trading budget of 53,361 tons available for allocation per control period pursuant to Section 225.440 ~~of this Subpart~~. The requirements of the NUSA are set forth in Section 225.445 ~~of this Subpart~~, and the requirements of the CASA are set forth in Sections 225.455 through 225.470 ~~of this Subpart~~.

b) The total base CAIR NO_x Annual Trading budget is 63,525 tons per control period for the year 2015 and thereafter, subject to a reduction for two set-asides, the NUSA and the CASA. Five percent of the budget will~~shall~~ be allocated to the NUSA and 25 percent will~~shall~~ be allocated to the CASA, resulting in a CAIR NO_x Annual Trading budget of 44,468 tons available for allocation per control period pursuant to Section 225.440 ~~of this Subpart~~.

c) If USEPA adjusts the total base CAIR NO_x Annual Trading budget for any

reason, the Agency willshall adjust the base CAIR NO_x Annual Trading budget and the CAIR NO_x Annual Trading budget available for allocation, accordingly.

Section 225.430 Timing for Annual Allocations

a) No later thanBy July 31, 2007October 31, 2006, the Agency willshall submit to USEPA the CAIR NO_x allowance allocations, in accordance with Sections 225.435 and 225.440 of this Subpart, for the 2009, 2010, and 2011 control periods.

b) By October 31, 20089, and October 31 of each year thereafter, the Agency willshall submit to USEPA the CAIR NO_x allowance allocations in accordance with Sections 225.435 and 225.440 of this Subpart, for the control period fourthree years after the year of the applicable deadline for submission pursuant tounder this Section 225.430. For example, on October 31, 20089, the Agency willshall submit to USEPA the allocations for the 2012 control period.

c) The Agency willshall allocate allowances from the NUSA to CAIR NO_xaffected units that commence commercial operation on or after January 1, 2006. The Agency willshall report these allocations to USEPA by October 31February 15 ofafter the applicable control period. For example, on October 31February 15, 20092010, the Agency willshall submit to USEPA the allocations from the NUSA for the 2009 control period.

d) The Agency willshall allocate allowances from the CASA to energy efficiency, renewable energy, and clean technology projects pursuant to the criteria in Sections 225.455 through 225.470 of this Subpart. The Agency willshall report these allocations to USEPA by October 1December 1 of each year. For example, on October 1, 2009December, 1, 2010, the Agency willshall submit to USEPA the allocations from the CASA for the 20092010 control period, based on reductions made in the 20082009 control period.

Section 225.435 Methodology for Calculating Annual Allocations

The Agency willshall calculate converted gross electrical output (CGO), in MWh, for each CAIR NO_xaffected unit that has operated during at least one calendar year prior to the calendar year in which the Agency reports the allocations to USEPA as follows:

a) For control periods 2009, 2010, and 2011, the owner or operator of the unit's must submit in writing to the Agency by June 1, 2007, a statement that either gross electrical output data or heat input data is to be used to calculate the unit's converted gross electrical output (CGO). The data shall be used to calculate converted gross electrical output pursuant to either subsection (a)(1) or (a)(2) of this Section shall be:

1) Gross electrical output. If the unit has four or five control periods of data,

then the gross electrical output (GO) willshall be the average of the unit's three highest gross electrical outputs from the 2001, 2002, 2003, 2004, or 2005 control periods. If the unit has three or fewer control periods of gross electrical output data, the gross electrical output willshall be the average of those control periods. If the unit does not have gross electrical output for the 2004 and 2005 control periods, the gross electrical output willshall be the gross electrical output data from the 2005 control period. ~~If the unit does not have gross electrical output, heat input shall be used pursuant to subsection (a)(2) of this Section.~~ If a generator is served by two or more units, the gross electrical output of the generator willshall be attributed to each unit in proportion to the unit's share of the total control period heat input of thesesuch units for the control period. The unit's converted gross electrical output ~~(CGO)~~ willshall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO × MWh × 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO × MWh × 0.6; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO × MWh × 0.4.

2) ~~If gross electrical output data is not provided to the Agency,~~ HIheat input (HI) ~~shall be used~~. If the unit has four or five control periods of data, the average of the unit's three highest heat input~~'s~~ from the 2001, 2002, 2003, 2004 or 2005 control period, willshall be used. If the unit has heat inputs from the 2003, 2004, or 2005 control period, the heat input willshall be the average of those years. If the unit does not have heat input from the 2004 and 2005 control periods, the heat input from the 2005 control period willshall be used. The unit's converted gross electrical output ~~(CGO)~~ willshall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0967;

B) If the unit is oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0580; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0387.

b) For control periods 2012 and 2013, the owner or operator of the unit must submit in writing to the Agency by June 1, 2008, a statement that either gross electrical output data or heat input data be used to calculate the unit's converted gross electrical output. The unit's converted gross electrical output shall be calculated

pursuant to either subsection (b)(1) or (b)(2) of this Section:

1) Gross electrical output. The average of the unit's two most recent years of control period gross electrical output, if available; otherwise it will be the unit's most recent control period's gross electrical output. If a generator is served by two or more units, the gross electrical output of the generator shall be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the control period. The unit's converted gross electrical output shall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO × MWh × 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO × MWh × 0.6;

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO × MWh × 0.4.

2) Heat input. The average of the unit's two most recent years of control period heat input; otherwise the unit's most recent control period's heat input, e.g. for the 2012 control period the average of the unit's heat input from the 2006 and 2007 control periods. If the unit does not have heat input from the 2006 and 2007 control periods, the heat input from the 2007 control period shall be used. The unit's converted gross electrical output shall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0967;

B) If the unit is oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0580; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0387.

c~~b~~) For control period 2014~~2012~~ and thereafter, the unit's gross electrical output will~~shall~~ be the average of the unit's two most recent years of control period gross electrical output, if available; otherwise it will be the unit's most recent control period's gross electrical output. If a generator is served by two or more units, the gross electrical output of the generator will~~shall~~ be attributed to each unit in proportion to the unit's share of the total control period heat input of these~~such~~ units for the control period. The unit's converted gross electrical output will~~shall~~ be calculated as follows:

1) If the unit is coal-fired:

CGO (in MWh) = GO × 1.0;

2) If the unit is oil-fired:
CGO (in MWh) = GO ×0.6; or

3) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO × 0.4.

de) For a unit that is a combustion turbine or boiler and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the Agency willshall add the converted gross electrical output calculated for electricity pursuant to subsections (a), (b), or (cb) of this Section to the converted useful thermal energy (CUTE) to determine the total converted gross electrical output for the unit (TCGO). The Agency willshall determine the converted useful thermal energy by using the average of the unit's control period useful thermal energy for the prior two control periods, if available, otherwise the unit's control period useful thermal output for the prior year willshall be used. The converted useful thermal energy willshall be determined using the following equations:

1) If the unit is coal-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.2930;

2) If the unit is oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1758; or

3) If the unit is neither coal-fired nor oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1172.

ed) The CAIR NO_x affected unit's converted gross electrical output and converted useful thermal energy in subsections (a)(1), (b)(1), (c) and (de) of this Section for each control period willshall be based on the best available data reported or available to the Agency for the CAIR NO_x affected unit pursuant to the provisions of Section 225.450 of this Subpart.

fe) The CAIR NO_x affected unit's heat input in subsections (a)(2) and (b)(2) of this Section for each control period willshall be determined in accordance with 40 CFR- 75, as incorporated by reference in Section 225.140 of this Part.

Section 225.440 Annual Allocations

a) For the 2009 control period, and each control period thereafter, the Agency willshall allocate CAIR NO_x allowances to all CAIR NO_x affected units in Illinois for which the Agency has calculated the total converted gross electrical output pursuant to Section 225.435 of this Subpart, a total amount of CAIR NO_x allowances equal to tons of NO_x emissions in the CAIR NO_x Annual Trading

budget available for allocation as determined in Section 225.~~425~~525 ~~of this Subpart~~ and allocated pursuant to this Section 225.440 ~~of this Subpart~~.

b) The Agency will~~shall~~ allocate CAIR NO_x allowances to each CAIR NO_x~~affected~~ unit on a pro-rata basis using the unit's total converted gross electrical output calculated pursuant to Section 225.435 ~~of this Subpart~~. If there are insufficient allowances to allocate whole allowances pro-rata, these~~such~~ unallocated allowances will~~shall~~ be retained by the Agency and will~~shall~~ be available for allocation in later control periods.

Section 225.445 New Unit Set-Aside (NUSA)

For the 2009 control period and each control period thereafter, the Agency will~~shall~~ allocate CAIR NO_x allowances from the NUSA to CAIR NO_x ~~affected~~ units that commenced commercial operation on or after January 1, 2006, and do not yet have an allocation for the particular control period pursuant to Section 225.440 ~~of this Subpart~~, in accordance with the following procedures:

a) Beginning with the 2009 control period and each control period thereafter, the Agency will~~shall~~ establish a separate NUSA for each control period. Each NUSA will~~shall~~ be allocated CAIR NO_x allowances equal to 5 percent of the amount of tons of NO_x emissions in the base CAIR NO_x Annual Trading budget in Section 225.425 ~~of this Subpart~~.

b) The CAIR designated representative of ~~such~~ a new CAIR NO_x~~an affected~~ unit may submit to the Agency a request, in a format specified by the Agency, to be allocated CAIR NO_x allowances from the NUSA starting with the first control period after the control period in which the new unit commences commercial operation and until the first control period for which the unit may use CAIR NO_x allowances allocated to the unit pursuant to~~under~~ Section 225.440 ~~of this Subpart~~. The NUSA allowance allocation request may only be submitted after a new unit has operated during one control period, and no later than March 1~~January 15~~ of~~after~~ the control period for which allowances from the NUSA are being requested.

c) In a NUSA allowance allocation request pursuant to~~under~~ subsection (b) of this Section, the CAIR designated representative must provide in its request information for gross electrical output and useful thermal energy, if any, for the new CAIR NO_x~~affected~~ unit for that control period.

d) The Agency will~~shall~~ allocate allowances from the NUSA to a new CAIR NO_x~~affected~~ unit using the following procedures:

1) For each new CAIR NO_x~~affected unit that has operated in at least one control period~~, the unit's gross electrical output for the most recent control period will~~shall~~ be used to calculate the unit's gross electrical output. If a generator is served by two or more units, the gross electrical output of the

generator willshall be attributed to each unit in proportion to the unit's share of the total control period heat input of thesesuch units for the control period. The new unit's converted gross electrical output willshall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO × 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO × 0.6; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO × 0.4.

2) If the unit is a combustion turbine or boiler and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the Agency willshall add the converted gross electrical output calculated for electricity pursuant to subsection (de)(1) of this Section to the converted useful thermal energy to determine the total converted gross electrical output for the unit. The Agency willshall determine the converted useful thermal energy using the unit's useful thermal energy for the most recent control period. The converted useful thermal energy willshall be determined using the following equations:

A) If the unit is coal-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.2930;

B) If the unit is oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1758; or

C) If the unit is neither coal-fired nor oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1172.

3) The gross electrical output and useful thermal energy in subsections (d)(1) and (d)(2) of this Section for each control period willshall be based on the best available data reported or available to the Agency for the CAIR NO_xaffected unit pursuant to the provisions of Section 225.450 of this Subpart.

4) The Agency willshall determine a unit's un-prorated allocation (UA_y) using the unit's converted gross electrical output (CGO) plus the unit's converted useful thermal energy, if any, calculated in subsections (d)(1) and (d)(2) of this Section, converted to approximate NO_x tons (the unit's un-prorated allocation), as follows:

$$UA_y = \frac{TCGO_y * (1.0 lbs/MWh)}{2000 lbs/ton}$$

Where:

UA_y = un-prorated allocation to a new CAIR NO_x ~~affected~~ unit.

$TCGO_y$ = total converted gross electrical output for a new CAIR NO_x ~~affected~~ unit.

5) The Agency will~~shall~~ allocate CAIR NO_x allowances from the NUSA to new CAIR NO_x ~~affected~~ units as follows:

A) If the NUSA for the control period for which CAIR NO_x allowances are requested has a number of allowances greater than or equal to the total un-prorated allocations for all new units requesting allowances, the Agency will~~shall~~ allocate the number of allowances using the un-prorated allocation determined for that unit pursuant to subsection (d)(4) of this Section. ~~If there are insufficient allowances to allocate whole allowances, such unallocated allowances shall be retained by the Agency and shall be available for allocation in a later control period.~~

B) If the NUSA for the control period for which the allowances are requested has a number of CAIR NO_x allowances less than the total un-prorated allocation to all new CAIR NO_x ~~affected~~ units requesting allocations, the Agency will~~shall~~ allocate the available allowances for new CAIR NO_x ~~affected~~ units on a pro-rata basis, using the un-prorated allocation determined for that unit pursuant to subsection (d)(4) of this Section. If there are insufficient allowances to allocate whole allowances, the~~such~~ unallocated allowances will~~shall~~ be retained by the Agency and will~~shall~~ be available for allocation in a later control period.

C) If the gross electrical output or useful thermal energy reported to the Agency in subsection (d) of this Section is later determined to be greater than the unit's actual gross electrical output or useful thermal energy for the applicable control period, the Agency will~~shall~~ reduce the unit's allocation from the NUSA for the current control period to account for the excess allowances allocated in the prior control period or periods.

e) The Agency will~~shall~~ review each NUSA allowance allocation request pursuant to~~under~~ subsection (b) of this Section. The Agency will~~shall~~ accept a NUSA allowance allocation request only if the request meets, or is adjusted by the

Agency as necessary to meet, the requirements of this Section 225.445.

f) By June 1~~February 8~~ o~~fafter~~ the applicable control period, the Agency will~~shall~~ notify each CAIR designated representative that submitted a NUSA allowance request of the amount of CAIR NO_x allowances from the NUSA, if any, allocated for the control period to the new unit covered by the request.

g) The Agency will~~shall~~ allocate CAIR NO_x allowances to new units from the NUSA no later than October 31~~February 15~~ o~~fafter~~ the applicable control period.

h) After a new CAIR NO_x~~affected~~ unit has operated in one control period, it becomes an existing unit for the purposes of Section 225.440 ~~of this Subpart~~ only, and the Agency will~~shall~~ allocate CAIR NO_x allowances for that unit, for the control period commencing four years in the future pursuant to Section 225.440 ~~of this Subpart~~. For example, if a unit commences commercial operation in 2009, in 2010, the Agency will~~shall~~ allocate to that unit allowances pursuant to Section 225.440 for the 2014~~3~~ control period. The new CAIR NO_x~~affected~~ unit will~~shall~~ continue to receive CAIR NO_x allowances from the NUSA according to this Section until the unit is eligible to use the CAIR NO_x allowances allocated to the unit pursuant to Section 225.440 ~~of this Subpart~~.

i~~h~~) If, after the completion of the procedures in subsection (c) of this Section for a control period, any unallocated CAIR NO_x allowances remain in the NUSA for the control period, the Agency will~~shall~~, at a minimum, accrue those CAIR NO_x allowances for future control period allocations to new CAIR NO_x~~affected~~ units. The Agency may from time to time elect to retire CAIR NO_x allowances in the NUSA that are in excess of 15,881 for the purposes of continued progress toward attainment and maintenance of National Ambient Air Quality Standards pursuant to the CAA.

Section 225.450 Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy

a) By January 1, 2008~~2007~~, or by the date of commencing commercial operation, whichever is later, the owner or operator of the CAIR NO_x~~affected~~ unit ~~shall~~must install, calibrate, maintain, and operate a system for measuring gross electrical output~~; wattmeter~~; ~~and shall~~must measure gross electrical output in MW-hrs~~megawatt-hours~~ on a continuous basis; and ~~shall~~must record the output of the measurement system~~wattmeter~~. If a generator is served by two or more units, the information to determine each unit's heat input for that control period ~~shall~~must also be recorded, so as to allow each unit's share of the gross electrical output to be determined. If heat input data is used, the owner or operator ~~shall~~must comply with the applicable provisions 40 CFR 75, as incorporated by reference in Section 225.140 ~~of this Part~~.

b) For a CAIR NO_x ~~an affected~~ unit that is a cogeneration unit by January 1, 2008~~2007~~, or by the date the CAIR NO_x ~~affected~~ unit commences to produce useful thermal energy, whichever is later, the owner or operator of a CAIR NO_x ~~an affected~~ unit with cogeneration capabilities ~~shall~~must install, calibrate, maintain, and operate meters for steam flow in lbs/hr, temperature in degrees Fahrenheit, and pressure in PSI, to measure and record the useful thermal energy that is produced, in mmBtu/hr, on a continuous basis. Owners and operators of a CAIR NO_x ~~an affected~~ unit that produces useful thermal energy but uses an energy transfer medium other than steam, e.g., hot water or~~,~~ glycol, ~~shall~~must install, calibrate, maintain, and operate the necessary meters to measure and record the necessary data to express the useful thermal energy produced, in mmBtu/hr, on a continuous basis. If the CAIR NO_x ~~affected~~ unit ceases to produce useful thermal energy, the owner or operator may cease operation of the meters, provided that operation of these~~such~~ meters ~~shall~~must be resumed if the CAIR NO_x ~~affected~~ unit resumes production of useful thermal energy.

c) ~~By September 30, 2006, t~~The owner or operator of CAIR NO_x ~~an affected~~ unit ~~shall~~must report to the Agency:

1) ~~-~~ By June 1, 2007, the gross electrical output for control periods 2001, 2002, 2003, 2004 and 2005, if available, and, the unit's useful thermal energy data, if applicable. ~~If gross electric output is not available, heat input shall be used for those control periods 2001, 2002, 2003, 2004, and 2005 for which gross electrical output data is not available.~~ If a generator is served by two or more units, the documentation needed to determine each unit's share of the heat input of such units for that control period ~~shall~~must also be submitted. If heat input data is used, the owner or operator ~~shall~~must comply with the applicable provisions 40 CFR 75, as incorporated by reference in Section 225.140 ~~of this Part~~.

2) By June 1, 2008, the gross electrical output for control periods 2006 and 2007, if available, and the unit's useful thermal energy data, if applicable. If a generator is served by two or more units, the documentation needed to determine each unit's share of the heat input of such units for that control period must also be submitted. If heat input data is used, the owner or operator must comply witht he applicable provisions of 40 CFR 75, as incorporated by reference in Section 225.140.

d) Beginning with year 2008~~2007~~, the CAIR designated representative of the CAIR NO_x ~~affected~~ unit ~~shall~~must submit to the Agency quarterly, by no later than ~~January 31,~~ April 30, July 31, ~~and~~ October 31, and January 31 of each year, information for the CAIR NO_x ~~affected~~ unit's gross electrical output, on a monthly basis for the prior quarter, and, if applicable, the unit's useful thermal energy for each month.

e) The owner or operator of a CAIR NO_x ~~an affected~~ unit ~~shall~~must maintain on-site the monitoring plan detailing the monitoring system, maintenance of the monitoring system, including quality assurance activities pursuant to the requirements of 40 CFR 60 and 75, including the applicable provisions for the measurement of gross electrical output for the CAIR NO_x trading program and, if applicable, for new units. The monitoring plan must include, but is not limited to:

1) A description of the system to be used for the measurement of gross electrical output including a list of any data logging devices, solid-state kW meters, rotating kW meters, electromechanical kW meters, current transformers, potential transformers, pressure taps, flow venture, orifice plates, flow nozzles, vortex meters, turbine meters, pressure transmitters, differential pressure transmitters, termperature transmitters, thermocouples, and resistance temperature detectors.

2) A certification statement by the CAIR designated representative that all components of the gross electrical output system have been tested to be accurate within three percent and that the gross electrical output system is accurate to within ten percent.

f) The owner or operator of a CAIR NO_x ~~an affected~~ unit ~~shall~~must retain records for at least 5 years from the date the record is created or the data collected in subsections (a) and (b) of this Section, and the reports submitted to the Agency and USEPA in accordance with subsections (c) and (d) of this Section. The owner or operator of a CAIR NO_x ~~an affected~~ unit ~~shall~~must retain the monitoring plan required in subsection (e) of this Section for at least five years from the date that it is replaced by a new or revised monitoring plan.

Section 225.455 Clean Air Set-Aside (CASA)

a) A project sponsor may apply for allowances from the CASA for sponsoring an energy efficiency and conservation, renewable energy, or clean technology project as set forth in Section 225.460 ~~of this Subpart~~ by submitting the application required by Section 225.470 ~~of this Subpart~~.

b) Notwithstanding subsection (a) of this Section, a project sponsor with a CAIR NO_x ~~an affected~~ source that is out of compliance with this Subpart for a given control period may not apply for allowances from the CASA for that control period. If a source receives CAIR NO_x allowances from CASA and then is subsequently found to have been out of compliance with this Subpart for the applicable control period or periods, the project sponsor must restore the CAIR NO_x allowances that it received pursuant to its CASA request or an equivalent number of CAIR NO_x allowances to the CASA within six months of receipt of an Agency notice that NO_x allowances must be restored~~finding of noncompliance~~.

These allowances willshall be assigned to the fund from which they were distributed.

c) The Agency will not act as a mediator in situations where more than one project sponsor requests CAIR NO_x allowances for the same project. If more than one project sponsor submits an application for allowances for the same project for the same control period, the Agency shall reject all such applications.

d) CAIR NO_x allowances from CASA willshall be allocated in accordance with the procedures in Section 225.475 of this Subpart.

de) The project sponsor may submit an application that aggregates two or more projects under a CASA project category that would individually result in less than one allowance, but that equal at a minimum one whole allowance when aggregated. The Agency shall not allocate allowances for projects totaling less than one whole allowance after rounding.

Section 225.460 Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects

a) Energy efficiency and conservation project means any of the following projects implemented in Illinois:

1) Demand side management projects that reduce overall power demand by using less energy, include:

A) Smart building management software that more efficiently regulates power flows.

B) The use of or replacement to high efficiency motors, pumps, compressors, or steam systems.

C) Lighting retrofits.

2) Energy efficient new building construction projects include:

A) ENERGY STAR qualified new home projects.

B) Measures to reduce or conserve energy consumption beyond the requirements of the Illinois Energy Conservation Code for Commercial Buildings (20 ILCS 687/6-3).

C) New residential construction projects that qualify for Energy Efficient Tax Incentives pursuant tounder the Energy Policy Act of 2005, 42 U.S.C. §15801 (2005).

3) Supply-side energy efficiency projects include projects implemented to improve the efficiency in electricity generation by coal-fired power plants, and the efficiency of electrical transmission and distribution systems.

4) Highly efficient power generation projects, such as, but not limited to, combined cycle projects, combined heat and power, and microturbines. To be considered a highly efficient power generation project pursuant to~~under~~ this subsection (a)(4), a project must meet~~,~~ the applicable thresholds and criteria listed below:

A) For combined heat and power projects generating both electricity and useful thermal energy for space, water, or industrial process heat, a rated-energy efficiency of at least 60 percent and is not a CAIR NO_x unit.

B) For combined cycle projects rated at greater than 0.50 MW, a rated-energy efficiency of at least 50 percent.

C) For microturbine projects rated at or below 0.50 MW and all other projects, rated-energy efficiency of at least 40 percent.

b) Renewable energy project means any of the following projects implemented in Illinois:

1) Zero-emission electric generating projects, including wind, solar (thermal or photovoltaic), and hydropower projects. Eligible hydropower plants are restricted to new generators, that are not replacements of existing generators, that commence operation on or after January 1, 2006, and do not involve the significant expansion of an existing dam or the construction of a new dam.

2) Renewable energy units are those units that generate electricity using more than 50 percent of the heat input, on an annual basis, from dedicated crops grown for energy production or the capture systems for methane gas from landfills, water treatment plants or sewage treatment plants, and organic waste biomass, and other similar sources of non-fossil fuel energy. Renewable energy projects do not include energy from incineration by burning or heating of waste wood, tires, garbage, general household, institutional lunchroom or office waste, landscape waste, or construction or demolition debris.

c) Clean technology project for reducing emissions from producing electricity and useful thermal energy means any of the following projects implemented in Illinois:

1) Air pollution control equipment upgrades at existing coal-fired ~~electric~~

~~generating unit~~EGUs, as follows: installation of flue gas desulfurization (FGD) for control of SO_2 emissions; installation of a baghouse for control of particulate matter emissions; and installation of selective catalytic reduction (SCR), selective non-catalytic reduction (SNCR), or other add-on control devices for control of NO_x emissions. Air pollution control upgrade projects do not include the addition of low NO_x burners, overfired air techniques or gas reburning techniques for control of NO_x emissions; projects involving flue gas conditioning techniques or upgrades, or replacement of electrostatic precipitators; or addition of activated carbon injection or other sorbent injection system for control of mercury. For this purpose, a unit will~~shall~~ be considered "existing" after it has been in commercial operation for at least eight years.

2) Clean coal technologies projects include:

A) Integrated gasification combined cycle (IGCC) plants.

B) Fluidized bed coal combustion.

d) In addition to those projects excluded in subsections (a) through (c) of this Section, the following projects are also not e~~E~~nergy efficiency and conservation, renewable energy, or clean technology projects ~~listed in subsection (a) through (c) of this Section shall not include~~:

1) N~~n~~uclear power projects.~~;~~

2) P~~p~~rojects required to meet emission standards or technology requirements under State or federal law or regulation ~~(~~, except that allowances may be allocated for:

A) T~~t~~he installation of a baghouse~~).~~;

B) Projects undertaken pursuant to Section 225.233.

3) P~~p~~rojects used to meet the requirements of a court order or consent decree, except that allowances may be allocated for:

A) Emission rates or limits achieved that are lower than what is required to meet the emission rates or limits for SO_2 or NO_x or for installing a baghouse as provided for in a court order or consent decree entered into before May 30, 2006.

B) Projects used to meet the requirements of a court order or consent decree entered into on or after May 30, 2006, if the court order or consent decree does not specifically preclude such allocations.

4) Aa Supplemental Environmental Project (SEP). ~~CASA allowances shall not be allocated to such projects.~~

e) Applications for projects that that are not specifically listed in subsections (a) through (c) of this Section, and that are not specifically excluded by definition in subsections (a) through (c) of this Section or by specific exclusion in subsection (d) of this Section, may be submitted to the Agency. The~~Such~~ application ~~shall~~must designate which category or categories from those listed in subsections (a)(1) through (c)(2)(B) of this Section best fits the proposed project and the applicable formula pursuant to~~under~~ Section 225.465(b) ~~of this Section~~ to calculate the number of allowances that it is requesting. The Agency will~~shall~~ determine whether the application is approvable based on a sufficient demonstration by the project sponsor that the project is a new type of energy efficiency, renewable energy, or clean technology project, similar in its effects as the projects specifically listed in subsection (a) through (c) of this Section.

f) Early adopter projects include projects that meet the criteria for any energy efficiency and conservation, renewable energy, or clean technology projects listed in subsections (a) , (b), (c), and (e) of this Section and commence construction between July 1, 2006, and December 31, 2012.

Section 225.465 CASA Allowances

a) The CAIR NO_x allowances for the CASA for each control period will~~shall~~ be assigned to the following categories of projects:

		Phase I (2009-2014)	Phase II (2015 and thereafter)
1)	Energy Efficiency and Conservation/ Renewable Energy	9149	7625
2)	Air Pollution Control Equipment Upgrades	3811	3175
3)	Clean Coal Technology	4573	3810
4)	Early Adopters	1525	1271

b) The following formulas must~~shall~~ be used to determine the number of CASA allowances that may be allocated to a project per control period:

1) For an energy efficiency and conservation project pursuant to Sections 225.460(a)(1) through (a)(4)(A)~~(3)~~ ~~of this Subpart~~, the number of allowances must~~shall~~ be calculated using the number of megawatt hours of

electricity that was not consumed during a control period and the following formula:

$A = (MWh_c) \times (1.5 \text{ lb/MWh}) / 2000 \text{ lb}$

Where:

A = The number of allowances for a particular project.
MWh_c = The number of megawatt hours of electricity conserved or generated during a control period by a project.

2) For a zero emission electric generating projects pursuant to Section 225.460(b)(1) ~~of this Subpart~~, the number of allowances mustshall be calculated using the number of megawatt hours of electricity generated during a control period and the following formula:

$A = (MWh_g) \times (2.0 \text{ lb/MWh}) / 2000 \text{ lb}$

Where:

A = The number of allowances for a particular project
MWh_g = The number of megawatt hours of electricity generated during a control period by a project.

3) For a renewable energy emission unit pursuant to Section 225.460(b)(2) ~~of this Subpart~~, the number of allowances mustshall be calculated using the number of MWh~~megawatt hour~~s of electricity generated during a control period and the following formula:

$A = (MWh_g) \times (0.5 \text{ lb/MWh}) / 2000 \text{ lb}$

Where:

A = The number of allowances for a particular project.
MWh_g = The number of MW hours of electricity generated during a control period by a project.

4) For an air pollution control equipment upgrade project pursuant to Section 225.460(c)(1) ~~of this Subpart~~, the number of allowances willshall be calculated as follows:

A) For NO_x or SO_2 control projects, by determining the difference in emitted NO_x or SO_2 per control period using the emission rate before and after replacement or improvement, and the following formula:

$A = (MWh_g) \times K \times (ER_B \text{ lb/MWh} - ER_A \text{ lb/MWh}) / 2000 \text{ lb}$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of megawatt hours of electricity generated during a control period by a project.

K = The pollutant factor: for NO_x, K= 0.1; and for SO_2, K = 0.05.

ER_B = Average NO_x or SO_2 emission rate based on CEMS data from the most recent two control periods prior to the replacement or improvement of the control equipment in lb/MWh, unless subject to a court order or consent decree. For units subject to a court order or consent decree entered into before May 30, 2006, ER_B is limited to emission rates that are lower than the emission rate required in the consent decree or court order. For a court order or consent decree entered into after May 30, 2006, ER_B is limited to the lesser of the emission rate specified in the court order or consent decree or the actual average emission rate during the control period. If such limit is not expressed in lb/MWh, the limit must be converted into lb/MWh using a heat rate of 10 mmBtu/1 MW.

ER_A = Annual NO_x or SO_2 average emission rate for the applicable control period data based on CEMS data in lb/MWh.

B) For a baghouse project:

$A = (MWh_g) \times (Q$~~0.2~~ lb/MWh) / 2000 lb

Where:

A = The number of allowances for a particular project.

MWh_g = The number of MWh~~megawatt hours~~ of electricity generated during a control period or the portion of a control period that the units were controlled by the baghouse.

Q = 0.2, unless installed pursuant to a court order or consent decree which does not specify a factor, then Q = 0.05, or if installed pursuant to a consent decree or court order that does specify a factor then Q equals a factor not to exceed 0.2.

5) For highly efficient power generation and clean technology~~IGCC~~ projects pursuant to Sections 225.460(a)(4)(B), (a)(4)(C), and (c)(2) ~~of this Subpart~~, the number of allowances must~~shall~~ be calculated using the number of megawatt hours of electricity the project generates during a control period and the following formula:

$A = (MWh_g) \times (1.0 \text{ lb/MWh} - ER \text{ lb/MWh}) / 2000 \text{ lb}$

Where:

A = The number of allowances for a particular project.
MWh_g = The number of megawatt hours of electricity generated during a control period by a project.
ER = Annual average NO_x emission rate based on CEMS data in 1b/MWh.

6) For a CASA project that commence~~sd~~ construction before December 31, 2012, in addition to the allowances allocated pursuant to~~under~~ subsections (b)(1) through (b)(5) of this Section, a project sponsor may also request additional allowances pursuant to~~under~~ the early adopter project category pursuant to Section 225.460(e) ~~of this Section~~ based on the following formula:

$A = 1.0 + 0.10 \times \Sigma A_i$

Where:

A = The number of allowances for a particular project as determined in subsections (b)(1) through (b)(5) of this Section.
A_i = The number of allowances as determined in subsection (b)(1), (b)(2), (b)(3), (b)(4) or (b)(5) of this Section for a given project.

Section 225.470 CASA Applications

a) A project sponsor may request allowances if the project commenced construction on or after the dates listed below. The project sponsor may request and be

allocated allowances from more than one CASA category for a project, if applicable.

1) Demand side management, energy efficient new construction, and supply side energy efficiency and conservation projects that commenced construction on or after January 1, 2003;

2) Fluidized bed coal combustion projects, highly efficient power generation operations projects, or renewable energy emission units, which commenced construction on or after January 1, 2001; and

3) All other projects on or after July 1, 2006.

b) Beginning with the 2009 control period and each control period thereafter, a project sponsor may request allowances from the CASA. The application must be submitted to the Agency by May 1 of the control period for which the allowances are being requested.

c) The allocation will~~shall~~ be based on the electricity conserved or generated in the control period preceding the calendar year in which the application is submitted. To apply for a CAIR NO_x allocation from the CASA, project sponsors must provide the Agency with the following information:

1) Identification of the project sponsor, including name, address, type of organization, certification that the project sponsor has met the definition of "project sponsor" as set forth in Section 225.130,and name(s) of the principals or corporate officials.

2) The number of the CAIR NO_x general or compliance account for the project and the name of the associated CAIR account representative.

3) A description of the project or projects, location, the role of the project sponsor in the projects, and a general explanation of how the amount of energy conserved or generated was measured, verified, and calculated, and the number of allowances requested ~~and~~ ~~the~~ with the supporting calculations. The number of allowances requested will~~shall~~ be calculated using the applicable formula from Section 225.470(b) ~~of this Section~~.

4) Detailed information to support the request for allowances, including the following types of documentation for the measurement and verification of the NO_x emissions reductions, electricity generated, or electricity conserved using established measurement verification procedures, as applicable. The measurement and verification required will~~shall~~ depend on the type of project proposed.

A) As applicable, documentation of the project's base and control

period conditions and resultant base and control period energy data, using the procedures and methods included in *M&V Guidelines: Measurement and Verification for Federal Energy Projects,* incorporated by reference in Section 225.140 ~~of this Part~~, or other method approved by the Agency. Examples include:

i) Energy consumption and demand profiles;

ii) Occupancy type;

iii) Density and periods;

iv) Space conditions or plant throughput for each operating period and season. (For example, in a building this would include the light level and color, space temperature, humidity and ventilation);

v) Equipment inventory, nameplate data, location, condition; and

vi) Equipment operating practices (schedules and set points, actual temperatures/pressures).

B) Emissions data, including, if applicable, CEMS data;

C) Information for rated–energy efficiency including supporting documentation and calculations; and

D) Electricity, in MWh generated or conserved for the applicable control period.

5) Notwithstanding the requirements of subsections (c)(4) of this Section, applications for fewer than five allowances may propose other reliable and applicable methods of quantification acceptable to the Agency.

6) Any additional information requested by the Agency to determine the correctness of the requested number of allowances, including site information, project specifications, supporting calculations, operating procedures, and maintenance procedures.

7) The following certification by the responsible official for the project sponsor and the applicable CAIR account representative for the project:

"I am authorized to make this submission on behalf of the project sponsor and the holder of the CAIR NO_x general account or compliance account for which the submission is made. I certify under penalty of law that I

have personally examined, and am familiar with the statements and information submitted in this application and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information."

d) A project sponsor may request allowances from the CASA for each project a total number of control periods not to exceed the number of control periods listed below. After a project has been allocated allowances from CASA, subsequent requests for the project from the project sponsor ~~shall~~must include the information required by subsections (c)(1), (c)(2), (c)(3) and (c)(7) of this Section, a description of any changes, or further improvements made to the project, and information specified in subsections (c)(5) and (c)(6) as specifically requested by the Agency.

1) For energy efficiency and conservation projects (except for efficient operation and renewable energy projects), for a total of eight control periods.

2) For early adopter projects, for a total of ten control periods.

3) For air pollution control equipment upgrades for a total of 15 control periods.

4~~3~~) For renewable energy projects, clean coal technology, and highly efficient power generation projects, for each year that the project is in operation.

e) A project sponsor must keep copies of all CASA applications and the documentation used to support the application for at least five years.

Section 225.475 Agency Action on CASA Applications

a) By September~~October~~ 1, 2009, and each September~~October~~ 1 thereafter, the Agency will~~shall~~ determine the total number of allowances that are approvable for allocation to project sponsors based upon the applications submitted pursuant to Section 225.470 ~~of this Subpart~~.

1) The Agency will~~shall~~ determine the number of CAIR NO_x allowances that are approvable based on the formulas and the criteria for these~~such~~ projects. The Agency will~~shall~~ notify a project sponsor within 90 days after receipt of an application if the project is not approvable, the number of allowances requested is not approvable, or additional information is needed by the Agency to complete its review of the application.

2) If the total number of CAIR NO_x allowances requested for approved projects is less than or equal to the number of CAIR NO_x allowances in the CASA project category, the number of allowances that are approved willshall be allocated to each CAIR NO_x compliance or general account.

3) If more CAIR NO_x allowances are requested than the number of CAIR NO_x allowances in a given CASA project category, allowances willshall be allocated on a pro-rata basis based on the number of allowances available, subject to further adjustment as provided for by subsection (b) of this Section. CAIR NO_x allowances willshall be allocated, transferred, or used as whole allowances. The number of whole allowances willshall be determined by rounding down for decimals less than 0.5 and rounding up for decimals of 0.5 or greater.

b) For control periods 2011 and thereafter, iIf there are, after the completion of the procedures in subsection (a) of this Section for a control period, any CAIR NO_x allowances not allocated to a CASA project for the control period:

1) The remaining allowances will accrue in each CASA project category ~~will accrue~~ up to twice the number of allowances that are assigned to the project category each control period as set forth in Section 225.465 ~~of this Subpart~~.

2) ~~For control period 2011 and thereafter,~~ If any allowances remain after allocations pursuant to subsection (a) of this Section, the Agency~~in a project category that are in excess of twice the number assign for the control period as set forth in Section 225.465 of this Subpart~~ willshall ~~be~~allocate these allowances pro-rata to projects that received fewer allowances than requested, based on the number of allowances not allocated but approved by the Agency for the project under CASA. No project may be allocated more allowances than approved by the Agency for the applicable ~~redistributed to project categories that have fewer than twice the number of allowances assigned to that project category for the~~ control period.

3) ~~For control period 2011 and thereafter~~If any allowances remain after the allocation of allowances pursuant to subsection (b)(2) of this Section, the Agency willshall then distribute pro-rata the remaining ~~reallocate~~ allowances ~~to projects that received fewer allowances than requested and approved on a pro-rata basis, based on the total number of approved allowances for the projects~~to project categories that have fewer than twice the number of allowances assigned to that project category. The pro-rata distribution will be based on the difference between two times the project category and the number of allowances that remain in the project category.

4) ~~For control period 2011 and thereafter, if after the redistribution of allowances pursuant to subsection (b)(2) any allowances remain, these allowances shall be reassigned to project categories that have fewer than twice the number of allowances annually assigned to that project category as set forth in Section 225.465 of this Subpart, after the allocation in subsection (b)(3) of this Section.~~

~~5) The Agency shall repeat the process of allocating allowances to CASA projects that received fewer allowances than requested and approved, and reassigning allowances to project categories as set forth in subsections (b)(2), (b)(3), and (b)(4) of this Section, until no allowances remain to be reassigned between project categories and the approved allowance requests have been filled.~~ If allowances still remain ~~unallocated~~undistributed after the allocations and distributions in the above subsections are completed, the Agency may elect to retire the~~any~~ CAIR NO_x allowances that have not been distributed to any CASA category~~remain after all approved requests for allowances have been met and each project category has accrued twice the number of allowances assigned for that project category~~ to continue progress toward attainment or maintenance of the National Ambient Air Quality Standards pursuant to the CAA.

Section 225.480 Compliance Supplement Pool

In addition to the CAIR NO_x allowances allocated pursuant to~~under~~ Section 225.423~~5~~ ~~of this Subpart~~, the USEPA has provided an additional 11,299 CAIR NO_x allowances from the federal compliance supplement pool to Illinois for the control period in 2009. On January 1, 2009, the Agency will~~shall~~ retire all 11,299 NO_x allowances for public health and air quality improvements.

SUBPART E: CAIR NO_x OZONE SEASON TRADING PROGRAM

Section 225.500 Purpose

The purpose of this Subpart E is to control the seasonal emissions of nitrogen oxides (NO_x) from ~~electric generating unit~~EGUs by determining allocations and implementing the CAIR NO_x Ozone Season Trading Program.

Section 225.505 Applicability

a) Except as provided in subsections (b)(1), (b)(3), and (b)(4) of this Section:

1) The following units are CAIR NO_x Ozone Season units, and any source that includes one or more such units is a CAIR NO_x source subject to the requirements of this Subpart E: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since

the later of November 15, 1990 or the start-up the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe producing electricity for sale.

2) If a stationary boiler or stationary combustion turbine that pursuant to subsection (a)(1) of this Section, is not a CAIR NO_x Ozone Season unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than 25 MWe producing electricity for sale, the unit will become a CAIR NO_x Ozone Season unit as provided in subsection (a)(1) of this Section on the first date on which it both combusts fossil fuel and serves such generator.

b) The units that meet the requirements set forth in subsections (b)(1), (b)(3), and (b)(4) of this Section will not be CAIR NO_x units and units that meet the requirements of subsections (b)(2) and (b)(5) of this Section are CAIR NO_x Ozone Season units:

1) Any unit that is a CAIR NO_x Ozone Season unit pursuant to subsection (a)(1) or (a)(2) of this Section and:

A) Qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

B) Does not serve at any time, since the later of November 15, 1990 or the start-up of the unit's combustion chamber, a generator with nameplate capacity of more than 25 MWe supplying any calendar year more than one-third of the of the unit's potential electric output capacity or 219,000 MWh, whichever is greater, to any utility power distribution for sale.

2) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and meets the requirements of subsection (b)(1) of this Section for at least one calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x Ozone Season unit starting on the earlier of January 1 after the first calendar year during which the unit no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of subsection (b)(1)(B) of this Section.

3) Any unit that is a CAIR NO_x Ozone Season unit pursuant to subsection (a)(1) or (a)(2) of this Section commencing operation before January 1, 1985 and:

A) Qualifies as a solid waste incineration unit; and

B) With an average annual fuel consumption of non-fossil fuel for 1985-1987 exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

4) Any unit that is a CAIR NO_x Ozone Season unit under subsection (a)(1) or (a)(2) of this Section commencing operation on or after January 1, 1985: and

A) Qualifies as a solid waste incineration unit; and

B) With an average annual fuel consumption of non-fossil fuel the first three years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).

5) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(3) or (b)(4) of this Section for at least three consecutive years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x Ozone Season unit starting on the earlier of January 1 after the first three consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fuel of 20 percent or more.

~~a) A fossil fuel-fired stationary boiler, combustion turbine or combined cycle system is an electrical generating unit if it serves a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale and is not included in Appendix D of 35 Ill. Adm. Code Part 217. An electric generating unit is subject to the CAIR NO_x Ozone Season Trading Program contained in this Subpart and is a CAIR NO_x Ozone Season unit or affected unit for the purposes of this Subpart.~~

~~b) Notwithstanding subsection (a) of this Section, an EGU shall not be an affected unit and is not subject to the CAIR NO_x Ozone Season Trading Program contained in this Subpart if it meets the requirements of either subsection (b)(1)(A) or (b)(2)(A) of this Section, as follows:~~

~~1) A unit that:~~

~~A) Meets the definition of a cogeneration unit in Section 225.130 of this Part; and~~

~~i) Qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity and~~

~~continues to qualify as a cogeneration unit; and~~

~~ii) Does not serve at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with a nameplate capacity of more than 25 MWe, and which supplies in any calendar year more than one-third of the unit's potential electrical output capacity or 219,000 MWh, whichever is greater, to a utility power distribution system for sale.~~

~~B) If a unit qualifies as a cogeneration unit during the 12-month period starting on the date the unit first produces electricity but subsequently no longer qualifies as a cogeneration unit, the unit shall be subject to subsection (a) of this Section starting on the January 1 after which the unit first no longer qualifies as a cogeneration unit.~~

~~2) A unit that:~~

~~A) Qualifies as a solid waste incineration unit as defined by Section 129(g) of the CAA [42 U.S.C. 7429(g)]; and~~

~~i) Commences operation on or after January 1, 1985; and~~

~~ii) Has an average annual fuel consumption of non-fossil fuel for the first three calendar years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).~~

~~B) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(2)(A) of this Section for at least three consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become an affected unit starting on the January 1 after which the unit has an average annual fuel consumption of fossil fuel of 20 percent or more.~~

Section 225.510 Compliance Requirements

a) The owner or operator of a CAIR NO_x Ozone Season~~an affected~~ unit must~~shall~~ comply with the requirements of the CAIR NO_x Ozone Season Trading Program for Illinois as set forth in this Subpart E and 40 CFR 96, subpart AAAA (CAIR NO_x Ozone Season Trading Program General Provisions) (excluding 40 CFR ~~§§~~ 96.304, 96.305(b)(2), and 96.306); 40 CFR 96, subpart BBBB (CAIR Designated Representative for CAIR NO_x Ozone Season Sources); 40 CFR 96, subpart FFFF

(CAIR NO_x Ozone Season Allowance Tracking System); 40 CFR 96, subpart GGGG (CAIR NO_x Ozone Season Allowance Transfers); and 40 CFR 96, subpart HHHH (Monitoring and Reporting); as incorporated by reference in Section 225.140 ~~of this Part~~.

b) Permit requirements:

1) The owner or operator of each source with one or more CAIR NO_x Ozone Season~~affected~~ units at the source must apply for a permit issued by the Agency with federally enforceable conditions covering the CAIR NO_x Ozone Season Trading Program ("CAIR ~~NO_x Ozone Season~~ permit") that complies with the requirements of Section 225.520 ~~of this Subpart~~ (Permit Requirements).

2) The owner or operator of each CAIR NO_x Ozone Season~~affected~~ source and each CAIR NO_x Ozone Season~~affected~~ unit at the source must operate the CAIR NO_x Ozone Season~~affected~~ unit in compliance with its~~such~~ CAIR ~~NO_x Ozone Season~~ permit.

c) Monitoring requirements:

1) The owner or operator of each CAIR NO_x Ozone Season~~affected~~ source and each CAIR NO_x Ozone Season~~affected~~ unit at the source must comply with the monitoring requirements of 40 CFR 96, subpart HHHH; 40 CFR 75; and Section 225.550 ~~of this Subpart~~. The CAIR designated representative of each CAIR NO_x Ozone Season~~affected~~ source and each CAIR NO_x Ozone Season~~affected~~ unit at the source must comply with those sections of the monitoring, reporting and recordkeeping requirements of 40 CFR 6, subpart HHHH, applicable to a CAIR designated representative.

2) The compliance of each CAIR NO_x Ozone Season~~affected~~ source~~unit~~ with the CAIR NO_x Ozone Season emissions limitation pursuant to~~under~~ subsection (d) of this Section will~~shall~~ be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart HHHH.

d) Emission requirements:

1) By the allowance transfer deadline, November 30, 2009, and by November 30, of each subsequent year, ~~the allowance transfer deadline~~, the owner or operator~~CAIR designated representative~~ of each CAIR NO_x Ozone Season~~affected~~ source and each CAIR NO_x Ozone Season~~affected~~ unit at the source must~~shall~~ hold allowances available for compliance deductions pursuant to~~under~~ 40 CFR § 96.354(a) in the CAIR NO_x Ozone Season source's compliance account. The allowance transfer deadline

means by midnight of November 30 (if it is business day) or midnight of the first business day thereafter. The number of allowances held mayshall not be less than the tons of NO_x emissions for the control period from all CAIR NO_x Ozone Seasonaffected units at the CAIR NO_x Ozone Seasonaffected source, rounded to the nearest whole ton, as determined in accordance with 40 CFR 96, subpart HHHH, plus any number of allowances necessary to account for actual utilization including, but not limited to, testing, start-up, malfunction, and shut down.

2) Each ton of NO_x emitted in excess of the number of CAIR NO_x Ozone Season allowances held by the owner or operator for each CAIR NO_x Ozone Seasonaffected unit in its CAIR NO_x Ozone Season compliance account for each day of the applicable control period willshall constitute a separate violation of this Subpart E, and the Act, and the CAA.

3) Each CAIR NO_x Ozone Seasonaffected unit willshall be subject to the monitoring and compliance requirements of subsections (c)(1) and (d)(1) of this Section starting on the later of MayJanuary 1, 2009, or the deadline for meeting the unit's monitoring certification requirements pursuant tounder 40 CFR § 96.370(b)(1), (b)(2) or (b)(3) and for each control period thereafter.

4) CAIR NO_x Ozone Season allowances mustshall be held in, deducted from, or transferred into among allowance accounts in accordance with this Subpart and 40 CFR 96, subparts FFFF and GGGG.

5) In order to comply with the requirements of subsection (d)(1) of this Section, a CAIR NO_x Ozone Season allowance may not be deductedutilized for compliance according to subsection (d)(1) of this Section , for a control period in a calendar year beforeprior to the year for which the CAIR NO_x Ozone Season allowance is allocated.

6) A CAIR NO_x Ozone Season allowance allocated by the Agency or USEPA pursuant tounder the CAIR NO_x Ozone Season Trading Program is a limited authorization to emit one ton of NO_x in accordance with the CAIR NO_x Ozone Season Trading Program. No provision of the CAIR NO_x Ozone Season Trading Program, the CAIR NO_x Ozone Season permit application, the CAIR NO_x Ozone Season permit, or a retired unit exemption pursuant tounder 40 CFR § 96.305, and no provision of law, willshall be construed to limit the authority of the United States or the State to terminate or limit this authorization.

7) A CAIR NO_x Ozone Season allowance allocated by the Agency or USEPA pursuant tounder the CAIR NO_x Ozone Season Trading Program does not constitute a property right.

8) Upon recordation by USEPA pursuant to~~under~~ 40 CFR 96, subpart FFFF or subpart GGGG, every allocation, transfer, or deduction of an allowance to or from a CAIR NO_x Ozone Season source compliance account is deemed to amend automatically, and become a part of, any CAIR NO_x Ozone Season permit of the CAIR NO_x Ozone Season~~affected~~ source. This automatic amendment of the CAIR ~~NO_x Ozone Season~~ permit will~~shall~~ be deemed an operation of law and will not require any further review.

e) Recordkeeping and reporting requirements:

1) Unless otherwise provided, the owner or operator of the CAIR NO_x Ozone Season~~affected~~ source and each CAIR NO_x Ozone Season~~affected~~ unit at the source must~~shall~~ keep on site at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(E) of this Section for a period of five years from the date the document is created. This period may be extended for cause, at any time prior to the end of five years, in writing by the Agency or USEPA.

A) The certificate of representation for the CAIR designated representative for the source and each CAIR NO_x Ozone Season~~affected~~ unit at the source, all documents that demonstrate the truth of the statements in the certificate of representation, provided that the certificate and documents must be retained on site at the source beyond such five-year period until the~~such~~ documents are superseded because of the submission of a new certificate of representation pursuant to~~under~~ 40 CFR ~~§~~ 96.313, changing the CAIR designated representative.

B) All emissions monitoring information, in accordance with 40 CFR 96, subpart HHHH.

C) Copies of all reports, compliance certifications, and other submissions and all records made or required pursuant to~~under~~ the CAIR NO_x Ozone Season Trading Program or documents necessary to demonstrate compliance with the requirements of the CAIR NO_x Ozone Season Trading Program or with the requirements of this Subpart E.

D) Copies of all documents used to complete a CAIR NO_x Ozone Season permit application and any other submission or documents used to demonstrate compliance pursuant to~~under~~ the CAIR NO_x Ozone Season Trading Program.

E) Copies of all records and logs for gross electrical output and useful thermal energy required by Section 225.550 ~~of this Subpart~~.

2) The CAIR designated representative of a CAIR NO_x Ozone Season~~an affected~~ source and each CAIR NO_x Ozone Season~~affected~~ unit at the source must submit to the Agency and USEPA the reports and compliance certifications required pursuant to~~under~~ the CAIR NO_x Ozone Season Trading Program, including those pursuant to~~under~~ 40 CFR 96, subpart HHHH and Section 225.550 ~~of this Subpart~~.

f) Liability:

1) No revision of a permit for a CAIR NO_x Ozone Season~~an affected~~ unit may~~shall~~ excuse any violation of the requirements of this Subpart E or the requirements of the CAIR NO_x Ozone Season Trading Program.

2) Each CAIR NO_x Ozone Season~~affected~~ source and each CAIR NO_x Ozone Season~~affected~~ unit must~~shall~~ meet the requirements of the CAIR NO_x Ozone Season Trading Program.

3) Any provision of the CAIR NO_x Ozone Season Trading Program that applies to a CAIR NO_x Ozone Season~~an affected~~ source (including any provision applicable to the CAIR designated representative of a CAIR NO_x Ozone Season~~an affected~~ source) will~~shall~~ also apply to the owner and operator of the~~such~~ CAIR NO_x Ozone Season~~affected~~ source and to the owner and operator of each CAIR NO_x Ozone Season~~affected~~ unit at the source.

4) Any provision of the CAIR NO_x Ozone Season Trading Program that applies to a CAIR NO_x Ozone Season~~an affected~~ unit (including any provision applicable to the CAIR designated representative of a CAIR NO_x Ozone Season~~an affected~~ unit) will~~shall~~ also apply to the owner and operator of the~~such~~ CAIR NO_x Ozone Season~~affected~~ unit. ~~Except with regard to the requirements applicable to affected units with a common stack under 40 CFR 96, subpart HHHH, the owner, the operator, and the CAIR designated representative or alternate designated representative of an affected unit shall not be liable for any violation by any other affected unit of which they are not an owner or operator or the CAIR designated representative.~~

5) The CAIR designated representative of a CAIR NO_x Ozone Season~~an affected~~ unit that has excess emissions in any control period must~~shall~~ surrender the allowances as required for deduction pursuant to~~under~~ 40 CFR § 96.354(d)(1).

6) The owner or operator of a CAIR NO_x Ozone Season~~an affected~~ unit that has excess NO_x emissions in any control period must~~shall~~ pay any fine, penalty, or assessment or comply with any other remedy imposed pursuant

tounder the Act and 40 CFR § 96.354(d)(2).

g) Effect on other authorities. No provision of the CAIR NO_x Ozone Season Trading Program, a CAIR ~~NO_x Ozone Season~~ permit application, a CAIR ~~NO_x Ozone Season~~ permit, or a retired unit exemption pursuant to~~under~~ 40 CFR § 96.305 will~~shall~~ be construed as exempting or excluding the owner and operator and, to the extent applicable, the CAIR designated representative of a CAIR NO_x Ozone Season ~~an affected~~ source or a CAIR NO_x Ozone Season~~an affected~~ unit, from compliance with any other regulation promulgated pursuant to~~under~~ the CAA, the Act, any State regulation or permit, or a federally enforceable permit.

Section 225.515 Appeal Procedures

The appeal procedures for decisions of USEPA pursuant to~~under~~ the CAIR NO_x Ozone Season Trading Program are set forth in 40 CFR 78, as incorporated by reference in Section 225.140 ~~of this Part~~.

Section 225.520 Permit Requirements

a) Permit requirements:

1) The owner or operator of each source with a CAIR NO_x Ozone Season~~an affected~~ unit is required to submit:

A) ~~A~~a complete permit application addressing all applicable CAIR NO_x Ozone Season Trading Program requirements for a permit meeting the requirements of this Section 225.520, applicable to each CAIR NO_x Ozone Season~~affected~~ unit at the source. Each CAIR ~~NO_x Ozone Season~~ permit must~~shall~~ contain elements required for a complete CAIR ~~NO_x Ozone Season~~ permit application pursuant to~~under~~ subsection (b)(2) of this Section.

B) Any supplemental information that the Agency determines necessary in order to review a CAIR permit application and issue any CAIR permit.

2) Each CAIR ~~NO_x Ozone Season~~ permit will be issued pursuant to Section 39 of 39.5 of the Act and will~~shall~~ contain federally enforceable conditions addressing all applicable CAIR NO_x Ozone Season Trading Program requirements and will~~shall~~ be a complete and segregable portion of the source's entire permit pursuant to~~under~~ subsection (a)(1) of this Section.

3) No CAIR ~~NO_x Ozone Season~~ permit may~~shall~~ be issued, and no CAIR NO_x Ozone Season compliance account may~~shall~~ be established for a CAIR NO_x Ozone Season~~an affected source~~, until the Agency and USEPA

have received a complete certificate of representation for a CAIR designated representative pursuant to~~under~~ 40 CFR 96, subpart BBBB, for the CAIR NO_x Ozone Season~~affected~~ source and the CAIR NO_x Ozone Season~~affected~~ unit at the source.

4) For all CAIR NO_x Ozone Season~~affected~~ units that commenced operation before July 1, 2007, the owner or operator of the~~such~~ unit must submit a CAIR ~~NO_x Ozone Season~~ permit application meeting the requirements of this Section 225.520 on or before July 1, 2007.

5) For all ~~affected~~ units ~~and~~ that commence operation on or after July 1, 2007~~8~~, the owner or operator of these~~such~~ units must submit applications for construction and operating permits pursuant to the requirements of Sections 39 and 39.5 of the Act, as applicable, and 35 Ill. Adm. Code 201, and the~~such~~ applications must specify that they are applying for CAIR ~~NO_x Ozone Season~~ permits, and must address the CAIR ~~NO_x Ozone Season~~ permit application requirements of this Section 225.520.

b) Permit applications:

1) Duty to apply. The owner or operator of any source with one or more CAIR NO_x Ozone Season ~~affected~~ units must~~shall~~ submit to the Agency a CAIR ~~NO_x Ozone Season~~ permit application for the source covering each CAIR NO_x Ozone Season~~affected~~ unit pursuant to~~under~~ subsection (b)(2) of this Section by the applicable deadline in subsection (a)(4) or (a)(5) of this Section. The owner or operator of any source with one or more CAIR NO_x Ozone Season~~affected~~ units must~~shall~~ reapply for a CAIR ~~NO_x Ozone Season~~ permit for the source as required by this Subpart, 35 Ill. Adm. Code 201, and, as applicable, Sections 39 and 39.5 of the Act.

2) Information requirements for CAIR ~~NO_x Ozone Season~~ permit applications. A complete CAIR ~~NO_x Ozone Season~~ permit application must~~shall~~ include the following elements concerning the source for which the application is submitted:

A) Identification of the source, including plant name. The ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration must~~shall~~ also be included, if applicable;

B) Identification of each CAIR NO_x Ozone Season~~affected~~ unit at the source; and

C) The compliance requirements applicable to each CAIR NO_x Ozone Season~~affected~~ unit as set forth in Section 225.510 ~~of this Subpart~~.

3) An application for a CAIR ~~NO_x Ozone Season~~ permit willshall be treated as a modification of the CAIR NO_x Ozone Season~~affected~~ source's existing federally enforceable permit, if such a permit has been issued for that source, and willshall be subject to the same procedural requirements. When the Agency issues a CAIR ~~NO_x Ozone Season~~ permit pursuant to the requirements of this Section 225.520, it willshall be incorporated into and become part of that source's existing federally enforceable permit.

c) Permit content. Each CAIR permit is deemed to incorporate automatically the definitions and terms pursuant to Section 225.120 and, upon recordation of USEPA under 40 CFR 96, Subparts FFFF and GGGG as incorporated by reference in Section 225.140, every allocation, transfer, or deduction of a CAIR NO_x Ozone Season allowance to or from the compliance account of the CAIR NO_x Ozone Season source covered by the permit.

Section 225.525 Ozone Season Trading Budget

The CAIR NO_x Ozone Season Trading budget available for allowance allocations for each control period willshall be determined as follows:

a) The total base CAIR NO_x Ozone Season Trading budget is 30,701 tons per control period for the years 2009 through 2014, subject to a reduction for two set-asides, the NUSA and the CASA. Five percent of the budget willshall be allocated to the NUSA and 25 percent willshall be allocated to the CASA, resulting in a CAIR NO_x Ozone Season Trading budget available for allocation of 21,491 tons per control period pursuant to Section 225.540 ~~of this Subpart~~. The requirements of the NUSA are set forth in Section 225.545 ~~of this Subpart~~, and the requirements of the CASA are set forth in Sections 225.555 through 225.570 ~~of this Subpart~~.

b) The total base CAIR NO_x Ozone Season Trading budget is 28,981 tons per control period for the year 2015 and thereafter, subject to a reduction for two set-asides, the NUSA and the CASA. Five percent of the budget willshall be allocated to the NUSA and 25 percent willshall be allocated to the CASA, resulting, in a CAIR NO_x Ozone Season Trading budget available for allocation of 20,287 tons per control period pursuant to Section 225.540 ~~of this Subpart~~.

c) If USEPA adjusts the total base CAIR NO_x Ozone Season Trading budget for any reason, the Agency willshall adjust the base CAIR NO_x Ozone Season Trading budget CAIR NO_x Ozone Season Trading budget available for allocation, accordingly.

Section 225.530 Timing for Ozone Season Allocations

a) No later than~~By~~ July 31, 2007~~October 31, 2006~~, the Agency willshall submit to USEPA the CAIR NO_x Ozone Season allowance allocations, in accordance with

Sections 225.535 and 225.540 ~~of this Subpart~~ for the 2009, 2010, and 2011 control periods.

b) By October~~July 31~~, 2008~~2009~~, and October~~July~~ 31 of each year thereafter, the Agency will~~shall~~ submit to USEPA the CAIR NO_x Ozone Season allowance allocations in accordance with Sections 225.535 and 225.540 ~~of this Subpart~~, for the control period four~~three~~ years after the year of the applicable deadline for submission pursuant to~~under~~ this Section 225.530. For example, on July 31, 2008~~2009~~, the Agency will~~shall~~ submit to USEPA the allocation for the 2012 control period.

c) The Agency will~~shall~~ allocate allowances from the NUSA to CAIR NO_x Ozone Season~~affected~~ units that commence commercial operation on or after May 1, 2006. The Agency will~~shall~~ report these allocations to USEPA by July 31~~November 15~~ of~~after~~ the applicable control period. For example, on July 31, 2009~~November 15, 2009~~, the Agency will~~shall~~ submit to USEPA the allocations from the NUSA for the 2009 control period.

d) The Agency will~~shall~~ allocate allowances from the CASA to energy efficiency, renewable energy, and clean technology projects pursuant to the criteria in Sections 225.555 through 225.570 ~~of this Subpart~~. The Agency will~~shall~~ report these allocations to USEPA by October~~December~~ 1 of each year. For example, on October 1, 2009~~December 1, 2010~~, the Agency will~~shall~~ submit to USEPA the allocations from the CASA for the 2009~~2010~~ control period, based on reductions made in the 2008~~2009~~ control period.

Section 225.535 Methodology for Calculating Ozone Season Allocations

The Agency will~~shall~~ calculate converted gross electrical output ~~(CGO)~~, in MWh, for each CAIR NO_x Ozone Season~~affected~~ unit that has operated during at least one control period prior to the calendar year in which the Agency reports the allocations to USEPA as follows:

a) For control periods 2009, 2010, and 2011, the owner or operator of the unit~~'s~~ must submit in writing to the Agency by June 1, 2007, a statement that either gross electrical output data or heat input is to be used to calculate converted gross electrical output ~~(CGO)~~. The data shall be used calculate converted gross electrical output pursuant to either subsection (a)(1) or (a)(2) of this Section:

1) Gross electrical output. If the unit has four or five control periods of data, then the gross electrical output (GO) will~~shall~~ be the average of the unit's three highest gross electrical outputs from the 2001, 2002, 2003, 2004, or 2005 control periods. If the unit has three or fewer control periods of gross electrical outputs, the gross electrical output will~~shall~~ be the average of those control periods. If the unit does not have gross electrical output for the 2004 and 2005 control periods, the gross electrical output will~~shall~~ be the gross electrical output from the 2005 control period. ~~If the unit~~

~~does not have gross electrical output, then heat input shall be used pursuant to subsection (a)(2) of this Section.~~ If a generator is served by two or more units, then the gross electrical output of the generator will~~shall~~ be attributed to each unit in proportion to the unit's share of the total control period heat input of these~~such~~ units for the control period. The unit's converted gross electrical output will~~shall~~ be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO × MWh × 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO × MWh × 0.6; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO × MWh × 0.4.

2) If ~~gross electrical output is not provided to the Agency, h~~Heat input. ~~(HI) shall be used~~. If the unit has four or five control periods of data, the average of the unit's three highest control period heat inputs from 2001, 2002, 2003, 2004 or 2005 will~~shall~~ be used. If the unit has heat input from the 2003, 2004, or 2005 control periods, the heat input shall be the average of those control periods. If the unit does not have heat input from the 2004 and 2005 control periods, the heat input from the 2005 control period will~~shall~~ be used. The unit's converted gross electrical output will~~shall~~ be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0967;

B) If the unit is oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0580; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0387.

b) For control periods 2012 and 2013, the owner or operator of the unit must submit in writing to the Agency by June 1, 2008, a statement that either gross electrical output data or heat input data be used to calculate the unit's converted gross electrical output. The unit's converted gross electrical output shall be calculated pursuant to either subsection (b)(1) or (b)(2) of this Section:

1) Gross electrical output. The average of the unit's two most recent years of control period gross electrical output, if available; otherwise it will be the unit's most recent control period's gross electrical output. If a generator is served by two or more units, the gross electrical output of the generator

shall be attributed to each unit in proportion to the unit's share of the total control period heat input of such units for the control period. The unit's converted gross electrical output shall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO × MWh × 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO × MWh × 0.6;

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO × MWh × 0.4.

2) Heat input. The average of the unit's two most recent years of control period heat input; otherwise the unit's most recent control period's heat input, e.g. for the 2012 control period the average of the unit's heat input from the 2006 and 2007 control periods. If the unit does not have heat input from the 2006 and 2007 control periods, the heat input from the 2007 control period shall be used. The unit's converted gross electrical output shall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0967;

B) If the unit is oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0580; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = HI (in mmBtu) × 0.0387.

c) For control period 2014~~2012~~ and thereafter, the unit's gross electrical output will~~shall~~ be the average of the unit's two most recent control period's gross electrical output, if available, otherwise it will be the unit's most recent control period gross electrical output. If a generator is served by two or more units, the gross electrical output of the generator will~~shall~~ be attributed to each unit in proportion to the unit's share of the total control period heat input of these~~such~~ units for the control period. The unit's converted gross electrical output will ~~shall~~ be calculated as follows:

1) If the unit is coal-fired:
CGO (in MWh) = GO × 1.0;

2) If the unit is oil-fired:
CGO (in MWh) = GO × 0.6; or

3) If the unit is neither coal-fired nor oil-fired:

CGO (in MWh) = GO × 0.4.

d~~c~~) For a unit that is a combustion turbine or boiler and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the Agency will~~shall~~ add the converted gross electrical output calculated for electricity pursuant to subsections (a), ~~or~~ (b), or (c) of this Section to the converted useful thermal energy (CUTE) to determine the total converted gross electrical output for the unit (TCGO). The Agency will~~shall~~ determine the converted useful thermal energy by using the average of the unit's control period useful thermal energy for the prior two control periods, if available, otherwise the unit's control period useful thermal output for the prior year will~~shall~~ be used. The converted useful thermal energy will~~shall~~ be determined using the following equations:

1) If the unit is coal-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.2930;

2) If the unit is oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1758; or

3) If the unit is neither coal-fired nor oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1172.

e~~d~~) The CAIR NO_x Ozone Season~~affected~~ unit's converted gross electrical output and converted useful thermal energy in subsections (a)(1), (b)(1), ~~and~~ (c), and (d) of this Section for each control period will~~shall~~ be based on the best available data reported or available to the Agency for the CAIR NO_x Ozone Season~~affected~~ unit pursuant to the provisions of Section 225.550 ~~of this Subpart~~.

f~~e~~) The CAIR NO_x Ozone Season~~affected~~ unit's heat input in subsections (a)(2) and (b)(2) of this Section for each control period will~~shall~~ be determined in accordance with 40 CFR 75, as incorporated by reference in Section 225.140 ~~of this Part~~.

Section 225.540 Ozone Season Allocations

a) For the 2009 control period, and each control period thereafter, the Agency will~~shall~~ allocate CAIR NO_x Ozone Season allowances to all CAIR NO_x Ozone Season~~affected~~ units in Illinois for which the Agency has calculated the total converted gross electrical output~~, including converted useful thermal energy, if any, as determined in~~pursuant to Section 225.535 ~~of this Subpart~~, a total amount of CAIR NO_x Ozone Season allowances equal to tons of NO_x emissions in the CAIR NO_x Ozone Season Trading budget available for allocation as determined in Section 225.525 ~~of this Subpart~~ and allocated pursuant to this Section 225.540 ~~of this Subpart~~.

b) The Agency willshall allocate CAIR NO_x Ozone Season allowances to each CAIR NO_x Ozone Seasonaffected unit on a pro-rata basis using the unit's total converted gross electrical output calculated pursuant to Section 225.535 of this Subpart. If there are insufficient allowances to allocate whole allowances pro-rata, thesesuch unallocated allowances willshall be retained by the Agency and willshall be available for allocation in later control periods.

Section 225.545 New Unit Set-Aside (NUSA)

For the 2009 control period and each control period thereafter, the Agency willshall allocate CAIR NO_x Ozone Season allowances from the NUSA to CAIR NO_x Ozone Seasonaffected units that commenced commercial operation on or after May 1, 2006, and do not yet have an allocation for the particular control period pursuant to Section 225.540 of this Subpart, in accordance with the following procedures:

a) Beginning with the 2009 control period and each control period thereafter, the Agency willshall establish a separate NUSA for each control period. Each new unit set-aside willshall be allocated CAIR NO_x Ozone Season allowances equal to 5 percent of the amount of tons of NO_x emissions in the base CAIR NO_x Ozone Season Trading budget in Section 225.525 of this Subpart.

b) The CAIR designated representative of such a new CAIR NO_x Ozone Seasonan affected unit may submit to the Agency a request, in a format specified by the Agency, to be allocated CAIR NO_x Ozone Season allowances from the NUSA starting with the first control period after the control period in which the new unit commences commercial operation and until the first control period for which the unit may use CAIR NO_x Ozone Season allowances allocated to the unit pursuant tounder Section 225.540 of this Subpart. The NUSA allowance allocation request may only be submitted after a new unit has operated during one control period, and no later than March 1 of October 15 after the control period for which allowances from the NUSA are being requested.

c) In a NUSA allowance allocation request pursuant tounder subsection (b) of this Section, the CAIR designated representative must provideinclude in its request must provide in its request the information for the gross electrical output and useful thermal energy, if any, for the new CAIR NO_x Ozone Seasonaffected unit for that control period.

d) The Agency willshall allocate allowances from the NUSA to a new CAIR NO_x Ozone Seasonaffected unit using the following procedures:

1) For each new CAIR NO_x Ozone Seasonaffected unit that has operated during at least one control period, the unit's gross electrical output for the most recent control period, willshall be used to calculate the unit's gross electrical output. If a generator is served by two or more units, the gross electrical output of the generator willshall be attributed to each unit in

proportion to the unit's share of the total control period heat input of thesesuch units for the control period. The new unit's converted gross electrical output willshall be calculated as follows:

A) If the unit is coal-fired:
CGO (in MWh) = GO × 1.0;

B) If the unit is oil-fired:
CGO (in MWh) = GO × 0.6; or

C) If the unit is neither coal-fired nor oil-fired:
CGO (in MWh) = GO × 0.4.

2) If the unit is a combustion turbine or boiler and has equipment used to produce electricity and useful thermal energy for industrial, commercial, heating, or cooling purposes through the sequential use of energy, the Agency willshall add the converted gross electrical output calculated for electricity pursuant to subsection (dc)(1) of this Section to the converted useful thermal energy to determine the total converted gross electrical output for the unit. The Agency willshall determine the converted useful thermal energy using the unit's useful thermal energy for the most recent control period. The converted useful thermal energy willshall be determined using the following equations:

A) If the unit is coal-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.2930;

B) If the unit is oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1758; or

C) If the unit is neither coal-fired nor oil-fired:
CUTE (in MWh) = UTE (in mmBtu) × 0.1172.

3) The gross electrical output and useful thermal energy in subsections (d)(1) and (d)(2) of this Section for the control period in each year willshall be based on the best available data reported or available to the Agency for the CAIR NO_x Ozone Seasonaffected unit pursuant to the provisions of Section 225.550 of this Subpart.

4) The Agency willshall determine a unit's un-prorated allocation (UA_y) using the unit's converted gross electrical output plus the unit's converted useful thermal energy, if any, calculated in subsections (d)(1) and (d)(2) of this Section, converted to approximate NO_x tons (the unit's un-prorated allocation), as follows:

$$UA_y = \frac{TCGO_y \times (1.0 lbs/MWh)}{2000 lbs/ton}$$

Where:

UA_y = un-prorated allocation to a new CAIR NO_x Ozone Season~~affected~~ unit.

$TCGO_y$ = total converted gross electrical output for a new CAIR NO_x Ozone Season~~affected~~ unit.

5) The Agency will~~shall~~ allocate CAIR NO_x Ozone Season allowances from the NUSA to new CAIR NO_x Ozone Season~~affected~~ units as follows:

A) If the NUSA for the control period for which CAIR NO_x Ozone Season allowances are requested has a number of allowances greater than or equal to the total un-prorated allocations for all new units~~unit's~~ requesting allowances, the Agency will~~shall~~ allocate the number of allowances using the un-prorated allocation determined for that unit pursuant to~~in~~ subsection (d)(4) of this Section. ~~If there are insufficient allowances to allocate whole allowances, such unallocated allowances shall be retained by the Agency and shall be available for allocation in a later control period.~~

B) If the NUSA for the control period for which the allowances are requested has a number of CAIR NO_x Ozone Season allowances less than the total un-prorated allocation to all new CAIR NO_x Ozone Season ~~affected~~ units requesting allocations, the Agency will~~shall~~ allocate the available allowances for new CAIR NO_x Ozone Season~~affected~~ units on a pro-rata basis, using the un-prorated allocation determined for that unit pursuant to subsection (d)(4) of this Section. If there are insufficient allowances to allocate whole allowances, the~~such~~ unallocated allowances will~~shall~~ be retained by the Agency and will~~shall~~ be available for allocation in a later control period.

C) If the gross electrical output or useful thermal energy reported to the Agency pursuant to subsection (d) of this Section is later determined to be greater than the unit's actual gross electrical output or useful thermal energy for the applicable control period, the Agency will~~shall~~ reduce the unit's allocation from the NUSA for the current control period to account for the excess allowances allocated in the prior control period or periods.

e) The Agency will~~shall~~ review each NUSA allowance allocation request pursuant to~~under~~ subsection (b) of this Section. The Agency will~~shall~~ accept a NUSA

allowance allocation request only if the request meets, or is adjusted by the Agency as necessary to meet, the requirements of this Section 225.545.

f) By June 1 of~~November 8 after~~ the applicable control period, the Agency will~~shall~~ notify each CAIR designated representative that submitted a NUSA allowance request of the amount of CAIR NO_x Ozone Season allowances from the NUSA, if any, allocated for the control period to the new unit covered by the request.

g) The Agency will~~shall~~ allocate CAIR NO_x Ozone Season allowances to new units from the NUSA no later than July 31 of~~November 15 after~~ the applicable control period.

h) After a new CAIR NO_x Ozone Season~~affected~~ unit has operated in one control period, it becomes an existing unit for the purposes of Section 225.540 ~~of this Subpart~~ only, and the Agency will~~shall~~ allocate CAIR NO_x Ozone Season allowances for that unit, for the control period commencing four years in the future pursuant to Section 225.540 ~~of this Subpart~~. The new CAIR NO_x Ozone Season~~affected~~ unit will~~shall~~ continue to receive CAIR NO_x Ozone Season allowances from the NUSA according to this Section until the unit is eligible to use the CAIR NO_x Ozone Season allowances allocated to the unit pursuant to Section 225.540 ~~of this Subpart~~.

i) If, after the completion of the procedures in subsection (c) of this Section for a control period any unallocated CAIR NO_x Ozone Season allowances remain in the NUSA for the control period, the Agency will~~shall~~, at a minimum, accrue those CAIR NO_x Ozone Season allowances for future control period allocations to new CAIR NO_x Ozone Season~~affected~~ units. The Agency may from time to time elect to retire CAIR NO_x Ozone Season allowances in the NUSA that are in excess of 7,245 for the purposes of continued progress toward attainment and maintenance of National Ambient Air Quality Standards pursuant to the CAA.

Section 225.550 Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy

a) By January 1, 2007, or by the date of commencing commercial operation, whichever is later, the owner or operator of a CAIR NO_x Ozone Season~~an affected~~ unit must~~shall~~ install, calibrate, maintain, and operate a system for measuring gross electrical output~~wattmeter~~; ~~and~~ must~~shall~~ measure gross electrical output in MW-hrs~~megawatt-hours~~ on a continuous basis; and must~~shall~~ record the output of the measurement system~~wattmeter~~. If a generator is served by two or more units, the information to determine each unit's heat input for that control period must~~shall~~ also be recorded, so as to allow each unit's share of gross electrical output to be determined. If heat input data is used, the owner or operator must~~shall~~ comply with the applicable provisions 40 CFR 75, as incorporated by reference in Section 225.140 ~~of this Part~~.

b) For a CAIR NO_x Ozone Seasonan affected unit that is a cogeneration unit by January 1, 2007, or by the date the CAIR NO_x Ozone Seasonaffected unit commences to produce useful thermal energy, whichever is later, the owner or operator of a CAIR NO_x Ozone Seasonan affected unit with cogeneration capabilities mustshall install, calibrate, maintain, and operate meters for steam flow in lbs/hr, temperature in degrees Fahrenheit, and pressure in PSI, to measure and record the useful thermal energy that is produced, in mmBtu/hr, on a continuous basis. Owners and operators of aCAIR NO_x Ozone Seasonan affected unit that produces useful thermal energy but uses an energy transfer medium other than steam, e.g., hot water, or glycol, mustshall install, calibrate, maintain, and operate the necessary meters to measure and record the necessary data to express the useful thermal energy produced, in mmBtu/hr, on a continuous basis. If the CAIR NO_x Ozone Seasonaffected unit ceases to produce useful thermal energy, the owner or operator may cease operation of these meters, provided that operation of such meters mustshall be resumed if the CAIR NO_x Ozone Seasonaffected unit resumes production of useful thermal energy.

c) By September 30, 2006, tThe owner or operator of a CAIR NO_x Ozone Seasonan affected unit mustshall report to the Agency:

1) By June 1, 2007, the gross electrical output for control periods 2001, 2002, 2003, 2004 and 2005, if available, and, the unit's useful thermal energy data, if applicable. If gross electric output is not available, heat input shall be used for control periods 2001, 2002, 2003, 2004, and 2005 that gross electrical output is not available. If a generator is served by two or more units, the documentation needed to determine each unit's share of the heat input of such units for that control period mustshall also be submitted. If heat input data is used, the owner or operator mustshall comply with the applicable provisions 40 CFR 75, as incorporated by reference in Section 225.140 of this Part.

2) By June 1, 2008, the gross electrical output for control periods 2006 and 2007, if available, and the unit's useful thermal energy data, if applicable. If a generator is served by two or more units, the documentation needed to determine each unit's share of the heat input of such units for that control period must also be submitted. If heat input data is used, the owner or operator must comply witht he applicable provisions of 40 CFR 75, as incorporated by reference in Section 225.140.

d) Beginning with calendar year 20082007, the CAIR designated representative of the CAIR NO_x Ozone Seasonaffected unit mustshall submit to the Agency quarterly, by no later than January 31, April 30, July 31, and October 31, and January 31 of each year, information for the CAIR NO_x Ozone Seasonaffected unit's gross electrical output, on a monthly basis for the prior quarter, and, if applicable, the unit's useful thermal energy for each month.

e) The owner or operator of a CAIR NO_x Ozone Season~~an affected~~ unit must~~shall~~ maintain on-site the monitoring plan detailing the monitoring system, maintenance of the monitoring system, including quality assurance activities~~.~~ pursuant to the requirements of 40 CFR 60 and 75, including the applicable provisions for the measurement of gross electrical output for the CAIR NO_x Ozone Season trading program and, if applicable, for new units. The monitoring plan must include, but is not limited to:

1) A description of the system to be used for the measurement of gross electrical output, including a list of any data logging devices, solid-state kW meters, rotating kW meters, electromechanical kW meters, current transformers, potential transformers, pressure taps, flow venture, orifice plates, flow nozzles, vortex meters, turbine meters, pressure transmitters, differential pressure transmitters, termperature transmitters, thermocouples, and resistance temperature detectors.

2) A certification statement by the CAIR designated representative that all components of the gross electrical output system have been tested to be accurate within three percent and that the gross electrical output system is accurate to within ten percent.

f) The owner or operator of a CAIR NO_x Ozone Season~~an affected~~ unit must~~shall~~ retain records for at least 5 years from the date the record is created or the data collected in subsections (a) and (b) of this Section, and the reports submitted to the Agency and USEPA in accordance with subsections (c) and (d) of this Section. The owner or operator of a CAIR NO_x Ozone Season~~an affected~~ unit must~~shall~~ retain the monitoring plan required in subsection (e) of this Section for at least five years from the date that it is replaced by a new or revised monitoring plan.

Section 225.555 Clean Air Set-Aside (CASA)

a) A project sponsor may apply for allowances from the CASA for sponsoring an energy efficiency and conservation, renewable energy, or clean technology project as set forth in Section 225.560 ~~of this Subpart~~ by submitting the application required by Section 225.570 ~~of this Subpart~~.

b) Notwithstanding subsection (a) of this Section, a project sponsor with a CAIR NO_x Ozone Season~~an affected~~ source that is out of compliance with this Subpart for a given control period may not apply for allowances from the CASA for that control period. If a source receives CAIR NO_x allowances from CASA and then is subsequently found to have been out of compliance with this Subpart for the applicable control period or periods, the project sponsor must restore the CAIR NO_x allowances that it received pursuant to its CASA request or an equivalent number of CAIR NO_x allowances to the CASA within six months of receipt of an

Agency notice that NO_x allowances must be restored~~finding of noncompliance~~. These allowances will~~shall~~ be assigned to the fund from which they were distributed.

c) ~~The Agency will not act as a mediator in situations where more than one project sponser requests CAIR NO_x allowances for the same project. If more than one project sponsor submits an application for allowances for the same project for the same control period, the Agency shall reject all such applications.~~

~~d~~) CAIR NO_x allowances from CASA will~~shall~~ be allocated in accordance with the procedures in Section 225.575 ~~of this Subpart~~.

d~~e~~) The project sponsor may submit an application that aggregates two or more projects under a CASA project category that would individually result in less than one allowance, but that equal at a minimum one whole allowance when aggregated. ~~The Agency shall not allocate allowances for projects totaling less than one whole allowance after rounding.~~

Section 225.560 Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects

a) Energy efficiency and conservation project means any of the following projects implemented in Illinois:

1) Demand side management projects that reduce the overall power demand by using less energy include:

A) Smart building management software that more efficiently regulates power flows.

B) The use of or replacement to high efficiency motors, pumps, compressors, or steam systems.

C) Lighting retrofits.

2) Energy efficient new building construction projects include:

A) ENERGY STAR qualified new home projects.

B) Measures to reduce or conserve energy consumption beyond the requirements of the Illinois Energy Conservation Code for Commercial Buildings (20 ILCS 687/6-3).

C) New residential construction projects that qualify for Energy Efficient Tax Incentives pursuant to~~under~~ the Energy Policy Act of 2005, 42 U.S.C. §15801 (2005).

3) Supply-side energy efficiency projects include projects implemented to improve the efficiency in electricity generation by coal-fired power plants, and the efficiency of electrical transmission and distribution systems.

4) Highly efficient power generation project, such as, but not limited to, combined cycle projects, combined heat and power, and microturbines. To be considered a highly efficient power generation project pursuant to~~under~~ this subsection (a)(4), a project must meet the thresholds and criteria listed below:

A) For combined heat and power projects generating both electricity and useful thermal energy for space, water, or industrial process heat, a rated-energy efficiency of at least 60 percent and is not a CAIR NO_x Ozone Season unit.

B) For combined cycle projects rated at greater than 0.50 MW, a rated-energy efficiency of at least 50 percent.

C) For microturbine projects rated at or below 0.50 MW and all other projects rated-energy efficiency of at least 40 percent.

b) Renewable energy unit means any of the following projects implemented in Illinois:

1) Zero-emission electric generating units, including wind, solar (thermal or photovoltaic), and hydropower projects. Eligible hydropower plants are restricted to new generators, that are not replacements of existing generators, that commence operation on or after January 1, 2006, and do not involve the significant expansion of an existing dam or the construction of a new dam.

2) Renewable energy units are those units that generate electricity using more than 50 percent of the heat input, on an annual basis, from dedicated crops grown for energy production or the capture systems for methane gas from landfills, water treatment plants or sewage treatment plants, and organic waste biomass, and other similar sources of non-fossil fuel energy. Renewable energy projects do not include energy from incineration by burning or heating of waste wood, tires, garbage, general household, institutional lunchroom or office waste, landscape waste, or construction or demolition debris.

c) Clean technology project for reducing emissions from producing electricity and useful thermal energy means any of the following projects implemented in Illinois:

1) Air pollution control equipment upgrades for control of NO_x emissions at existing coal-fired ~~electric generating unit~~EGUs, as follows: installation of a selective catalytic reduction (SCR) or selective non-catalytic reduction (SNCR) system, or other emission control technologies. Air pollution control upgrades do not include the addition of low NO_x burners, overfired air techniques, gas reburning techniques, flue gas conditioning techniques for the control of NO_x emissions, projects involving upgrades or replacement of electrostatic precipitators, or addition of ~~control equipment, such as~~ activated carbon injection, or other sorbent injection~~specifically used~~ for control of mercury. For this purpose, a unit will~~shall~~ be considered "existing" after it has been in commercial operation for at least eight years.

2) Clean coal technologies projects include:

A) Integrated gasification combined cycle (IGCC) plants.

B) Fluidized bed coal combustion.

d) In addition to those projects excluded in subsections (a) through (c) of this Section, the following projects are also not e~~E~~nergy efficiency and conservation, renewable energy, or clean technology projects ~~listed in subsection (a) through (c) of this Section shall not include~~:

1) N~~n~~uclear power projects.~~;~~

2) P~~p~~rojects required to meet emission standards or technology requirements under State or federal law or regulation, except that allowances may be allocated for projects undertaken pursuant to Section 225.233.

3) P~~p~~rojects used to meet the requirements of a court order or consent decree, except that allowances may be allocated for:

A) Emission rates or limits achieved that are lower than what is required to meet the emission rates or limits for SO_2 or NO_x, or for installing a baghouse as provided for in a court order or consent decree entered into before May 30, 2006.

B) Projects used to meet the requirements of a court order or consent decree entered into on or after May 30, 2006, if the court order or consent decree does not specifically preclude such allocations.

4) A~~a~~ Supplemental Environmental Project (SEP). ~~CASA allowances shall not be allocated to such projects.~~

e) Applications for projects that that are not specifically listed in subsections (a)

through (c) of this Section, and that are not specifically excluded by definition in subsections (a) through (c) of this Section or by specific exclusion in subsection (d) of this Section, may be submitted to the Agency. TheSuch application mustshall designate which category or categories from those listed in subsections (a)(1) through (c)(2)(B) of this Section best fits the proposed project and the applicable formula pursuant tounder Section 225.565(b) of this Section to calculate the number of allowances that it is requesting. The Agency willshall determine whether the application is approvable based on a sufficient demonstration by the project sponsor that the project is a new type of energy efficiency, renewable energy, or clean technology project, similar in its effects as the projects specifically listed in subsection (a) through (c) of this Section.

f) Early adopter projects include projects that meet the criteria for any energy efficiency and conservation, renewable energy, or clean technology projects listed in subsections (a) , (b), (c), and (e) of this Section and commence construction between July 1, 2006, and December 31, 2012.

Section 225.565 CASA Allowances

a) The CAIR NO_x allowances for the CASA for each control period willshall be assigned to the following categories of projects:

		Phase I (2009-2014)	Phase II (2015 and thereafter)
1)	Energy Efficiency and Conservation/ Renewable Energy	3684	3479
2)	Air Pollution Control Equipment Upgrades	1535	1448
3)	Clean Coal Technology Projects	1842	1738
4)	Early Adopters	614	580

b) The following formulas mustshall be used to determine the number of CASA allowances that may be allocated to a project per control period:

1) For an energy efficiency and conservation project pursuant to Sections 225.560(a)(1) through (a)(4)(A)3) of this Subpart, the number of allowances mustshall be calculated using the number of megawatt hours of electricity that was not consumed during a control period and the following formula:

$$A = (MWh_c) \times (1.5 \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.
MWh_c = The number of megawatt hours of electricity conserved or generated during a control period by a project.

2) For a zero emission electric generating projects pursuant to Section 225.560(b)(1) ~~of this Subpart~~, the number of allowances mustshall be calculated using the number of megawatt hours of electricity generated during a control period and the following formula:

$A = (MWh_g) \times (2.0 \text{ lb/MWh}) / 2000 \text{ lb}$

Where:

A = The number of allowances for a particular project
MWh_g = The number of megawatt hours of electricity generated during a control period by a project.

3) For a renewable energy emission unit pursuant to Section 225.560(b)(2) ~~of this Subpart~~, the number of allowances mustshall be calculated using the number of megawatt hours of electricity generated during a control period and the following formula:

$A = (MWh_g) \times (0.5 \text{ lb/MWh}) / 2000 \text{ lb}$

Where:

A = The number of allowances for a particular project.
MWh_g = The number of MW hours of electricity generated during a control period by a project.

4) For an air pollution control equipment upgrade project pursuant to Section 225.560(c)(1) ~~of this Subpart~~, the number of allowances mustshall be calculated using the emission rate before and after replacement or improvement, and the following formula:

$A = (MWh_g) \times 0.10 \times (ER_B \text{ lb/MWh} - ER_A \text{ lb/MWh}) / 2000 \text{ lb}$

Where:

A = The number of allowances for a particular project.
MWh_g = The number of MWh~~megawatt hour~~s of electricity generated during a control period by a project.

ER_B = Average NO_x emission rate based on CEMS data from the most recent two control periods prior to the replacement or improvement of the control equipment in lb/MWh, unless subject to a consent decree or court order. For units subject to a consent decree or court order, entered into before May 30, 2006, ER_B is limited to emission rates or limits that are lower than the emission rate or limit required in the consent decree or court order. On or after May 30, 2006, ER_B is limited to emission rates or limits specified in the consent decree or court order. If such limit is not expressed in lb/MWh, the limit shall be converted into lb/MWh using a heat rate of 10 mmBtu/1 MW.

ER_A = Average NO_x emission rate for the applicable control period data based on CEMS data in lb/MWh.

5) For highly efficient power generation and clean technology~~IGCC~~ projects pursuant to Sections 225.560(a)(4)(B), (a)(4)(C) and (c)(2) ~~of this Subpart~~, the number of allowances must~~shall~~ be calculated using the number of megawatt hours of electricity the project generates during a control period and the following formula:

$$A = (MWh_g) \times (1.0 \text{ lb/MWh} - ER \text{ lb/MWh}) / 2000 \text{ lb}$$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of megawatt hours of electricity generated during a control period by a project.

ER = Average NO_x emission rate for the control period based on CEMS data in 1b/MWh.

6) For a CASA project that commence~~sd~~ construction before December 31, 2012, in addition to the allowances allocated pursuant to~~under~~ subsections (b)(1) through (b)(5) of this Section, a project sponsor may also request additional allowances under the early adopter project category pursuant to Section 225.460(e) ~~of this Section~~ based on the following formula:

$$A = 1.0 + 0.10 \times \Sigma A_i$$

Where:

A = The number of allowances for a particular project as determined in subsections (b)(1) through (b)(5) of

this Section.

A_i = The number of allowances as determined in subsection (b)(1), (b)(2), (b)(3), (b)(4) or (b)(5) of this Section for a given project.

Section 225.570 CASA Applications

a) A project sponsor may request allowances if the project commenced construction on or after the dates listed below. The project sponsor may request and be allocated allowances from more than one CASA category for a project, if applicable.

1) Demand side management, energy efficient new construction, and supply side energy efficiency and conservation projects that commenced construction on or after January 1, 2003;

2) Fluidized bed coal combustion projects, highly efficient power generation operations projects, or renewable energy emission units, which commenced construction on or after January 1, 2001; and

3) All other projects on or after July 1, 2006.

b) Beginning with the 2009 control period and each control period thereafter, a project sponsor may request allowances from the CASA. The application must be submitted to the Agency by May 1 of the control period for which the allowances are being requested.

c) The allocation willshall be based on the electricity conserved or generated in the control period preceding the calendar year in which the application is submitted. To apply for a CAIR NO_x allocation from the CASA, project sponsors must provide the Agency with the following information:

1) Identification of the project sponsor, including name, address, type of organization, certification that the project sponsor has met the definition of "project sponsor" as set forth in Section 225.130, and name(s) of the principals or corporate officials.

2) The number of the CAIR NO_x general or compliance account for the project and the name of the associated CAIR account representative.

3) A description of the project or projects, location, the role of the project sponsor in the projects, and a general explanation of how the amount of energy conserved or generated was measured, verified, and calculated, and the number of allowances requested and the with the supporting calculations. The number of allowances requested willshall be calculated using the applicable formula from Section 225.570(b) of this Section.

4) Detailed information to support the request for allowances, including the following types of documentation for the measurement and verification of the NO_x emissions reductions, electricity generated, or electricity conserved using established measurement verification procedures, as applicable. The measurement and verification required will~~shall~~ depend on the type of project proposed.

A) As applicable, documentation of the project's base and control period conditions and resultant base and control period energy data, using the procedures and methods included in *M&V Guidelines: Measurement and Verification for Federal Energy Projects,* incorporated by reference in Section 225.140 ~~of this Part~~, or other method approved by the Agency. Examples include:

i) Energy consumption and demand profiles;

ii) Occupancy type;

iii) Density and periods;

iv) Space conditions or plant throughput for each operating period and season. (For example, in a building this would include the light level and color, space temperature, humidity and ventilation);

v) Equipment inventory, nameplate data, location, condition; and

vi) Equipment operating practices (schedules and set points, actual temperatures/pressures).

B) Emissions data, including, if applicable, CEMS data;

C) Information for rated–energy efficiency including supporting documentation and calculations; and

D) Electricity, in MWh, generated or conserved for the applicable control period.

5) Notwithstanding the requirements of subsections (c)(4) of this Section, applications for fewer than five allowances may propose other reliable and applicable methods of quantification acceptable to the Agency.

6) Any additional information requested by the Agency to determine the correctness of the requested number of allowances, including site

information, project specifications, supporting calculations, operating procedures, and maintenance procedures.

7) The following certification by the responsible official for the project sponsor and the applicable CAIR account representative for the project:

"I am authorized to make this submission on behalf of the project sponsor and the holder of the CAIR NO_x general account or compliance account for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with the statements and information submitted in this application and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information."

d) A project sponsor may request allowances from the CASA for each project a total number of control periods not to exceed the number of control periods listed below. After a project has been allocated allowances from CASA, subsequent requests for the project from the project sponsor must~~shall~~ include the information required by subsections (c)(1), (c)(2), (c)(3) and (c)(7) of this Section, a description of any changes, or further improvements made to the project, and information specified in subsections (c)(5) and (c)(6) as specifically requested by the Agency.

1) For energy efficiency and conservation projects (except for efficient operation and renewable energy projects), for a total of eight control periods.

2) For early adopter projects, for a total of ten control periods.

3) For air pollution control equipment upgrades for a total of 15 control periods.

4~~3~~) For renewable energy projects, clean coal technology, and highly efficient power generation projects, for each year that the project is in operation.

e) A project sponsor must keep copies of all CASA applications and the documentation used to support the application for at least five years.

Section 225.575 Agency Action on CASA Applications

a) By September~~October~~ 1, 2009, and each September~~October~~ 1 thereafter, the Agency will~~shall~~ determine the total number of allowances that are approvable for

allocation to project sponsors based upon the applications submitted pursuant to Section 225.570 ~~of this Subpart~~.

1) The Agency will~~shall~~ determine the number of CAIR NO_x allowances that are approvable based on the formulas and the criteria for such projects. The Agency will~~shall~~ notify a project sponsor within 90 days after receipt of an application if the project is not approvable, the number of allowances requested is not approvable, or additional information is needed by the Agency to complete its review of the application.

2) If the total number of CAIR NO_x allowances requested for approved projects is less than or equal to the number of CAIR NO_x allowances in the CASA project category, the number of allowances that are approved shall be allocated to each CAIR NO_x compliance or general account.

3) If more CAIR NO_x allowances are requested than the number of CAIR NO_x allowances in a given CASA project category, allowances will~~shall~~ be allocated on a pro-rata basis based on the number of allowances available, subject to further adjustment as provided for by subsection (b) of this Section. CAIR NO_x allowances will~~shall~~ be allocated, transferred, or used as whole allowances. The number of whole allowances will~~shall~~ be determined by rounding down for decimals less than 0.5 and rounding up for decimals of 0.5 or greater.

b) For control periods 2011 and thereafter, ~~I~~if there are, after the completion of the procedures in subsection (a) of this Section for a control period, any CAIR NO_x allowances not allocated to a CASA project for the control period:

1) The remaining allowances will accrue in each CASA project category ~~will accrue~~ up to twice the number of allowances that are assigned to the project category each control period as set forth in Section 225.565 ~~of this Subpart~~.

2) ~~For control period 2011 and thereafter,~~If any allowances remain after allocations pursuant to subsection (a) of this Section, the Agency will allocate these allowances pro-rata to projects that received fewer allowances than requested, based on the number of allowances not allocated but approved by the Agency for the project under CASA. No project may be allocated more allowances than approved by the Agency for the applicable ~~in a project category that are in excess of twice the number assign for the control period as set forth in Section 225.565 of this Subpart shall be redistributed to project categories that have fewer than twice the number of allowances assigned to that project category for the~~ control period.

3) ~~For control period 2011 and thereafter,~~ If any allowances remain after the allocation of allowances pursuant to subsection (b)(2) of this Section the Agency will then distribute pro-rata the remaining ~~shall then reallocate~~ allowances to ~~projects that received fewer allowances than requested and approved on a pro-rata basis, based on the total number of approved allowances for the projects~~project categories that have fewer than twice the number of allowances assigned to the project category. The pro-rata distribution will be based on the difference between two times the project category and the number of allowances that remain in the project category.

4) ~~For control period 2011 and thereafter, if after the redistribution of allowances pursuant to subsection (b)(2) any allowances remain, these allowances shall be reassigned to project categories that have fewer than twice the number of allowances annually assigned to that project category as set forth in Section 225.565 of this Subpart, after the allocation in subsection (b)(3) of this Section.~~

~~5)~~ ~~The Agency shall repeat the process of allocating allowances to CASA projects that received fewer allowances than requested and approved, and to reassigning allowances to project categories as set forth in subsections (b)(2), (b)(3), and (b)(4) of this Section, until no allowances remain to be reassigned between project categories and the approved allowance requests have been filled.~~ If allowances still remain undistributed after the allocations and distributions in the above subsections are completed~~unallocated~~, the Agency may elect to retire any CAIR NO_x allowances that have not been distributed to any CASA category,~~remain after all approved requests for allowances have been met and each project category has accrued twice the number of allowances assigned for that project category~~ to continue progress toward attainment or maintenance of the National Ambient Air Quality Standards pursuant to the CAA.

STATE OF ILLINOIS)
) SS
SANGAMON COUNTY)

AFFIDAVIT

I, Rob Kaleel, upon my oath, do hereby state as follows:

1. I am employed as the Manager of the Air Quality Planning Section of the Division of Air Pollution Control in the Bureau of Air for the Illinois Environmental Protection Agency ("Illinois EPA").
2. In my current position as Section Manager, my responsibilities include oversight of staff that provides technical support for regulatory initiatives needed to address air quality issues in Illinois, including the regulatory proposal to implement the Federal Clean Air Interstate Rule. I have also been closely involved with the development of Illinois' State Implementation Plans to address the PM2.5 and ozone nonattainment areas in Illinois.
3. I have reviewed the Motion to Amend Rulemaking Proposal ("Motion") submitted in the rulemaking docketed as PCB R06-26.
4. To the best of my knowledge, the factual information and representations contained within the Motion are true and accurate.

FURTHER AFFIANT SAYETH NOT.

_____

Rob Kaleel

Subscribed and sworn to before me
this _____day of _____, 2006.

_____

Notary Public

STATE OF ILLINOIS)
) SS
SANGAMON COUNTY)

AFFIDAVIT

I, Jim Ross, upon my oath, do hereby state as follows:

1. I am employed as the Manager of the Division of Air Pollution Control in the Bureau of Air for the Illinois Environmental Protection Agency ("Illinois EPA").
2. In my current position as Division Manager, I supervise a staff of over 150 engineers, specialists, and administrative support personnel in developing, monitoring, and enforcing the State and Federal air pollution control requirements. In particular, and more recently, I have been overseeing Illinois EPA's efforts in the development of several rulemaking efforts, including the proposed rule to implement the Federal Clean Air Interstate Rule.
3. I have reviewed the Motion to Amend Rulemaking Proposal ("Motion") submitted in the rulemaking docketed as PCB R06-26.
4. To the best of my knowledge, the factual information and representations contained within the Motion are true and accurate.

FURTHER AFFIANT SAYETH NOT.

_____

Jim Ross

Subscribed and sworn to before me
this _____day of _____, 2006.

_____

Notary Public

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	
	)	R2006 - 026
PROPOSED Clean Air Interstate Rule (CAIR)	)	(Rulemaking – Air)
SO_2, NO_x Annual and NO_x Ozone Season	)	
Trading Programs, 35 Ill. Adm. Code 225.	)	
Subparts A, C, D and E	)	
	)	

MOTION TO AMEND RULEMAKING PROPOSAL

NOW COMES the Proponent, the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (Illinois EPA), by its attorneys, and pursuant to 35 Ill. Adm. Code 101.500 and 102.402, moves that the Illinois Pollution Control Board (Board) amend proposed new Part 225. In support of its Motion, the Illinois EPA states as follows:

On May 30, 2006, the Illinois EPA filed a proposal with the Board to add new Subparts to Part 225, 35 Ill. Adm. Code Part 225, entitled "Control of Emissions from Large Combustion Sources." New subparts A, C, D and E, add SO_2, NO_x Annual and NO_x Ozone Season Trading Programs in Part 225. The Illinois EPA's proposal is intended to meet certain obligations of the State of Illinois under the federal Clean Air Act (CAA), 42 U.S.C. § 7401 *et seq.*; specifically, to satisfy Illinois' obligation to submit a State Implementation Plan to address the requirements of the Clean Air Interstate Rule (CAIR), *see,* 70 *Fed. Reg.* 25161 (May 12, 2005). Under CAIR, states are required to submit State plans to the United States Environmental Protection Agency (USEPA) by no later than September 11, 2006. ***Id.*** at 25319; 40 CFR § 51.123(d)(1)**.**

The Illinois EPA engaged in extensive outreach on this proposal. In January 2006, the Illinois EPA commenced regular meetings with representatives of the affected sources and public interest groups and the Illinois EPA distributed working drafts of the proposed rule to such parties.

After the filing of the rulemaking proposal, a number of changes and clarifications were found to be necessary as a result of communications with USEPA, issues that arose during the first hearing in this rulemaking held in Springfield, formatting and stylistic changes to conform with the changes made in the Board's Second Notice issued in the proposed mercury rulemaking (R06-025), and correction of typos. Therefore, the Illinois EPA is now proposing to amend the rulemaking proposal as set forth in this motion.

1) The following changes have been made to conform with changes to the Second Notice in R06-25:

   A) The term "shall" has been replaced by the terms "will," "must," or "may" as applicable and the term "such" has either been deleted or replaced by a more specific term, e.g., the, these. (R06-25.)

   B) The lead in paragraph for Section 225.130 now conforms with R06-25.

   C) All "§" symbols have been deleted.

   D) References to "of this Subpart" and "of this Part" have been deleted.

   E) References to "with regard to" have been replaced by the phrase "for the purpose of."

   F) The definition for "cogeneration unit" has been restricted to the Subparts implementing the CAIR trading programs, as it is not clear that USEPA would approve the definition as the Board has proposed it in its Second Notice for R06-25.

   G) The term "under" has been replaced with the term "pursuant to."

2) The following changes have been made at the recommendation of USEPA:

   A) The definitions for "CAIR authorized account representative" and "CAIR designated representative" have been clarified to include all three trading programs and to reflect amendments made to the definition as a result of the April 28, 2006, *Federal Register*.

   B) The definition for "CAIR NO_x compliance account" has been amended to reflect the federal term "compliance account" and to reflect both the annual NO_x and NO_x ozone season trading programs.

C) The definition for "coal-fired" has been amended to reflect the difference between the definition for the NO_x and the SO_2 trading programs.

D) The definition for "combustion turbine" has been amended to include "duct burners" which reflects the change made to the definition pursuant to the April 28, 2006, *Federal Register*.

E) The term "affected unit" has been replaced throughout Illinois EPA's proposal with the specific program that applies to the particular unit, as the term "affected unit" is used in the federal Acid Rain program; hence, use of the term to refer to CAIR units that are not also Acid Rain units.

F) The definition for "commence commercial operation" has been updated to reflect amendments that USEPA made to the definition on April 28, 2006. The most significant amendment is the deletion of subsection (c) of the definition.

G) The definition for "commence operation" reflects changes made by USEPA to the definition on April 28, 2006. The most significant amendment is the deletion of subsection (b) of the definition.

H) The definition for "nameplate capacity" reflects changes made by USEPA to the definition on April 28, 2006. The changes were only minor and included the addition of the phrase "as of such installation" and "as of such completion."

I) The definition for "repowered" reflects a request by USEPA that the term "unit" be used instead of the term "electric generating unit."

J) The definition for "useful thermal energy" reflects a request by USEPA that the term "heating" be used instead of "heat."

K) Section 225.140 (Incorporations by Reference) has been amended to reflect that last date that subsections (a) through (f) had been updated by USEPA.

L) Sections 225.300, 225.400, and 225.500 reflect a request by USEPA that Illinois' CAIR rule use the applicability language verbatim from the April 28, 2006, *Federal Register*. The most significant change is the deletion of the exemption for industrial boilers listed in 35 Ill. Adm. Code 217.Appendix D. USEPA's position is that the status of any one of these boilers could change over time from one that is industrial in nature to one that is selling power to the grid.

M) Sections 225.310(d), 225.410(d), and 225.510(d) reflect a request by USEPA that several changes be made to the subsection to conform to the federal requirements. Specifically, in subsection (d)(1) the term "owner or operator" should be used instead of the term "CAIR designated representative." In addition, a more detailed description of the allowance transfer deadline has been added pursuant to amendments made by USEPA on April 28, 2006. In subsection (d)(3), there is the

addition of the phrase "and for each control period thereafter." In subsection (d)(4), the phrase "into or" is added. In subsection (d)(5), there is a substitution of the phrase "deducted" and "compliance according to subsection (d)(1) of this Section, for" instead of "utilized," and the terms "calendar" and "before" have been added. Finally, in subsection (d)(8), the term "compliance account" has been added.

N) In Section 225.310(d)(1), USEPA requested that, with respect to the CAIR SO_2 trading program, a clarification be made as to the value of an allowance. For the CAIR SO_2 trading program an allowance has a different value depending on the year it is allocated (vintage) and it retains that value no matter when it is used for compliance or traded; hence, the use of the term "tonnage" in lieu of use of the term "ton."

O) Sections 225.310(e)(1)(D) & (f)(4), 225.410(e)(1)(D) & (f)(4), and 225.510(e)(1)(D) & (f)(4) reflect a request by USEPA that several changes be made to these subsections to conform to the federal requirements. Specifically, the requirement that the owner or operator submit any documents used to demonstrate compliance has been added and the last sentence has been deleted, respectively.

P) Sections 225.320(a)(1) & (2) & (c), 225.410(a)(1) & (2) & (c), and 225.510(a)(1) & (2) & (c) reflect a request by USEPA that several changes be made to these subsections to conform to the federal requirements. Specifically, in subsection (a)(1), a requirement has been added that owners or operators submit any supplemental information requested by the Illinois EPA. In subsection (a)(2), a reference to the Illinois EPA's authority to issue permits has been added. A new subsection (c) has been added to reflect that the applicable definitions will be incorporated by reference into the permit and all allocations, transfers or deductions of allowances automatically amend the applicable permit upon recordation by USEPA in the source's compliance account.

Q) Section 225.325 has been revamped to reflect that with respect to the CAIR SO_2 trading program a clarification has been made as to the value of an allowance. For the CAIR SO_2 trading program an allowance has a different value depending on the year it is allocated (vintage) and it retains that value no matter when it is used for compliance or traded; hence, the use of the term "tonnage" in lieu of use of the term "ton." It also reflects that while the Illinois EPA does not have the authority to issue SO_2 allowances, other states that have adopted the opt-in provisions may.

R) Section 225.430 (Timing for Annual Allocations) has been amended to reflect the timing required by the federal CAIR rule for NO_x allowance allocations. Subsection (a) now provides that the Illinois EPA will make the initial allocations for control periods 2009, 2010, and 2011 no later than July 31, 2007. This will enable affected sources to submit their preference for calculating converted gross

output and allow the Illinois EPA sufficient time to make the necessary calculations after the proposal is adopted. Subsection (b) now provides that the Illinois EPA will submit allocations four years in advance of the applicable deadline, so the allocations for the 2012 control period will be made in 2008 and not in 2009. Subsection (c) of Section 225.430 now provides that allowances from the New Unit Set-Aside (NUSA) will be reported to USEPA by October 31 of the applicable control period; hence, new units will not receive allowances for compliance for the first year of commercial operation. These changes are required by 40 CFR 51.123(p).

S) Section 225.530 (Timing for Ozone Season Allocations) has been amended to reflect the timing required by the federal CAIR rule for NO_x allowance allocations. Subsection (a) now provides that the Illinois EPA will make the initial allocations for control periods 2009, 2010, and 2011 no later than July 31, 2007. This will enable affected sources to submit their preference for calculating converted gross output and allow the Illinois EPA sufficient time to make the necessary calculations after the proposal is adopted. Subsection (b) now provides that the Illinois EPA will submit allocations four years in advance of the applicable deadline, so the allocations for the 2012 control period will be made in 2008 and not in 2009. Subsection (c) of Section 225.530 now provides that allowances from the NUSA will be reported to USEPA by July 31 of the applicable control period; new units will not receive allowances for compliance for the first year of commercial operation. These changes are required by 40 CFR 51.123(aa).

T) Sections 225.435 and 225.535 (Methodology for Calculating Allocations) have been amended to reflect the change in dates that allocations must be made. As allocations are required to be made four years in advance of the applicable control period, gross electrical output data for the 2012 and 2013 control period must be from 2006, 2007 and 2008. Such data may not be available, hence, a new subsection (b) was added to allow owners and operators a choice of using heat input for those control periods.

U) Sections 225.440 and 225.540 Allocations have been clarified in subsection (b) to limit allocation of allowances to whole allowances on a pro-rata basis.

V) Sections 225.445 and 225.545 (New Unit Set-Aside (NUSA) have been amended to reflect the submittal date requirements of 40 CFR 51.123. Subsection (b) has been amended to require that applications be submitted not later than March 1 after the first control period that the unit has operated. This change means that new units will not receive an allocation for the control period in which they commence operation, but instead will receive an allocation beginning with the second control period of operation. Subsection (f) has been amended to state that the Illinois EPA will notify CAIR designated representatives of NUSA allocations by June 1 of the applicable control period. Subsection (g) for the annual program reflects that allocations from the Annual NUSA will be submitted to USEPA no

later than October 31 of the applicable control period. For the Ozone Season NUSA, the allocations will be submitted to USEPA no later than July 31 of the applicable control period.

W) Sections 225.455 and 225.555 (Clean Air Set-Aside) (CASA) are amended to reflect a comment that new subsection (d) contained conflicting language. Either a project sponsor aggregates enough projects that would make it eligible for one allowance or the request can be rounded up. The proposal requires that the aggregation equal at least one whole allowance.

3) The following amendments are being proposed as a result of comments made at the October 10, 2006 hearing:

A) A definition for "commence construction" has been added. A suggestion had been made that the term "commence commercial operation" be used; however, that term applies only to units that sell electricity to the grid. Although many of the projects may ultimately result in sales of electricity, it would exclude projects that include demand-side energy projects, e.g., Energy Star buildings.

B) A definition for "project sponsor" has been amended to lessen the possibility that two or more organizations or people could submit applications for the same project. The revised definition designates the individual or organization that provides the majority of the funding for the project unless another person or entity is designated in writing as the project sponsor.

C) In Sections 225.430 and 225.530 (Timing for Allocations), subsection (d) has been amended to clarify that the Illinois EPA will be allocating allowances from the CASA in 2009 for 2009, based on reductions allocations made in 2008. These allocations will be made by October 1 of each year, so the allowances allocated from the CAIR NO_x Ozone Season CASA may be used for compliance in the year they are allocated.

D) Sections 225.435 and 225.535 (Methodology for Calculating Allocations) have been amended to reflect that the Illinois EPA clarify that affected units have a choice for control periods 2009 through 2013 whether gross electrical output or heat input is used to calculate converted gross output. Subsection (a) requires that the owner or operator submit a statement making the election by June 1, 2007, for control periods 2009 through 2011. New subsection (b) requires that the election be made in writing by June 1, 2008, for control periods 2012 and 2013.

E) Sections 225.450 and 225.550 (Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy) have been amended to reflect the date changes required by USEPA for the Illinois EPA to submit allocations and requests by the public at hearing to allow other measurement systems for gross electrical output. Subsection (a) has been amended to require a system for measuring gross electrical output no later than

January 1, 2008. This system may be a wattmeter or other system that meets either the requirements of 40 CFR 60 or 75, as applicable. Subsection (b) has also been amended to delay the installation of a system for measuring gross electrical output until 2008. Subsection (c) has been amended to require that gross electrical output for the initial allocations, control periods 2009-2011, be submitted to the Illinois EPA no later than June 1, 2007, and for the 2012 control period, that it be submitted no later than June 1, 2008. Subsection (d) has also been delayed one year. Designated representatives will be required to submit quarterly data at the end of the first quarter of 2008. Subsection (e) has been amended to reflect the new requirements for measuring gross electrical output and maintaining a monitoring plan.

F) Sections 225.455 and 225.555 (Clean Air Set-Aside (CASA)) is amended to reflect a comment that the Illinois EPA does not make findings of noncompliance and to reflect the new definition for "project sponsor." Subsection (b) has been amended to reflect that allowances received by a unit that is found to be out of compliance must be restored to the Illinois EPA. Subsection (c) has been deleted. It had required the Illinois EPA to reject a project if more than one project sponsor applied for allowances from the CASA.

G) Sections 225.460 and 225.560 (Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects) have been amended to reflect several clarifications to the rule. Subsection (a)(1) has been has been amended to reflect that lighting retrofits are demand side management projects. Subsection (a)(4)(A) has been amended to reflect that combined heat and power projects that are also CAIR NO_x units or CAIR NO_x Ozone Season units are not eligible to receive allowances from the CASA. Subsection (d) has been amended to clarify which projects are not eligible to receive allowances from the CASA. Subsection (e) has been amended to clarify that projects that are specifically excluded by definition in subsections (a) through (c) may not apply as another type project.

H) Sections 225.465 and 225.565 (CASA Allowances) have also been clarified to reflect the changes made in Sections 225.460 and 225.560. Subsection (b)(1) has been amended to reflect that combined heat and power projects are eligible at a different rate for CASA allowances than other projects listed as supply-side projects. Subsection (b)(4) reflects the clarifications made concerning projects taken pursuant to consent decrees and court orders. This issue was also addressed in the Illinois EPA's Post Hearing Comments. Subsection (b)(5) reflects that the entire clean technology category uses this formula to calculate the number of allowances that the project may be eligible to receive.

I) Sections 225.470 and 225.570 (CASA Applications) have been amended to reflect the new definition for "project sponsor." Subsection (c)(1) has been amended to require that the project sponsor submit as part of its application a certification that it has met the definition of "project sponsor."

J) Sections 225.475 and 225.575 (Agency Action on CASA Applications) have been amended to reflect new dates and the tipping scheme for excess allowances. Subsection (a) has been amended to require that the Illinois EPA notify project sponsors by September 1 of the applicable control period of the number of allowances that are approvable for a project. The later date would have precluded the Illinois EPA from allocating, and USEPA from recording, allowances from the Ozone Season CASA in time for a source that is also a project sponsor to use the allowance for compliance during the applicable control period. Subsection (b) reflects the new tipping scheme that was testified to at the First Hearing.

WHEREFORE, for the reasons set forth above, the Illinois EPA moves that the Board amend proposed new Part 225 as set forth herein.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: _____
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DATED: November 27, 2006

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