BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:	)	
	)	R06-26
PROPOSED CLEAN AIR INTERSTATE	)	(Rulemaking – Air)
RULE (CAIR), SO_2, NO_X ANNUAL AND NO_X	)	
OZONE SEASON TRADING PROGRAMS,	)	
35 ILL.ADM.CODE 225, SUBPARTS A, C, D	)	
AND E	)	

COMMENTS OF ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ON FIRST NOTICE

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA"), by its attorneys, and hereby submits its comments on the first notice published on May 11, 2007 (31 Ill. Reg. 6764) in the above rulemaking proceeding. The Illinois EPA also asks that the Illinois Pollution Control Board ("Board") incorporate by reference the Illinois EPA's past comments and representations as memorialized in joint comments or motions. The purpose of proposed new Part 225, Subparts A, C, D and E to the Board's air pollution control regulations (35 Ill. Adm. Code 225) is to reduce intra- and interstate transport of sulfur dioxide ("SO_2") and nitrogen oxides ("NO_x") emissions from fossil fuel-fired electric generating units (affected units), on an annual basis (January 1 though December 31) and on an ozone season basis (May 1 through September 30) of each calendar year, through the adoption of the Clean Air Interstate Rule ("CAIR") SO_2 trading program, the CAIR NO_x Annual trading program and the CAIR NO_x Ozone Season trading program that establish retirement ratios for SO_2 allowances established under the CAIR and specific allocations for CAIR NO_x Annual and Ozone Season allowances.

These comments address three areas: 1) the need for expedited adoption of the CAIR proposal; 2) comments from Southern Illinois Power Cooperative ("SIPC"); and 3) anticipated comments from Midwest Generation; and 4) proposed clarifications and corrections to the First

notice.

I. Expedited Adoption of the CAIR Proposal

The Illinois EPA references back to July 20, 2006, when the Board issued an order granting in relevant part a motion by the Illinois EPA to expedite the proceedings. The Board stated:

> The Board grants the Agency's motion for expedited review in part. In light of the federal deadlines referenced by the Agency, the Board will expedite review of this matter to the extent feasible given the Board's available resources and decision deadlines. The Board wishes to make clear that it intends to move this proceeding along as early as it can practicably do so, but it should be noted that the Board's calendar during the upcoming months is extremely crowded, and the Board's meeting and deliberative session calendars have regulatory adoption milestones that must be met by timely issuance of Board orders. Nonetheless, the Board will not send this matter to first notice without commenting on the merits of the proposal. Given the expedited review of this proposal, the Board should be able to reach a final decision in a timely fashion.

Board's July 2006 order, p. 3. As further provided by the Board in its July 2006 order, the Illinois EPA's basis for requesting the motion to expedite was to control the allocations for the 2009 control period. At the time of the motion, the United States Environmental Protection Agency ("USEPA") intended to make NO_x allocations for the 2009 control period by July 30, 2007. Board's July 2006 order, p. 2.

The Illinois EPA recognizes and appreciates the time and resources that the Board has thus far expended in the handling and review of this rulemaking. However, the need for this rulemaking to continue on as expedited a resolution as possible is all the more pressing. USEPA has now made it known that it will not implement USEPA-determined NO_x allocations that may impact a state's ability to regulate its sources in a different manner until September 2007 (i.e., one year after the September 2006 State Implementation Plan ("SIP") submission deadline).[1]

[1] Source: CAIR Frequent Questions – CAIR FIP. http://www.epa.gov/airmarkets/progsregs/cair/faq-3.html.

Promulgation of these CAIR federal implementation plans ("FIPs") in no way precludes a state from developing its SIP revision to either adopt the model trading rules (with modifications to the extent allowed for certain program elements), or to meet the CAIR emission reduction requirements through different measures of the state's choosing, as provided in CAIR. USEPA will not take any steps to implement these FIPs (e.g., by recording USEPA-determined NO_x allocations in source accounts) that may impact a state's ability to regulate its sources in a different manner until September 2007, a year after the September 2006 SIP submission deadline.

Initial allocations based on a fully adopted state rule are required to be submitted to USEPA no later than September 30, 2007. If Illinois fails to either fully adopt its CAIR proposal by September 25, 2007, or submit final NO_x allocations for the Annual and Ozone trading programs by September 30, 2007, USEPA will use the NO_x allocations for Illinois sources as set forth in the FIP. 71 *Fed. Reg.* 25328, April 28, 2006. These allocations would be for the 2009 control period. If USEPA uses the FIP allocations scheme, there will be allowances allocated from the Clean Air Set-Aside ("CASA") to EGUs rather than as described by the Illinois CASA regulations. Allowances from the CASA represent 25 percent of the NO_x budget for the 2009 control periods. As allowances from the CASA are intended to encourage installation of air pollution control equipment, as well as investment in energy efficiency and conservation, and renewable energy projects in the 2009 control period, these efforts would not receive this incentive for a critical year. The 2009 control period is the year looked to for attainment of the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards.

Therefore, the Illinois EPA stresses the importance and urgency in the Board continuing to handle this rulemaking in an expedited manner such that a final rule is effective before September 2007 if at all possible.

II. Comments from SIPC concerning initial allocations for 2009 through 2011.

Although the testimony elicited and evidence submitted to date in this proceeding reflect agreement of all parties on a number of issues, one of the regulated sources, SIPC, that it does not agree with Illinois EPA's initial allocation approach for years used for determining its initial allocation or with the option for using gross electrical output for the initial allocations for control periods 2009 through 2011.

With respect to the issues raised by SIPC, the Illinois EPA must take issue with SIPC's argument that it is "significantly disadvantaged" by the initial allocation methodology. While it may be true that there were not three years of "normal" operations at SIPC during the initial look-back period, as SIPC argues, this does not imply that SIPC should be treated differently from any other source. In any regulation of general applicability, there will always be affected sources that say the rule affects them differently than somebody else. However, adding a special provision for SIPC raises the question of what other sources might have issues whereby they did not have "normal" operations during the look-back period – whatever "normal" might mean.

Beyond that issue, the question must be raised as to whether SIPC is truly disadvantaged by the allocation. The Illinois EPA has estimated the approximate number of allowances SIPC would need for its Unit 123, which is at issue here, based on SIPC's description of 2005 being the first "normal" year. The available information indicates that if SIPC runs its control device throughout the year, it will easily have enough allowances, based on the draft allocations sent to USEPA by the Illinois EPA and posted on its website, to cover Unit 123. In addition, SIPC will

almost certainly receive *additional* allowances from the CASA. This means SIPC should not only have enough allowances to cover emissions from Unit 123, but also have enough allowances to bank or sell. Thus, altering the rule to provide SIPC with even more allowances is unnecessary.

The Illinois EPA must also point out the fact that other sources would be harmed by agreeing to SIPC's requested change. Illinois has a fixed number of allowances. Any allowance that is given to SIPC must be removed from the allocation for another source – a source that has demonstrated a need for that allowance using the proper allocation calculation.

SIPC essentially argues that it is disadvantaged by the line being drawn where it was for the purposes of calculating allocations. However, granting a special, essentially site-specific, change in the regulation for SIPC opens the door to all other affected regulated entities to request special treatment as well. But as it stands now, the calculation methodology is fair and equal to all sources in the program. Making the modification requested by SIPC would cause the allocation methodology to be slanted in favor of SIPC and would negatively impact other sources that lose allowances. And, as already noted, the Illinois EPA believes that if SIPC uses its control device throughout the year, the extra allowances are not needed for Unit 123 anyway.

With respect to SIPC's comments regarding output-based regulation, the Illinois EPA is aware that the timeline for submitting gross electrical output data needs to be modified, and this is addressed below. That issue aside, the concerns raised by SIPC regarding efficiency have been addressed in hearings and previous responses to SIPC's comments.

The Illinois EPA acknowledges that one of SIPC's boilers may not be as efficient as others in Illinois. However, circulating fluidized bed ("CFB") boilers were considered in the design of the regulation and are eligible for allowances from the CASA. Any perceived shortfall

in allowances allocated to this unit due to differences in efficiency should be exceeded by additional allowances allocated from the CASA. It should also be noted that virtually all electrical generating utility ("EGU") boilers in Illinois operate pollution control equipment that reduce the overall efficiency of a given unit. This is addressed by the allocation methodology being based on gross electrical output rather than net electrical output. The Illinois EPA continues to support its previous position that an output-based regulation is more environmentally beneficial than one based upon heat input. The Illinois EPA does not support amending this aspect of the rule in consideration of a single unit, especially given that this type of unit has been considered in the design of the rule as a whole.

It should be noted that on page 3 of SIPC's comments, SIPC indicates it believes the Illinois EPA opposes their suggested changes because the Illinois EPA would need to adjust allocations submitted to USEPA. However, this is not the case. SIPC has apparently misunderstood the Illinois EPA's reasoning. In fact, the reasons for the Illinois EPA's opposition are described above, and none have anything to do with previous submittal of allocations nor USEPA's parallel processing.

III. Anticipated comments from Midwest Generation

Midwest Generation has indicated it will be filing comments, asking for a modification to Subpart F. This modification apparently deals with the sorbent flow for mercury controls under the Combined Pollutant Standard ("CPS").

The Illinois EPA opposes such a change to Subpart F for several reasons. First, the sorbent flow language in the CPS matches the equivalent language in the Multi-Pollutant Standard ("MPS") found at Section 225.233(c)(2)(D). Changing the CPS without making the same change to the MPS is inappropriate and unfair to those sources planning to make use of the

MPS. Furthermore, Midwest Generation has only brought this issue to the Illinois EPA's attention one week prior to the end of first notice comment period. As such, the Illinois EPA has not had an adequate opportunity to fully review the implications of such a change. Overall, while the language in the CPS subpart, was agreed to by the Illinois EPA and Midwest Generation, this change was not, and is a last-minute modification with unforeseeable consequences.

IV. Proposed clarifications and corrections to the first notice.

As more time has elapsed than anticipated by the Illinois EPA's initial proposal for CAIR, a number of dates in the proposal, if left unchanged, would require retroactive compliance. The Illinois EPA has also received a second set of comments from USEPA and has noticed that a number of the amendments that it recommended in its January 5, 2007, comments to the Board on the initial proposal were not included in the first notice. In addition, there are some typos that need correction and that some clarifications that need to be made. Hence, the following comments address the above areas. Attached to these comments are suggested amendments to the first notice. Two different drafts have been attached. The first version includes strikeouts and underlines and the second version shows the text as if all the proposed changes are included in the second notice.

1. USEPA had given the Illinois EPA preliminary comments in December 2006. These comments were marked in blue highlighted underlining and strikeouts in the Illinois EPA's January 5, 2007, comments on the proposed rule. The first notice document does not appear to have incorporated any of the blue highlighted changes. To complicate matters, USEPA then gave the Illinois EPA a second set of comments in May 2007, some of which were different or undid the December recommendations. Hence, not all the blue changes are now appropriate or proposed by the Illinois EPA, only the ones noted below.

    a. Section 225.130 Definitions

i. In the definition for "CAIR authorized account representative" a "CAIR SO_2 Allowance System Tracking account" should be a CAIR SO_2 compliance account."

ii. The definition for "CAIR Trading Programs" should be deleted.

iii. The limitation of a "specified year" in the definition for "coal-fired" should be limited to the allocation provisions in Sections 225.435, 225.445, 225.535, and 225.545. The second part of the definition should be used for all other purposes:

For purposes of allocating allowances under Sections 225.435, 225.445, 225.535, and 225.545 ~~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;~~.~~ or

Except as provided above~~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.

iv. In the definition for "compliance account" the following paragraph should be added to define an SO_2 compliance account:

For the purposes of Subpart C, a "compliance account" means a CAIR SO_2 compliance account, established by USEPA for a CAIR SO_2 source pursuant to 40 CFR 96, subpart FFF in which any SO_2 allowance allocations for the CAIR SO_2 units at the source are initially recorded and in which are held any SO_2 allowances available for use for a control period in order to meet the source's CAIR SO_2 emissions limitations in accordance with Section 225.310 and 40 CFR 96.254, as incorporated by reference in Section 225.140.

v. In the definition for "nameplate capacity" the following words should be added:

… 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.

b. In new Section 225.150 Commence Commercial Operation, USEPA had requested that in the introductory phrase that the words "serving a generator" be

struck. They had also noted that references to the applicability sections in 40 CFR 96.104, 96.204, and 96.304 were inappropriate, in that the proposal did not incorporate by reference these sections and that the proposal should cite the applicability sections contained in the rule:

Commence commercial operation means, for the purposes of Subparts C, D and E, with regard to a unit ~~serving a generator~~:

a)1) For a unit that is a CAIR SO_2 unit, CAIR NO_x unit, or a CAIR NO_x Ozone Season unit pursuant to Sections 225.305, 225.405, and 225.505~~40 CFR 96.104, 96.204 or 96.304~~,

a)2) For a unit that is a CAIR SO_2 unit, CAIR NO_x unit, or a CAIR NO_x Ozone Season unit pursuant to Sections 225.305, 225.405, and 225.505~~40 CFR 96.104, 96.204 or 96.304~~,

c. In Sections 225.305, 225.405, and 225.505 Applicability, USEPA had commented that a verb rather than a conjunctions should preface subsections (b)(3)(B) and (b)(4)(B):

(b)(3)(B) Has~~With~~ an average annual fuel consumption…

(b)(4)(B) Has~~With~~ an average annual fuel consumption…

d. In Section 225.310 Compliance Requirements, USEPA made the following comments:

i. Subsection (c)(1) needs to include in addition to the monitoring requirements of Subpart HHH, the reporting and recordkeeping requirements:

… at the source must comply with the monitoring, reporting, and recordkeeping requirements of 40 CFR 96, subpart HHH….

ii. Subsection (d)(1) needs to clarify the allowance transfer deadline means by March 1 if it is a business day or by the first business day thereafter. The language also needs to specify that for SO_2 emissions, allowances are in tonnage equivalents:

By the allowance transfer deadline, March 1, 2011, and March 1 of each subsequent year if March 1 is a business day, the owner or operator of each CAIR SO_2 source and each CAIR SO_2 unit at the source must hold a tonnage equivalent in CAIR SO_2 allowances available for compliance deductions pursuant to 40 CFR 96.254(a) and (b) in the CAIR SO_2 source's CAIR SO_2 compliance ~~Allowance System Tracking~~ account. If March 1 is not a business day, the~~The~~ allowance transfer deadline is

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 on the allowance transfer deadline may not be less than the total tonnage equivalent of the tons of SO_2 emissions for the control period from all CAIR SO_2 units at the CAIR SO_2 source, as determined in accordance with 40 CFR 96, subpart HHH.

iii. Subsection (d)(3) needs to specify when the requirements for holding allowances commences:

(d)(3) Each CAIR SO_2 unit will be subject to the monitoring requirements of subsection (d) ~~(c)~~(1) of this Section for the control period starting on the later of January 1, 2010~~2009~~ ….

iv. Subsection (d)(7) needs to indicate that no CAIR SO_2 allowance constitutes a property right, whether or not it has been allocated by USEPA:

A CAIR SO_2 allowance ~~allocated by USEPA pursuant to the CAIR SO_2 TradingProgram~~ does not constitute a property right.

e. In Section 225.320 Permit Requirements, USEPA made the following comments:

Subsection (c) contains an incorrect cross reference and needs to incorporate by reference the definition in the federal CAIR:

Each CAIR permit is deemed to incorporate automatically the definitions and terms specified in Section 225.130 and 40 CFR 96.202, as incorporated by reference in Section 225.140~~225.120~~ and….

f. In Section 225.410 Compliance Requirements, USEPA made the following comments:

i. Subsection (a) should require the designated representative to comply with the CAIR trading program:

The designated representative~~owner or operator~~ of a CAIR NO_x unit must comply with the requirements of the CAIR NO_x Annual Trading Program for Illinois ….

ii. Subsection (c)(1) needs to include in addition to the monitoring requirements of Subpart HH, the reporting and recordkeeping requirements:

… at the source must comply with the monitoring, reporting, and recordkeeping requirements of 40 CFR 96, subpart HH….

iii. Subsection (d)(1) needs to clarify the allowance transfer deadline means by March 1 if it is a business day or by the first business day thereafter.

The allowance transfer deadline, March 1, 2010, and by March 1 of each subsequent year if March 1 is a business day, the owner or operator of each CAIR NO_x source and each CAIR NO_x unit at the source must hold CAIR NO_x allowances available for compliance deductions pursuant to 40 CFR 96.154(a) in the CAIR NO_x source's CAIR NO_x compliance account. If March 1 is not a business day, the~~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 on the allowance transfer deadline may not be less than the tons of NO_x emissions for the control period from all CAIR NO_x units at the source, as determined in accordance with 40 CFR 96, subpart HH.

iv. Subsection (d)(3) needs to specify that it is for the control period that the allowance holding requirement applies:

(d)(3) Each CAIR NO_x unit will be subject to the monitoring requirements of subsection (c)(1) of this Section for the control period starting on the later of January 1, 2009 ….

v. Subsection (d)(4) needs to be clarified:

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

vi. Subsection (d)(6) needs to specify that a CAIR NO_x allowance is a limited authorization to emit one ton irrespective of how it has been allocated:

A CAIR NO_x allowance ~~allocated by the Agency or USEPA pursuant to 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…

vii. Subsection (d)(7) needs to indicate that no CAIR NO_x allowance constitutes a property right, whether or not it has been allocated by USEPA:

A CAIR NO_x allowance ~~allocated by the Agency or USEPA pursuant to the CAIR NO_x Annual Trading Program~~ does not constitute …

g. In Section 225.420 Permit Requirements, USEPA commented that subsection (c) contains an incorrect cross reference and needs to incorporate by reference the definition in the federal CAIR:

Each CAIR permit is deemed to incorporate automatically the definitions and terms specified in Section 225.130 and 40 CFR 96.102, as incorporated by reference in Section 225.140~~225.120~~ an …

h. In Section 225.430(c) Timing for Annual Allocations, USEPA commented that the language was unclear and proposed the following:

For ~~The Agency will allocate allowances from the NUSA to~~ CAIR NO_x units that commence commercial operation on or after January 1, 2006, that have not been allocated allowances under Section 225.440 for the applicable or any preceding control period, the Agency will allocate allowances from the NUSA in accordance with Section 225.445. The Agency will …

i. In Section 225.435 Methodology for Calculating Annual Allocations, USEPA commented on:

i. The introductory phrase should contain the abbreviation for converted gross electrical output:

The Agency will calculate converted gross electrical output (CGO)…

ii. The equations in subsections (a)(1)(A), (a)(1)(B), (a)(1)(C), (b)(1)(A), (b)(1)(B), and (b)(1)(C) contain a typographical error in which it appears that the gross electrical output is being multiplied by the megawatt hours, which is incorrect:

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

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

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

iii. Subsection (c) the units for gross electrical output were omitted:

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

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

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

j. In Section 225.440 Annual Allocations, USEPA requested the following clarification about leftover allowances from the previous control period being added to the number being allocated in the subsequent control period:

a) …… Section 225.435, 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 and as adjusted to add allowances not allocated pursuant to ~~this~~ subsection (b) of this Section in the previous year's allocation.

b) …… pursuant to Section 225.435, to the extent whole allowances may be allocated. The Agency will retain any additional allowances beyond this allocation of whole allowances for allocation pursuant to subsection (a) of this Section in the next control period. ~~If there are insufficient allowances to allocate whole allowances pro rata, these unallocated allowances will be retained by the Agency and will be available for allocation in later control periods.~~

k. In Section 225.445(d)(5) New Unit Set-Aside (NUSA), USEPA requested that the wording concerning leftover allowances be clarified and that the take back provisions be deleted:

5)A) …….. using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to Section 225.445 in later control periods.

B) ……..using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to Section 225.445 in later control periods. ~~If there are insufficient allowances to allocate whole allowances, the unallocated allowances will be retained by the Agency and will 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 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.~~

l. In Section 225.450 Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy, USEPA had two comments:

i. Subsection (a) should require accurate monitoring:

….. a system for accurately measuring gross electrical output that is consistent with the requirements of either …

ii. Subsection (e) contains typographical errors:

… pursuant to the requirements of 40 CFR 60 or~~and~~ 75, as applicable, including the appropriate~~applicable~~….

m. In Section 225.460 Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects, USEPA requested that the last sentence be move to the middle of the paragraph and a cross reference be added as follows:

i. In subsection (c)(1):

…… (SNCR), or other add-on control devices for control of NO_x emissions. For this purpose, a unit will be considered "existing" after it has been in commercial operation for at least eight years. Air pollution control upgrade projects do not include the addition of low NO_x burners, overfired ….. ~~For this purpose, a unit will be considered "existing" after it has been in commercial operation for at least eight years.~~

ii. In subsection (d)(2)(B):

Projects undertaken pursuant to Section 225.233 or Subpart F.

n. In Section 225.480 Compliance Supplement Pool, USEPA requested the following phrasing:

In addition to the CAIR NO_x allowances allocated pursuant to Section 225.425, the USEPA has allowed allocation of~~provided~~ an additional 11,299 CAIR NO_x allowances in Illinois as a~~from the federal~~ compliance supplement pool to Illinois for the control period in 2009. However, ~~On January 1, 2009, the Agency will retire all 11,299 NO_x allowances~~ for the purposes of public health and air quality improvements, none of these allowances will be allocated.

o. In Section 225.510 Compliance Requirements, USEPA made the following comments:

i. Subsection (a) should require the designated representative to comply with the CAIR trading program:

The designated representative~~owner or operator~~ of a CAIR NO_x Ozone Season unit must comply with the requirements of the CAIR NO_x Ozone Season Trading Program for Illinois ….

ii. Subsection (c)(1) needs to include in addition to the monitoring requirements of Subpart HHHH, the reporting and recordkeeping requirements:

… at the source must comply with the monitoring, reporting, and recordkeeping requirements of 40 CFR 96, subpart HHHH….

iii. Subsection (d)(1) needs to clarify the allowance transfer deadline means by March 1 if it is a business day or by the first business day thereafter.

By the allowance transfer deadline, November 30, 2009, and by November 30 of each subsequent year if November 30 is a business day, the owner or operator of each CAIR NO_x Ozone Season source and each CAIR NO_x Ozone Season unit at the source must hold CAIR NO_x Ozone Season allowances available for compliance deductions pursuant to 40 CFR 96.154(a) in the CAIR NO_x Ozone Season source's CAIR NO_x Ozone Season compliance account. If November 30 is not a business day, the~~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 on the allowance transfer deadline may not be less than the tons of NO_x emissions for the control period from all CAIR NO_x Ozone Season units at the CAIR NO_x Ozone Season source, as determined in accordance with 40 CFR 96, subpart HHHH.

iv. Subsection (d)(3) needs to specify that it is for the control period that the allowance holding requirement applies:

(d)(3) Each CAIR NO_x Ozone Season unit will be subject to the monitoring requirements of subsection (c)(1) of this Section for the control period starting on the later of May1, 2009 ….

v. Subsection (d)(6) needs to specify that a CAIR NO_x Ozone Season allowance is a limited authorization to emit one ton irrespective of how it has been allocated:

A CAIR NO_x allowance ~~allocated by the Agency or USEPA pursuant to the CAIR NO_x Ozone Season Annual Trading Program~~ is a limited authorization to emit one ton of NO_x in accordance with the CAIR NO_x Ozone Season Trading Program…

vi. Subsection (d)(7) needs to indicate that no CAIR NO_x allowance constitutes a property right, whether or not it has been allocated by USEPA:

A CAIR NO_x Ozone Season allowance ~~allocated by the Agency or USEPA pursuant to the CAIR NO_x Ozone SeasonAnnual Trading Program~~ does not constitute …

vii. Subsection (d)(8) needs to be clarified as follows:

Upon recordation by USEPA pursuant to 40 CFR 96, subpart FFFF or GGGG, every allocation, transfer, or deduction of ~~an~~ a CAIR NO_x Ozone Season~~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 source. This automatic amendment of the CAIR permit will be deemed an operation of law and will not require any further review.

p. In Section 225.520 Permit Requirements, USEPA commented that subsection (c) contains an incorrect cross reference and needs to incorporate by reference the definition in the federal CAIR:

Each CAIR permit is deemed to incorporate automatically the definitions and terms specified in Section 225.130 and 40 CFR 96.302, as incorporated by reference in Section 225.140~~225.120~~ an …

q. In Section 225.530(c) Timing for Annual Allocations, USEPA commented that the language was unclear and proposed the following:

For ~~The Agency will allocate allowances from the NUSA to~~ CAIR NO_x Ozone Season units that commence commercial operation on or after May 1, 2006, that have not been allocated allowances under Section 225.440 for the applicable or any preceding control period, the Agency will allocate allowances from the NUSA in accordance with Section 225.545. The Agency …….

r. In Section 225.535 Methodology for Calculating Annual Allocations, USEPA commented on:

i. The introductory phrase should contain the abbreviation for converted gross electrical output:

The Agency will calculate converted gross electrical output (CGO)…

ii. The equations in subsections (a)(1)(A), (a)(1)(B), (a)(1)(C), (b)(1)(A), (b)(1)(B), and (b)(1)(C) contain a typographical error in which it appears

that the gross electrical output is being multiplied by the megawatt hours, which is incorrect:

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

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

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

iii. Subsection (b) also contains a grammatical error:

(b) ….that either gross electrical output data or heat input data is to be used….

iv. Subsection (c) the units for gross electrical output were omitted:

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

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

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

s. In Section 225.540 Annual Allocations, USEPA requested the following clarification about leftover allowances from the previous control period being added to the number being allocated in the subsequent control period:

a) …… Section 225.535, 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 and as adjusted to add allowances not allocated pursuant to ~~this Section 225.540~~ subsection (b) of this Section in the previous year's allocation.

b) …… pursuant to Section 225.535, to the extent whole allowances may be allocated. The Agency will retain any additional allowances beyond this allocation of whole allowances for allocation pursuant to subsection (a) of this Section in the next control period. ~~If there are insufficient allowances to allocate whole allowances pro rata, these unallocated allowances will be retained by the Agency and will be available for allocation in later control periods.~~

t. In Section 225.545(d)(5) New Unit Set-Aside (NUSA), USEPA requested that the wording concerning leftover allowances be clarified and that the take back provisions be deleted:

5)A) …….. using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to Section 225.545 in later control periods.

B) ……..using the unprorated allocation determined for that unit pursuant to subsection (d)(4) of this Section, to the extent that whole allowances may be allocated. For any additional allowances beyond this allocation of whole allowances, the Agency will retain the additional allowances in the NUSA for allocation pursuant to Section 225.545 in later control periods. ~~If there are insufficient allowances to allocate whole allowances, the unallocated allowances will be retained by the Agency and will 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 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.~~

u. In Section 225.550 Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy, USEPA had two comments:

i. Subsection (a) should require accurate monitoring:

….. a system for accurately measuring gross electrical output that is consistent with the requirements of either …

ii. Subsection (e) contains typographical errors:

… pursuant to the requirements of 40 CFR 60 or~~and~~ 75,as applicable, including the appropriate~~applicable~~….

v. In Section 225.560 Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects, USEPA requested that the last sentence be move to the middle of the paragraph and a cross reference be added as follows:

i. In subsection (c)(1):

…… (SNCR), or other add-on control devices for control of NO_x emissions. For this purpose, a unit will be considered "existing" after it has been in commercial operation for at least eight years. Air pollution control upgrade projects do not include the addition of low NO_x burners, overfired ….. ~~For this purpose, a unit will be considered "existing" after it has been in commercial operation for at least eight years.~~

ii. In subsection (d)(2)(B):

Projects undertaken pursuant to Section 225.233 or Subpart F.

2. The Illinois EPA is proposing the following changes based on USEPA's second set of comments:

a. In Section 225.150 Commence Commercial Operation:

i. In subsections (a)(2) and (b)(2), the second "replaced unit" should be replacement unit, consistent with the definition in 40 CFR 96.102, 96.202, and 96.302.

(a)(2) ……., and the replacement~~replaced~~ unit will be treated as a separate unit with a separate date for commencement of ….

(b)(2) ….., and the replacement~~replaced~~ unit will be treated as a separate unit with a separate date for commencement of ……

ii. In subsection (b), USEPA requested that affected unit be referred to as a CAIR SO_2 unit, CAIR NO_x unit, or CAIR NO_x Ozone unit:

(b) …… November 15, 1990 or the date the unit commences commercial operation as defined in subsection (a) of this Section, the unit's date for commencement of commercial operation will be the date on which the unit becomes a CAIR SO_2 unit, CAIR NO_x unit, or CAIR NO_x Ozone Season unit ~~an affected unit~~ pursuant to Section 225.305, 225.405, or 225.505, respectively.

b. In Section 225.310 Compliance Requirements:

i. In subsection (d)(1), USEPA commented that the word "midnight" had been left out of the transfer deadline phrase

By the allowance transfer deadline, midnight of March 1, 2011, and by midnight of March 1 of each subsequent year, ….

ii. In subsection (d)(2), USEPA commented that it is only excess emissions in whole tons not fractions for which an owner or operator can fail to meet the allowance holding requirement for a given control period:

Each ton of excess emissions of a SO_2 of ~~emitted by~~ a CAIR SO_2 ~~unit~~ source ~~in excess of tonnage authorization of CAIR SO2 allowances held by the owner or operator for each CAIR SO2 unit in its CAIR SO2 Allowance System Tracking account~~ for each day of a control period starting in 2010 ~~the applicable control period~~, will constitute a separate violation of the this Subpart C, the Clean Air Act, and the Act."

iii. In subsection (d)(3), USEPA commented that the section is not correctly referenced and is not limited to monitoring. The word "monitoring" need to be deleted in the first sentence and the cross reference corrected.

Each CAIR SO_2 unit will be subject to the ~~monitoring~~ requirements of subsection (d)(1) ~~(c)(1)~~ of this Section …

iv. In subsection (d)(8), USEPA commented that the language was different from that contained in Section 225.410:

Upon recordation by USEPA pursuant to 40 CFR 96, subpart FFF or GGG, every allocation, transfer, or deduction of a CAIR SO_2 allowance to or from a CAIR SO_2 source~~'s~~ compliance account~~, as defined by 40 CFR 96.202,~~ is deemed to amend automatically……

c. In Section 225.410 Compliance Requirements:

i. In subsection (d)(1), USEPA commented that the word "midnight" had been left out of the transfer deadline phrase

By the allowance transfer deadline, midnight of March 1, 2010, and by midnight of March 1 of each subsequent year, ….

ii. In subsection (d)(2), USEPA commented that it is only excess emissions in whole tons not fractions for which an owner or operator can fail to meet the allowance holding requirement for a given control period:

Each ton of excess emissions of a CAIR NO_x source for each day in a control period, starting in 2009, ~~NO_x emitted in excess of the number of CAIR NO_x allowances held by the owner or operator for each CAIR NO_x unit in its CAIR NO_x compliance account for each day of the applicable control period~~ will constitute a separate violation of this Subpart D, the Act, and the CAA.

iii. In subsection (d)(3), USEPA commented that the section is not correctly referenced and is not limited to monitoring. The word "monitoring" need to be deleted in the first sentence and the cross reference corrected.

Each CAIR NO_x unit will be subject to the ~~monitoring~~ requirements of subsection (d)(1) ~~(c)(1)~~ of this Section …

d. In Sections 225.440 and 225.540 Annual Allocations, USEPA commented that Sections 225.440 and 225.540 refers to units' "total converted gross electrical output" but the term is used in Sections 225.435 and 225.535 only for combustion turbines that cogenerate. The Illinois EPA intends that allowances be allocated to both electrical generating unit that do not cogenerate, as well as units that do cogenerate, hence, it proposes the following clarifications:

i. Section 225.440 Annual Allocations

a) For the 2009 control period, and each control period thereafter, the Agency will allocate, to all CAIR NO_x units in Illinois for which the Agency has calculated the converted gross electrical output pursuant to Section 225.435(a), (b), or (c) or the total converted gross electrical output pursuant to Section 225.435(d), as applicable, a total amount …...

b) The Agency will allocate CAIR NO_x allowances to each CAIR NO_x unit on a pro-rata basis using the unit's converted gross electrical output pursuant to Section 225.435(a), (b), or (c), or total converted gross electrical output pursuant to Section 225.435(d), as applicable……

ii. Section 225.540 Ozone Season Allocations

a) For the 2009 control period, and each control period thereafter, the Agency will allocate, to all CAIR NO_x Ozone Season units in Illinois for which the Agency has calculated the converted gross electrical output pursuant to Section 225.535(a), (b), or (c), or the total converted gross electrical output pursuant to Section 225.435(d), as applicable, a total amount of CAIR NO_x ….

b) The Agency will allocate CAIR NO_x Ozone Season allowances to each CAIR NO_x Ozone Season unit on a pro-rata basis using the unit's converted gross electrical output pursuant to Section 225.535(a), (b), or (c), or total converted gross electrical output pursuant to Section 225.435(d), as applicable…..

e. In Sections 225.445 New Unit Set-Aside (NUSA):

i. The introductory paragraph is not consistent with Section 225.430(c):

…… do not yet have an allocation for the particular control period or any preceding control period pursuant to Section 225.440…

ii. Subsection (d)(4) refers to units' "total converted gross electrical output" but term as it is used in subsections (d)(1) and (d)(2) only for combustion turbines that cogenerate. The Illinois EPA intends that both new noncogenerating and cogenerating units receive allocations; hence, it proposes the following clarifications:

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

Where:

UA_y	=	unprorated allocation to a new CAIR NO_x unit.
$NCGO_y$ / ~~$TCGO_y$~~	=	converted gross electrical oupt or total converted gross electrical output, as applicable, for a new CAIR NO_x unit.

f. In Section 225.510 Compliance Requirements:

i. In subsection (d)(1), USEPA commented that the word "midnight" had been left out of the transfer deadline phrase

By the allowance transfer deadline, midnight of November 30, 2009, and by midnight of November 30 of each subsequent year, ….

ii. In subsection (d)(2), USEPA commented that only it is only excess emissions in whole tons not fractions for which an owner or operator can fail to meet the allowance holding requirement for a given control period:

Each ton of excess emissions of a CAIR NO_x Ozone Season source for each day in a control period, starting in 2009, ~~NO_x emitted in excess of the number of CAIR NO_x allowances held by the owner or operator for each CAIR NO_x unit in its CAIR NO_x compliance account for each day of the applicable control period~~ will constitute a separate violation of this Subpart D, the Act, and the CAA.

iii. In subsection (d)(3), USEPA commented that the section is not correctly referenced and is not limited to monitoring. The word "monitoring" need to be deleted in the first sentence and the cross reference corrected.

Each CAIR NO_x Ozone Season unit will be subject to the ~~monitoring~~ requirements of subsection (d)(1) ~~(c)(1)~~ of this Section …

iv. In subsection (e)(1)(D), "CAIR NO_x Ozone Season permit application" should read "CAIR permit application":

Copies of all documents used to complete a CAIR ~~NO_x Ozone Season~~ permit application …..

g. In Section 225.545 New Unit Set-Aside (NUSA):

i. The introductory paragraph is not consistent with Section 225.530(c):

…… do not yet have an allocation for the particular control period or any preceding control period pursuant to Section 225.540…

ii. Subsection (d)(4) refers to units' "total converted gross electrical output" but term as it is used in subsections (d)(1) and (d)(2) only for combustion turbines that cogenerate. The Illinois EPA intends that both new noncogenerating and cogenerating units receive allocations; hence, it proposes the following clarifications:

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

Where:

UA_y	=	unprorated allocation to a new CAIR NO_x Ozone Season unit.
$NCGO_y$ / ~~$TCGO_y$~~	=	converted gross electrical oupt or total converted gross electrical output, as applicable, for a new CAIR NO_x Oaone Season unit.

h. USEPA pointed out several places in the proposal where the dates are inconsistent with the federal CAIR requirements:

i. In Sections 225.420(a)(4) and (a)(5) Permit Requirements, the date for a designated representative to submit a CAIR permit application for an existing unit will be passed before the CAIR rule has been fully approved by USEPA. The Illinois EPA expects that the CAIR rule will fully adopted and approved by September 2007 and believes that it is reasonable to require a permit application to be submitted within 90 days of USEPA's full approval.

(a)(4)For all CAIR NO_x units that commenced operation before December 31, 2007~~July 1, 2007~~, the owner or operator of the unit must submit a

CAIR permit application meeting the requirements of this Section on or before December 31, 2007~~July 1, 2007~~.

(a)(5) For all CAIR NO_x units that commence operation on or after December 31~~July 1~~, 2007, the

ii. In Section 225.430(a) Timing for Annual Allocations, the date for submitting the initial allocations was April 30, 2007, the rule states July 31, 2007, and it is likely that the rule will not be fully adopted before September 2007. USEPA will be making allocations by September 30, 2007. Hence, the July 31, 2007, date should be changed to "on or before September 25, 2007."

On or before September 25, 2007,~~No later than July 31, 2007,~~ the Agency will submit to USEPA the CAIR NO_x allowance allocations, in accordance with Sections 225.435 and 225.440, for the 2009, 2010, and 2011 control periods.

iii. In Section 225.435(a) Methodology for Calculating Annual Allocations, the proposal requires that on or before June 1, 2007, owners or operators to choose between gross electrical ouput data or heat input data for the initial control periods 2009, 2010, and 2011. While many owners and operators submitted data prior to this date, the rule still needs to contain an enforceable date, e.g. September 15, 2007.

For control periods 2009, 2010, and 2011, the owner or operator of the unit must submit in writing to the Agency, by September 15, 2007~~June 1, 2007~~, a statement that either ….

iv. In Section 225.450(c)(1) Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Energy requires owner or operator electing to use gross electrical output data for the initial allocations to submit data by June 1, 2007. While many owners and operators submitted data prior to this date, rule still needs to contain an enforceable date, e.g. September 15, 2007.

By September 15, 2007~~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….

v. In Section 225.520(a)(4) Permit Requirements, the date for a designated representative to submit a CAIR permit application for an existing unit will be passed before the CAIR rule has been fully approved by USEPA. The Illinois EPA expects that the CAIR rule will fully adopted and approved by September 2007 and believes that it is reasonable to require a

permit application to be submitted within 90 days of USEPA's full approval.

For all CAIR NO_x Ozone Season units that commenced operation before December 31, 2007~~July 1, 2007~~, the owner or operator of the unit must submit a CAIR permit application meeting the requirements of this Section on or before December 31, 2007~~July 1, 2007~~.

vi. In Section 225.530(a) Timing for Annual Allocations, the date for submitting the initial allocations was April 30, 2007, the rule states July 31, 2007, and it is likely that the rule will not be fully adopted before September 2007. USEPA will be making allocations by September 30, 2007. Hence, the July 31, 2007 date should be changed to "on or before September 25, 2007."

On or before September 25, 2007,~~No later than July 31, 2007,~~ the Agency will submit to USEPA the CAIR NO_x allowance allocations, in accordance with Sections 225.535 and 225.440, for the 2009, 2010, and 2011 control periods.

vii. In Section 225.535(a) Methodology for Calculating Annual Allocations, the proposal requires that on or before June 1, 2007, owners or operators to choose between gross electrical ouput data or heat input data for the initial control periods 2009, 2010, and 2011. While many owners and operators submitted data prior to this date, rule still needs to contain an enforceable date, e.g. September 15, 2007.

For control periods 2009, 2010, and 2011, the owner or operator of the unit must submit in writing to the Agency, by September 15, 2007~~June 1, 2007~~, a statement that either ….

viii. In Section 225.550(c)(1) Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Energy requires owner or operator electing to use gross electrical output data for the initial allocations to submit data by June 1, 2007. While many owners and operators submitted data prior to this date, the rule still needs to contain an enforceable date, e.g. September 15, 2007.

By September 15, 2007~~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….

i. USEPA indicated that the designated representative is required under the federal CAIR to submit the CAIR permit. The CAIR permit will still be issued to the owner or operator of the CAIR source. This is similar to how the Illinois EPA addresses the permit application requirements for the federal Acid Rain program.

i. Section 225.310(b) Compliance Requirements

b)1) The designated representative ~~owner or operator~~ of each source with one or more CAIR SO_2 units at the source must apply for a permit issued by the Agency with federally enforceable conditions …..

ii. Section 225.410(b) Compliance Requirements

b)1) The designated representative ~~owner or operator~~ of each source with one or more CAIR NO_x units at the source must apply for a permit issued by the Agency with federally enforceable conditions …..

iii. Section 225.510(b) Compliance Requirements

b)1) The designated representative ~~owner or operator~~ of each source with one or more CAIR NO_x Ozone Season units at the source must apply for a permit issued by the Agency with federally enforceable conditions …..

h. Section 225.320(a)(3), 225.420(a)(3), and 225.520(a)(3), the provisions conflict with 40 CFR 96.151(a), 96.251(a), and 96.351(a); hence, the phrase "and no CAIR xxx compliance account may be established for a CAIR xxx source…" should be deleted:

Section 225.320(a)(3):

No CAIR permit may be issued ~~and no CAIR SO_2 Allowance System Tracking account may be established for the CAIR SO_2 source,~~ until the Agency and USEPA have received a complete certificate….

Section 225.420(a)(3):

No CAIR permit may be issued~~, and no CAIR NO_x compliance account may be established for a CAIR NO_x source,~~ until the Agency and USEPA have received a complete certificate of representation…..

Section 225.520(a)(3):

No CAIR permit may be issued~~, and no CAIR NO_x Ozone Season compliance account may be established for a CAIR NO_x Ozone Season,~~ until the Agency and USEPA have received a complete certificate …

3. The Illinois EPA in reviewing the first notice as published in the *Illinois Register* and the regulatory proposal, and the motions to amend that have been submitted noticed the following discrepancies is proposing the following revisions:

a. There is a typographical error in Section 225.325(b)(2), "0.5 ton of" should be "0.5<u>0</u> ton of:"

For one CAIR SO_2 allowance allocated for a control period in 2010 through 2014, 0.5<u>0</u> ton of SO_2, except……

b. There is a typographical error in Section 225.465(b)(4)(B). In the last dotpoint, the word "ratio" is used and it should be the word "rate:"

- If the ER_q is less than the lower limit, the lower limit shall be used.
- If ER_q is greater than the upper limit, the upper limit shall be used.
- If ER_q is not expressed in lb/MWh, the number must be converted to lb/MWh using a heat <u>rate</u> ~~ratio~~ of 10 mmBtu/1 MW.

c. The following amendments from its January 5, 2007 comment to Sections 225.465(b)(5)(B) and 225.565.(b)(5)(B) CASA Allowances were not included:

i. 5)~~A)~~ For highly efficient power generation and <u>clean coal</u> technology projects:

<u>A)</u> <u>For projects other than fluidized coal combustion</u> pursuant to Sections 225.460(a)(4)(B), (a)(4)(C) and (c)(2), the number of allowances <u>must</u>~~shall~~ be calculated using the number of ~~megawatt hours~~ <u>MWh</u> of electricity the project generates during a control period and the following formula:

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

<u>B) For fluidized bed coal combustion projects pursuant to Section 225.460(c)(2), the number of allowances shall be calculated using the number of gross MWh of electricity the project generates during a control period and the following formula:</u>

$$\underline{A = (MWh_g) \times (1.4 \text{ lb/MWh} - ER \text{ lb/MWh}) / 2000 \text{ lb}}$$

<u>Where:</u>

<u>A = The number of allowances for a particular project.</u>
<u>MWh_g = The number of gross MWh of electricity generated during a control period by a</u>

project.

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

ii. 5)~~A)~~ For highly efficient power generation and clean coal technology projects:

A) For projects other than fluidized coal combustion pursuant to Sections 225.560(a)(4)(B), (a)(4)(C) and (c)(2), the number of allowances must be calculated using the number of ~~megawatt hours~~ MWh of electricity the project generates during a control period and the following formula:

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

B) For fluidized bed coal combustion projects pursuant to Section 225.560(c)(2), the number of allowances shall be calculated using the number of gross MWh of electricity the project generates during a control period and the following formula:

$A = (MWh_g) \times (1.4 \text{ lb/MWh} - ER \text{ lb/MWh}) / 2000 \text{ lb}$

Where:

A = The number of allowances for a particular project.

MWh_g = The number of gross MWh 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.

d. In Section 225.325(a) Trading Program, there is a typographical error. 40 CFR 96.220 should be 40 CFR 96.202:

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 96.202~~96.220~~, as incorporated by reference in ……

e. In Sections 225.435(b)(2) and 225.535(b)(2) Methodology for Calculating Annual Allocations, there is a typographical error:

Heat input: The average of the unit's two most recent years of control period heat inputs; ~~otherwise the unit's most recent control period's heat input~~, e.g., for the 2012 …

f. In Section 225.450(a) Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy several words were omitted from the Illinois EPA January 5, 2007, comment:

By January 1, 2008, or by the date of commencing commercial operation, whichever is later, the owner or operator of the CAIR NO_x unit must operate a system for measuring gross electrical output that is consistent with the requirements of either 40 CFR 60 or 75; must measure gross electrical output in MWh using such a system at all times;

g. Section 225.460 Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects:

i. In subsection (c)(2)(B) several words were omitted from the Illinois EPA January 5, 2007, comment:

Fluidized bed coal combustion that commenced operation prior to December 31, 2006.

ii. In subsection (e):

…… The application must designate which category or categories from those listed in subsections (a)(1) through (c)(2)(B) ~~(c)(2)(A)~~ of this Section best fit the proposed project and the applicable formula pursuant to Section 225.465(b) to calculate the number of allowances that it is requesting. The Agency will 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 subsections (a) through (c)(2)(B) ~~(c)(2)(A)~~ of this Section.

h. In Section 225.475(b)(3) Agency Action on Clean Air Set-Aside (CASA) Applications a hyphen needs to be added between "pro" and rata."

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 allowances to project categories that have fewer than twice the number of allowances assigned to that project category. The pro-rata …

i. In Section 225.520((a)(2) Permit Requirements there is an "or" where there should be an "and"

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

this Section.

j. In Section 225.550 Monitoring, Recordkeeping and Reporting Requirements for Gross Electrical Output and Useful Thermal Energy several words were omitted from the Illinois EPA January 5, 2007, comment:

i. In subsection (a):

By January 1, 2008, or by the date of commencing commercial operation, whichever is later, the owner or operator of the CAIR NO_x Ozone Season unit must operate a system for measuring gross electrical output that is consistent with the requirements of either 40 CFR 60 or 75; must measure gross electrical output in MWh using such a system at all times;

ii. In subsection (b) the date is retroactive:

For a CAIR NO_x Ozone Season unit that is a cogeneration unit, by January 1, 2008~~2007~~, or by the date the CAIR NO_x Ozone Season unit commences to produce useful thermal energy, whichever is later……

iii. In subsection (e)(1) the cross-reference is incorrect:

(e)(1).. A description of the system to be used for the measurement of gross electrical output pursuant to Section 225.550(a) ~~225.450(a),~~ including a list of any data logging devices, solid-state kW meters, rotating kW meters, electromechanical kW meters

k. Section 225.560 Energy Efficiency and Conservation, Renewable Energy, and Clean Technology Projects::

In subsection (c)(2)(B) several words were omitted from the Illinois EPA January 5, 2007, comment:

Fluidized bed coal combustion that commenced operation prior to December 31, 2006.

l. In Section 225.575(b)(3) Agency Action on Clean Air Set-Aside (CASA) Applications a hyphen needs to be added between “pro” and rata.”

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 allowances to project categories that have fewer than twice the number of allowances assigned to that project category…

m. In Sections 225.305(b)(1), (b)(3), & (b)(4), 225.405(b)(1), (b)(3), & (b)(4), and 225.505(b)(1), (b)(3), & (b)(4) the phrase "would otherwise be classified as" was omitted from:

Any unit that would otherwise be classified as ~~is~~ a CAIR…..

n. In Section 225.530(b) the dates were inconsistent:

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

4. In reviewing the changes made to accommodate the Mercury rulemaking and adding new Subpart F, the Illinois EPA would request the following changes:

a. The following abbreviations are used in the CAIR proposal, Subparts C, D, E, and F and should be added to Section 225.120 Abbreviations and Acronyms:

Act	Environmental Protection Act [415 ILCS 5]
ACI	activated carbon injection
Agency	Illinois Environmental Protection Agency
Btu	British thermal unit
CAA	Clean Air Act [42 USC 7401 et seq.]
CAIR	Clean Air Interstate Rule
CAAPP	Clean Air Act Permit Program
CASA	Clean Air Set-Aside
CEMS	continuous emission monitoring system
CO_2	carbon dioxide
CPS	Combined Pollutant Standards
CGO	converted gross electrical output
CUTE	converted useful thermal energy
EGU	electric generating unit
ESP	electrostatic precipitator
FGD	flue gas desulfurization
GO	gross electrical output
GWh	gigawatt hour
HI	heat input
hr	hour
kg	kilogram
lb	pound
MPS	Multi-Pollutant Standard
MW	megawatt
MWe	megawatt electrical
MWh	megawatt hour

NAAQS	National Ambient Air Quality Standards
NO_x	nitrogen oxides
NUSA	New Unit Set-Aside
ORIS	Office of Regulatory Information Systems
O_2	oxygen
$PM_{2.5}$	Particles less than 2.5 micrometers in diameter
RATA	relative accuracy test audit
SO_2	sulfur dioxide
SNCR	selective noncatalytic reduction
TTBS	Temporary Technology Based Standard
TCGO	total converted useful thermal energy
UTE	useful thermal energy
USEPA	United States Environmental Protection Agency
yr	year

b. The federal Acid Rain, CAIR, and Clean Air Mercury Rule ("CAMR") require that the same person be the designated representative for all three programs:

"Designated representative" means, for the purposes of Subpart B of this Part, the same natural person as defined in 40 CFR 60.4102, and is the same natural person as person who is the designated representative for the CAIR and Acid Rain programs.

c. The following definitions exclude Subpart F and should be revised to include applicability to this Subpart.

"Averaging demonstration" means, with regard to Subparts ~~Subpart~~ B and F ~~of this Part~~, a demonstration of compliance that is based on the combined performance of EGUs at two or more sources.

"Commence commercial operation" means, for the purposes of Subparts ~~Subpart~~ B and F ~~of this Part~~, with regard to an EGU that serves a generator, to have begun to produce steam, gas, ……

"Output-based emission standard" means, for the purposes of Subparts ~~Subpart~~ B and F ~~of this Part~~, a maximum allowable rate of emissions of mercury per unit of gross electrical output from an EGU.

"Rolling 12-month basis" means, for the purposes of Subparts ~~Subpart~~ B and F ~~of this Part~~, a determination made ……

5. In USEPA's comments and the federal CAIR state that a new unit does not receive allowances for the first control period in which it commences commercial operation. In the Illinois EPA's January 5, 2007, commented and proposed some new wording, including allocation date in the Ozone Season program of July 31 of the applicable control period. Additional amendments are recommended for

clarity with the following caveats. 1) a new unit becomes an existing unit five years after the control period in which it commenced commercial operation based on the first year of operation. 2) A new unit will receive allowances from the new unit set-aside (NUSA) for its 2nd, 3rd, 4th, and 5th years of commercial operation if the unit has gross electrical output for the prior control period. 3) A unit that commences commercial operation after January 1, 2006, never has the option of using heat input data.

Further, the Illinois EPA reviewed its testimony on allocations to existing units and it indicated that in years where a unit did not operate a zero would be averaged in. Hence, a number of conforming amendments need to be made to make this allocation process clear for both the annual and ozone season trading programs for new and existing units. For illustrative purposes only the amendments to the CAIR NO_x Annual Trading Program are shown.

Section 225.435 Methodology for Calculating Annual Allocations

a)1) Gross electrical output: … has three or fewer control periods of gross electrical output data, the gross electrical output will be the average of those control periods for which data is available. ~~If the unit does not have gross electrical output for the 2004 and 2005 control periods, the gross electrical output will be the gross electrical output data from the 2005 control period.~~

a)2) Heat input (HI): If …has three or fewer control periods of heat input data, the heat input will be the average of those control periods for which data is available. ~~from the 2003, 2004, or 2005 control period, the heat input will be the average of those years.~~ ~~If the unit does not have gross electrical output for the 2004 and 2005 control periods, the gross electrical output will be the gross electrical output data from the 2005 control period.~~

b)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 unit commences commercial operation in the 2007 control period and does not have gross electrical output for the 2006 control period, then the gross electrical output from 2007 will be used.

b)2) Heat input: The average of the unit's two most recent years of control period heat input~~; otherwise it will be the unit's most recent control period's gross electrical output~~, 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~~….

c) For control period 2014 and thereafter, the unit's gross electrical output will 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's gross~~

~~electrical output~~ If a unit commences commercial operation in the most recent control period and does not have gross electrical output for two control periods, the gross electrical output from the most recent control period, e.g., if the unit commences commercial operation in 2009 and does not have gross electrical output from 2008, gross electrical output from 2009 will be used.

d) ……. will 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. In the first year for which a unit is considered to be an existing unit rather than a new unit, the unit's control period useful thermal output for the prior year will be used. The converted useful thermal …..

Section 225.445 New Unit Set-Aside (NUSA)

b) The CAIR designated representative of a new CAIR NO_x 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 fifth ~~first~~ control period after the control period in which the unit commences commercial operation.~~for which the unit may use CAIR NO_x allowances allocated to the unit pursuant to Section 225.440~~ …...

h) After a new CAIR NO_x unit has operated in one control period, it becomes an existing unit for the purposes of calculating future allocations in Section 225.440 only, and the Agency will allocate CAIR NO_x allowances for that unit, for the control period commencing five control periods after the control period in which the unit commenced commercial operation~~four years in the future~~, pursuant to Section 225.440. For example, ……..

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
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