**Section 225.410 Compliance Requirements**

a) The designated representative of a CAIR NOx unit must comply with the requirements of the CAIR NOx Annual Trading Program for Illinois as set forth in this Subpart D and 40 CFR 96, subpart AA (NOx 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 NOx Sources); 40 CFR 96, subpart FF (CAIR NOx Allowance Tracking System); 40 CFR 96, subpart GG (CAIR NOx Allowance Transfers); and 40 CFR 96, subpart HH (Monitoring and Reporting); as incorporated by reference in Section 225.140.

b) Permit requirements:

1) The designated representative of each source with one or more CAIR NOx units at the source must apply for a permit issued by the Agency with federally enforceable conditions covering the CAIR NOx Annual Trading Program ("CAIR permit") that complies with the requirements of Section 225.420 (Permit Requirements).

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

c) Monitoring requirements:

1) The owner or operator of each CAIR NOx source and each CAIR NOx unit at the source must comply with the monitoring, reporting and recordkeeping requirements of 40 CFR 96, subpart HH and Section 225.450. The CAIR designated representative of each CAIR NOx source and each CAIR NOx unit at the CAIR NOx 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 NOx source with the NOx emissions limitation pursuant to subsection (d) of this Section will 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, midnight of March 1, 2010, and by midnight March 1 of each subsequent year if March 1 is a business day, the owner or operator of each CAIR NOx source and each CAIR NOx unit at the source must hold CAIR NOx allowances available for compliance deductions pursuant to 40 CFR 96.154(a) in the CAIR NOx source's CAIR NOx compliance account. If March 1 is not a business day, the allowance transfer deadline means by 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 NOx emissions for the control period from all CAIR NOx units at the source, as determined in accordance with 40 CFR 96, subpart HH.

2) Each ton of excess emissions of a CAIR NOx source for each day in a control period, starting in 2009, will constitute a separate violation of this Subpart D, the Act, and the CAA.

3) Each CAIR NOx unit will be subject to the requirements of subsection (d)(1) of this Section for the control period starting on the later of January 1, 2009 or the deadline for meeting the unit's monitoring certification requirements pursuant to 40 CFR 96.170(b)(1) or (b)(2) and for each control period thereafter.

4) CAIR NOx 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.

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

6) A CAIR NOx allowance is a limited authorization to emit one ton of NOx in accordance with the CAIR NOx Trading Program. No provision of the CAIR NOx Trading Program, the CAIR NOx permit application, the CAIR permit, or a retired unit exemption pursuant to 40 CFR 96.105, and no provision of law, will be construed to limit the authority of the United States or the State to terminate or limit this authorization.

7) A CAIR NOx allowance does not constitute a property right.

8) Upon recordation by USEPA pursuant to 40 CFR 96, subpart FF or subpart GG, every allocation, transfer, or deduction of a CAIR NOx allowance to or from a CAIR NOx source compliance account is deemed to amend automatically, and become a part of, any CAIR NOx permit of the CAIR NOx source. This automatic amendment of the CAIR permit will 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 NOx source and each CAIR NOx unit at the source must 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 NOx 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 documents are superseded because of the submission of a new certificate of representation, pursuant to 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 the CAIR NOx Annual Trading Program or documents necessary to demonstrate compliance with the requirements of the CAIR NOx Annual Trading Program or with the requirements of this Subpart D.

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

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

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

f) Liability:

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

2) Each CAIR NOx source and each CAIR NOx unit must meet the requirements of the CAIR NOx Annual Trading Program.

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

4) Any provision of the CAIR NOx Annual Trading Program that applies to a CAIR NOx unit (including any provision applicable to the CAIR designated representative of a CAIR NOx unit) will also apply to the owner and operator of the CAIR NOx unit.

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

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

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

(Source: Added at 31 Ill. Reg. 12864, effective August 31, 2007)