

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

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Vintage or vintage year—The calendar year assigned to an allowance by the issuing authority that designates the first year in which it is valid for use in meeting an emission limit.

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CHAPTER 129. STANDARDS FOR SOURCES

ADDITIONAL NO_x REQUIREMENTS

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§ 129.204. Emission accountability.

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(b) The owner or operator shall determine actual emissions in accordance with one of the following:

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(2) If the owner or operator of the unit is not required to monitor NO_x emissions with a CEMS, one of the following shall be used to determine actual emissions of NO_x:

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(iv) An alternate calculation and record keeping procedure based upon emissions testing and correlations with operating parameters. The operator of the unit shall demonstrate that the alternate procedure does not underestimate actual emissions throughout the allowable range of operating conditions. **In regard to obtaining the Department's approval for an alternate calculation method and record keeping procedure for actual emissions, the owner or operator may request an adjustment to the allowable emissions calculations set forth in §§ 129.201 - 129.203. An allowable emission adjustment may not overestimate a unit's allowable emissions and must be based upon the parameters and procedures proposed in the alternate calculation method for actual emissions.** The alternate calculation and record keeping procedures must be approved by the Department, in writing, prior to implementation.

(c) The owner or operator of a unit subject to this section shall surrender to the Department one **CAIR NOx Ozone Season** allowance, as defined in § **[145.2]145.202** (relating to definitions), for each ton of NOx by which the combined actual emissions exceed the allowable emissions of the units subject to this section at a facility from May 1 through September 30. The surrendered NOx allowances shall be of current year vintage. For the purpose of determining the amount of allowances to surrender, any remaining fraction of a ton equal to or greater than 0.50 ton is deemed to equal 1 ton and any fraction of a ton less than 0.50 ton is deemed to equal zero tons.

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CHAPTER 145. INTERSTATE POLLUTION TRANSPORT REDUCTION

Subchapter A. NOx BUDGET TRADING PROGRAM

GENERAL PROVISIONS

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§ 145.8. Transition to CAIR NOx trading programs.

(a) The final year for NOx allowance allocations to be made by the Department under §§ 145.41 – 145.42 (relating to State Trading Program budget; timing requirements for NOx allowance allocations; and NOx allowance allocations) will be 2008. Allocations in 2009 will be made in accordance with the Federal CAIR Ozone Season Trading Program, 40 CFR Part 97 (relating to Federal NOx Budget Trading Program and CAIR NOx and SO2 Trading Programs). CAIR NOx Ozone Season allowance allocations for the control period starting May 1, 2010, and for each control period thereafter, will be distributed in accordance with Subchapter D (relating to CAIR NOx and SO₂ trading programs).

(b) The emission limitations and monitoring requirements established in Subchapter A are replaced by the requirements in Subchapter D pertaining to the

CAIR NOx Ozone Season Trading Program beginning with the May 1, 2010 control period. If the owner or operator of a NOx budget unit or CAIR NOx Ozone Season unit, as defined in § 145.102 (relating to definitions), has failed to demonstrate compliance with §145.54 (relating to compliance), the provisions in 40 CFR 96.354 (relating to compliance with CAIR NOx emissions limitation) shall be used to withhold CAIR NOx Ozone Season allowances in calendar year 2010 and beyond. If no CAIR NOx Ozone Season allowances are provided to the unit under §145. 221 (relating to timing requirements for CAIR NOx Ozone Season allowance allocations), the owner or operator of the unit shall acquire and retire a number of CAIR NOx Ozone Season allowances as specified in 40 CFR 96.354.

INTERSTATE POLLUTION TRANSPORT REDUCTION REQUIREMENTS

§ 145.101. Transition requirements for nonelectric generating units.

(a) Beginning May 1, 2009, the applicability requirements in § 145.4(a)(2) (relating to applicability) shall no longer apply to nonelectric generating units.

(b) Beginning May 1, 2009, nonelectric generating units will be subject to one of the following:

(1) *Ozone Season NOx permit limit.* The Department will establish an Ozone Season NOx permit limit effective May 1, 2009, equal to the most recent Ozone Season NOx allowance allocation for each nonelectric generating unit that meets the applicability requirements of a NOx budget unit under § 145.4(a)(2) before May 1, 2009.

(2) *NOx allowance allocation.* If the Department approves a plan approval application by May 1, 2008, for a nonelectric generating unit to be subject to CAIR NOx Ozone Season requirements under §§ 145.221– 145.223 (relating to timing requirements for CAIR NOx Ozone Season allowance allocations; CAIR NOx Ozone Season allowance allocations; and supplemental monitoring, recordkeeping, and reporting requirements for gross electrical output and useful thermal energy for units subject to 40 CFR 96.370 – 96.375), the Ozone Season NOx permit limit described in paragraph (1) will not apply to the nonelectric generating unit. The unit will receive CAIR NOx Ozone Season allowances for the duration of the CAIR NOx Ozone Season Trading Program or for the life of the unit, whichever is shorter, under the allocation cycle described in § 145.221. The amount of CAIR NOx Ozone Season allowances allocated to a nonelectric generating unit under this paragraph will equal the unit's 2008 NOx allowance allocation under Subchapter A (relating to NOx Budget Trading Program). The Department will amend the unit's permit to subject the unit to §§ 145.221-145.223 for the duration of the CAIR NOx Ozone Season Trading Program.

(c) A nonelectric generating unit may meet the limit in subsection (a) or (b) by retiring CAIR NOx Ozone Season allowances.

(d) A nonelectric generating unit may opt-in to the CAIR NOx Ozone Season program in accordance with 40 CFR Part 96, Subpart III (relating to CAIR NOx Ozone Season opt-in units).

(e) A nonelectric generating unit shall comply with the 40 CFR Part 75 (relating to continuous emission monitoring) monitoring requirements specified under 40 CFR Part 96, Subpart HHHH (relating to monitoring and reporting) to demonstrate compliance with this section. Alternatively, if approved by the Department in writing, a nonelectric generating unit may meet the monitoring requirements of this section by complying with the most recent version of the Department's continuous emissions monitoring system program manual.

Subchapter B. EMISSIONS OF NOx FROM STATIONARY INTERNAL COMBUSTION ENGINES

§ 145.113. Standard requirements.

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(d) The owner or operator of a unit subject to this section shall surrender to the Department one CAIR NOx Ozone Season allowance, as defined in § [145.2]145.202 (relating to definitions), for each ton of NOx by which the combined actual emissions exceed the allowable emissions of the units subject to this section at a facility from May 1 through September 30. The surrendered CAIR NOx Ozone Season allowances shall be of current year vintage. For the purposes of determining the amount of allowances to surrender, any remaining fraction of a ton equal to or greater than 0.50 ton is deemed to equal 1 ton and any fraction of a ton less than 0.50 ton is deemed to equal zero tons.

Subchapter C. EMISSIONS OF NOx FROM CEMENT MANUFACTURING

§ 145.143. Standard requirements.

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(d) The owner or operator of a Portland cement kiln subject to this section shall surrender to the Department one CAIR NOx Ozone Season allowance, as defined in § [145.2]145.202 (relating to definitions), for each ton of NOx by which the combined actual emissions exceed the allowable emissions of the units subject to this section at a facility from May 1 through September 30. The surrendered CAIR NOx Ozone Season allowances shall be of current year vintage. For the purposes of determining the amount of allowances to surrender, any remaining fraction of a ton equal to or greater than 0.50

ton is deemed to equal 1 ton and any fraction of a ton less than 0.50 ton is deemed to equal zero tons.

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(Editor's Note: The following text is new and is printed in regular type to enhance readability.)

Subchapter D. CAIR NO_x and SO₂ TRADING PROGRAMS

GENERAL PROVISIONS

§ 145.201. Purpose.

This subchapter incorporates by reference the CAIR NO_x Annual Trading Program and CAIR NO_x Ozone Season Trading Program as a means of mitigating the interstate transport of fine particulates and nitrogen oxides, and the CAIR SO₂ Trading Program as a means of mitigating the interstate transport of fine particulates and sulfur dioxide. This subchapter also establishes general provisions and the applicability, allowance and supplemental monitoring, recordkeeping, and reporting provisions.

§ 145.202 Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Acid Rain Program—A mult-State sulfur dioxide and nitrogen oxides air pollution control and emission reduction program established by the Administrator under Title IV of the Clean Air Act (relating to acid deposition control) and 40 CFR Parts 72 through 78.

Administrator—The Administrator of the EPA or the Administrator's duly authorized representative.

Bottoming-cycle cogeneration unit--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 NO_x allowance--A limited authorization issued by a permitting authority or the Administrator under provisions of a State implementation plan that are approved under 40 CFR 51.123(o)(1), (2) or (p), or under 40 CFR Part 97, Subpart EE (relating to CAIR NO_x allowance allocations) or 40 CFR 97.188 (relating to CAIR NO_x allowance allocations to CAIR NO_x opt-in units), to emit 1 ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO_x Program. An authorization to emit

nitrogen oxides that is not issued under provisions of a State implementation plan that are approved under 40 CFR 51.123(o)(1), (2) or (p) or 40 CFR Part 97, Subpart EE or 40 CFR 97.188 shall not be a CAIR NO_x allowance.

CAIR NO_x Annual Trading Program—A multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the Administrator in accordance with 40 CFR Part 96, Subparts AA--II and 40 CFR 51.123 (relating to findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen pursuant to the Clean Air Interstate Rule) or established by the Administrator in accordance with 40 CFR Part 97, Subparts AA--II and 40 CFR 51.123(p) and 52.35 (relating to what are the requirements of the Federal Implementation Plans (FIPs) for the Clean Air Interstate Rule relating to emissions of nitrogen oxides?), as a means of mitigating interstate transport of fine particulates and nitrogen oxides. The term refers to the program as adopted in §§ 145.201 through 145.213.

CAIR NO_x Ozone Season allowance—A limited authorization issued by a permitting authority or the Administrator under provisions of a State implementation plan that are approved under 40 CFR 51.123(aa)(1) or (2) (and (bb)(1)), (bb)(2), (dd), or (ee), or under 40 CFR Part 97, Subpart EEEE (relating to CAIR NO_x Ozone Season allowance allocations) or 40 CFR 97.388 (relating to CAIR NO_x Ozone Season allowance allocations to CAIR NO_x Ozone Season opt-in units), to emit 1 ton of nitrogen oxides during a control period of the specified calendar year for which the authorization is allocated or of any calendar year thereafter under the CAIR NO_x Ozone Season Trading Program or a limited authorization issued by a permitting authority for a control period during 2003 through 2008 under the NO_x Budget Trading Program in accordance with 40 CFR 51.121(p) (relating to findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen) to emit 1 ton of nitrogen oxides during a control period, provided that the provision in 40 CFR 51.121(b)(2)(ii)(E) shall not be used in applying this definition and the limited authorization shall not have been used to meet the allowance-holding requirement under the NO_x Budget Trading Program. An authorization to emit nitrogen oxides that is not issued under provisions of a State implementation plan approved under 40 CFR 51.123(aa)(1) or (2) (and (bb)(1)), (bb)(2), (dd), or (ee) or 40 CFR Part 97, Subpart EEEE or 40 CFR 97.388 or under the NO_x Budget Trading Program as described in the prior sentence shall not be a CAIR NO_x Ozone Season allowance.

CAIR NO_x Ozone Season Trading Program—A multi-state nitrogen oxides air pollution control and emission reduction program approved and administered by the Administrator in accordance with 40 CFR Part 96, Subparts AAAA--IIII and 40 CFR 51.123 or established by the Administrator in accordance with 40 CFR Part 97, Subparts AAAA--IIII and 40 CFR 51.123(ee) and 52.35 as a means of mitigating interstate transport of ozone and nitrogen oxides. The term refers to the program as adopted in §§ 145.201--145.204 and §§ 145.221--145.223 (relating to timing requirements for CAIR NO_x Ozone Season allowance allocations; CAIR NO_x Ozone Season allowance allocations; and

supplemental monitoring, recordkeeping and reporting requirements for gross electrical output and useful thermal energy for units subject to 40 CFR 96.370 – 96.375).

CAIR NO_x Ozone Season unit—A unit that is subject to the CAIR NO_x Ozone Season Trading Program under 40 CFR 96.304 (relating to applicability) and, except for purposes of 40 CFR 96.305 (relating to retired unit exemption) and 40 CFR Part 96, Subpart EEEE, a CAIR NO_x Ozone Season opt-in unit under 40 CFR Part 96, Subpart III.

CAIR NO_x unit—A unit that is subject to the CAIR NO_x Annual Trading Program under 40 CFR 96.104 (relating to applicability) and, except for purposes of 40 CFR 96.105 (relating to retired unit exemption) and 40 CFR Part 96, Subpart EE (relating to CAIR NO_x allowance allocations), a CAIR NO_x opt-in unit under 40 CFR Part 96, Subpart II (relating to CAIR NO_x opt-in units).

CAIR SO₂ Trading Program—A multi-state sulfur dioxide air pollution control and emission reduction program approved and administered by the Administrator in accordance with 40 CFR Part 96, Subparts AAA--III and 40 CFR 51.124 (relating to findings and requirements for submission of State implementation plan revisions relating to emissions of sulfur dioxide pursuant to the Clean Air Interstate Rule) or established by the Administrator in accordance with 40 CFR Part 97, Subparts AAA--III and 40 CFR 51.124(r) and 52.36 (relating to what are the requirements of the Clean Air Interstate Rule Federal Implementation Plans relating to emissions of sulfur dioxide?), as a means of mitigating interstate transport of fine particulates and sulfur dioxide.

CAIR SO₂ unit—A unit that is subject to the CAIR SO₂ Trading Program under 40 CFR 96.204 (relating to applicability) and, except for purposes of 40 CFR 96.205 (relating to retired unit exemption), a CAIR SO₂ opt-in unit under 40 CFR Part 96, Subpart III (relating to CAIR SO₂ opt-in units).

Cogeneration unit--A stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine meeting both of the following requirements:

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

(ii) 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, the following:

(A) For a topping-cycle cogeneration unit, both of the following:

(I) Useful thermal energy not less than 5% of total energy output.

(II) Useful power that, when added to one-half of useful thermal energy produced, is not less than 42.5% of total energy input, if useful thermal energy produced is 15% or

more of total energy output, or not less than 45% of total energy input, if useful thermal energy produced is less than 15% of total energy output.

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

Combustion turbine—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. If the enclosed device is combined cycle, the term includes any associated duct burner, heat recovery steam generator, and steam turbine.

Commence commercial operation—

(i) For purposes of the CAIR NO_x Annual Trading Program, the term “commence commercial operation” means, with regard to a unit, the following:

(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 and 40 CFR 96.184(h) (relating to opt-in process).

(I) For a unit that is a CAIR NO_x unit under 40 CFR 96.104 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this subparagraph and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), the date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(II) For a unit that is a CAIR NO_x unit under 40 CFR 96.104 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this subparagraph and that is subsequently replaced by a unit at the same source (in other words, repowered), the date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this subparagraph or subparagraph (i)(B) of this definition, as appropriate.

(B) Notwithstanding subparagraph (i)(A) of this definition and except as provided in 40 CFR 96.105, for a unit that is not a CAIR NO_x unit under 40 CFR 96.104 on the later of November 15, 1990 or the date the unit commences commercial operation as defined in subparagraph (i)(A), the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO_x unit under 40 CFR 96.104.

(I) For a unit with a date for commencement of commercial operation as defined in this subparagraph and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), the date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(II) For a unit with a date for commencement of commercial operation as defined in this subparagraph and that is subsequently replaced by a unit at the same source (in other words, repowered), the date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this subparagraph or subparagraph (i)(A) of this definition, as appropriate.

(ii) For purposes of the CAIR NO_x Ozone Season Trading Program, the term “commence commercial operation” means, with regard to a unit, the following:

(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 96.305 and 96.384(h) (relating to opt-in process).

(I) For a unit that is a CAIR NO_x Ozone Season unit under 40 CFR 97.304 (relating to applicability) on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this subparagraph and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), the date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(II) For a unit that is a CAIR NO_x Ozone Season unit under 40 CFR 96.304 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in this subparagraph and that is subsequently replaced by a unit at the same source (in other words, repowered), the date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a separate date for commencement of commercial operation as defined in this subparagraph or subparagraph (ii)(B) of this definition, as appropriate.

(B) Notwithstanding subparagraph (ii)(A) of this definition and except as provided in 40 CFR 96.305, for a unit that is not a CAIR NO_x Ozone Season unit under 40 CFR 96.304 on the later of November 15, 1990, or the date the unit commences commercial operation as defined in subparagraph (ii)(A) of this definition, the unit's date for commencement of commercial operation shall be the date on which the unit becomes a CAIR NO_x Ozone Season unit under 40 CFR 96.304.

(I) For a unit with a date for commencement of commercial operation as defined in this subparagraph and that subsequently undergoes a physical change (other than replacement of the unit by a unit at the same source), the date shall remain the date of commencement of commercial operation of the unit, which shall continue to be treated as the same unit.

(II) For a unit with a date for commencement of commercial operation as defined in this subparagraph and that is subsequently replaced by a unit at the same source (in other words, repowered), the date shall remain the replaced unit's date of commencement of commercial operation, and the replacement unit shall be treated as a separate unit with a

separate date for commencement of commercial operation as defined in this subparagraph or subparagraph (ii)(A) of this definition, as appropriate.

Control period—For purposes of the:

(i) CAIR NO_x Annual Trading Program, the period beginning January 1 of a calendar year, except as provided in 40 CFR 96.106(c)(2) (relating to standard requirements), and ending on December 31 of the same year, inclusive.

(ii) CAIR NO_x Ozone Season Trading Program, the period beginning May 1 of a calendar year, except as provided in 40 CFR 96.306(c)(2) (relating to standard requirements), and ending on September 30 of the same year, inclusive.

Demand side management—The management of customer consumption of electricity or the demand for electricity through the implementation of any of the following:

(i) Energy efficiency technologies, management practices or other strategies in residential, commercial, institutional or government customers that reduce electricity consumption by those customers.

(ii) Load management or demand response technologies, management practices or other strategies in residential, commercial, industrial, institutional and government customers that shift electric load from periods of higher demand to periods of lower demand.

(iii) Industrial by-product technologies consisting of the use of a by-product from an industrial process, including the reuse of energy from exhaust gases or other manufacturing by-products that are used in the direct production of electricity at the facility of a customer.

EIA—The Energy Information Administration of the United States Department of Energy or its successor.

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

MWh-Megawatt-hour—One million watt-hours.

Operator--For purposes of the CAIR NO_x Annual Trading Program, any person who operates, controls or supervises a CAIR NO_x unit, CAIR NO_x source, CAIR NO_x Ozone Season unit or CAIR NO_x Ozone Season source. The term includes a holding company, utility system or plant manager of the unit or source.

Owner—Any of the following persons:

(i) With regard to a CAIR NO_x source, CAIR NO_x unit at a source, CAIR NO_x Ozone Season source or CAIR NO_x Ozone Season unit at a source, respectively, any of the following persons:

(A) A holder of any portion of the legal or equitable title in a CAIR NO_x unit at the source, the CAIR NO_x unit, the CAIR NO_x Ozone Season unit at the source or the CAIR NO_x Ozone Season unit.

(B) A holder of a leasehold interest in a CAIR NO_x unit at the source, the CAIR NO_x unit, a CAIR NO_x Ozone Season unit at the source or the CAIR NO_x Ozone Season unit.

(C) A purchaser of power from a CAIR NO_x unit at the source, the CAIR NO_x unit, a CAIR NO_x Ozone Season unit at the source or the CAIR NO_x Ozone Season source under a life-of-the-unit, firm power contractual arrangement; provided that, unless expressly provided for in a leasehold agreement, the term “owner” shall not include a passive lessor, or a person who has an equitable interest through a passive lessor, whose rental payments are not based (either directly or indirectly) on the revenues or income from the CAIR NO_x unit or CAIR NO_x Ozone Season unit.

(ii) With regard to any general account, a person who has an ownership interest with respect to the CAIR NO_x allowances or CAIR NO_x Ozone Season allowances held in the general account and who is subject to the binding agreement for the CAIR authorized account representative to represent the person's ownership interest with respect to CAIR NO_x allowances or CAIR NO_x Ozone Season allowances.

Ozone Season—The period beginning May 1 of a calendar year and ending on September 30 of the same year, inclusive.

Pennsylvania Alternative Energy Portfolio Standard—An applicable standard promulgated under the Alternative Energy Portfolio Standards Act (73 P.S. § 1648.1—1648.8).

Renewable energy—Energy generated:

(i) By one or more of the following fuels, energy resources or technologies, and that does not emit NO_x or SO₂:

(A) Solar photovoltaic or solar thermal energy.

(B) Wind energy.

(C) Fuel cells that do not employ a fuel processor that emits NO_x.

(D) Ocean thermal, wave or tidal energy.

(E) Low-impact hydro energy.

(F) Geothermal energy.

(ii) From nuclear fuel, biomass, landfill gas, fuel cells that employ a fuel processor that emits NO_x, or hydro using pumped storage is not renewable energy.

Renewable energy certificate—The tradable alternative energy credit instrument used to establish, verify, and monitor compliance with the Pennsylvania Alternative Energy Portfolio Standard. A unit of credit shall equal 1 megawatt-hour of electricity from an alternative energy source.

Tier I renewable energy qualifying source—A renewable energy measure that generates renewable energy certificates under the applicable Pennsylvania Alternative Energy Portfolio Standard.

Tier II demand side management energy efficiency qualifying source—A demand side management energy efficiency measure that has no associated NO_x emissions and that generates certified alternative energy credit under the applicable Pennsylvania Alternative Energy Portfolio Standard.

Topping-cycle cogeneration unit—A cogeneration unit in which the energy input to the unit is first used to produce useful power, including electricity, and at least some of the reject heat from the electricity production is then used to provide useful thermal energy.

Unit—A stationary, fossil-fuel-fired boiler, combustion turbine or other stationary, fossil-fuel-fired combustion device.

Useful power--With regard to a cogeneration unit, electricity or mechanical energy made available for use, excluding any such energy used in the power production process (which process includes any onsite processing or treatment of fuel combusted at the unit and any onsite emission controls).

Useful thermal energy--With regard to a cogeneration unit, thermal energy that is any of the following:

(i) Made available to an industrial or commercial process (not a power production process), excluding heat contained in condensate return or makeup water.

(ii) Used in a heating application (for instance, space heating or domestic hot water heating).

(iii) Used in a space cooling application (in other words, thermal energy used by an absorption chiller).

§ 145.203. Applicability.

This subchapter applies to CAIR NO_x units, CAIR NO_x Ozone Season units, and CAIR SO₂ units. This subchapter also applies to tier I renewable energy qualifying sources and tier II demand side management energy efficiency qualifying sources.

§ 145.204. Incorporation of Federal regulations by reference.

(a) Except as otherwise specified in this subchapter, the provisions of the CAIR NO_x Annual Trading Program, found in 40 CFR Part 96 (relating to NO_x budget trading program and CAIR NO_x and SO₂ trading programs for state implementation plans), including all appendices, future amendments, and supplements thereto, are incorporated by reference.

(b) Except as otherwise specified in this subchapter, the provisions of the CAIR SO₂ Trading Program, found in 40 CFR Part 96, including all appendices, future amendments, and supplements thereto, are incorporated by reference.

(c) Except as otherwise specified in this subchapter, the provisions of the CAIR NO_x Ozone Season Trading Program, found in 40 CFR Part 96, including all appendices, future amendments, and supplements thereto, are incorporated by reference.

(d) In the event of a conflict between Federal regulatory provisions incorporated by reference in this subchapter and Pennsylvania regulatory provisions, the provision expressly set out in this subchapter shall be followed unless the Federal provision is more stringent. Federal regulations that are cited in this subchapter or that are cross-referenced in the Federal regulations incorporated by reference include any Pennsylvania modifications made to those Federal regulations.

ADDITIONAL REQUIREMENTS FOR CHAPTER 127 EMISSION REDUCTION CREDIT PROVISIONS

§ 145.205. Emission reduction credit provisions.

No permit or plan approval may be issued to the owner or operator of a unit not subject to this subchapter for which emission reduction credits (ERCs) or creditable emission reductions were considered in an applicability determination under Chapter 127, Subchapter E (relating to new source review) or for which any emission trade under Chapter 127 (relating to construction, modification, reactivation and operation of sources) is authorized, if the ERCs or creditable emission reductions were, or will be, generated by a unit subject to this subchapter, unless the following conditions are satisfied:

(1) Prior to issuing the permit or plan approval, the Department permanently reduces the Commonwealth's applicable CAIR NO_x trading budget beginning six control periods after the date the unit will be authorized in the permit or plan approval to commence

operation or increase emissions. The Department will reduce the trading budget for each control period by an amount of allowances equal to the amount that would be required to be surrendered under this subchapter if the allowable emissions stemming from the ERCs or creditable emission reductions were emitted.

(2) The permit or plan approval contains a condition prohibiting the owner or the operator of the unit from commencing operation or increasing emissions until the owner or the operator of the unit that generated the ERCs or creditable emission reductions surrenders to the Department an amount of allowances equal to the amount that would be required to be surrendered under this subchapter if the allowable emissions stemming from the ERCs or creditable emission reductions were emitted for five consecutive control periods beginning with that date. The allowances surrendered must be of present or past vintage years.

ADDITIONAL REQUIREMENTS FOR CAIR NO_x ANNUAL TRADING PROGRAM

§ 145.211. Timing requirements for CAIR NO_x allowance allocations.

(a) *Provisions not incorporated by reference.* The requirements of 40 CFR 96.141 (relating to timing requirements for CAIR NO_x allowance allocations) are not incorporated by reference. Instead of 40 CFR 96.141, the requirements set forth in this section will apply.

(b) *Regular allocations.* The Department will make regular allocations of CAIR NO_x allowances as follows:

(1) Except for allocations made under subsection (c), by April 30, 2008, the Department will submit to the Administrator the CAIR NO_x allowance allocations made in accordance with § 145.212 (relating to CAIR NO_x allowance allocations) for the control periods in 2010 and 2011 in a format prescribed by the Administrator.

(2) Except for allocations made under subsection (c), by April 30, 2009, the Department will submit to the Administrator the CAIR NO_x allowance allocations made in accordance with § 145.212 for the control periods in 2012 and 2013 in a format prescribed by the Administrator. By April 30 every 2 years after 2009, the Department will submit the allocations for the next two consecutive control periods.

(c) *New CAIR NO_x unit allowance allocations.* By April 30, 2011, and by April 30 every year thereafter, the Department will submit to the Administrator the CAIR NO_x allowance allocations made in accordance with § 145.212(e). The Department will base the allocations on actual emissions in the calendar year preceding the year of the submission.

(d) *Publication.* The Department will publish notice of the proposed CAIR NO_x allowance allocations in the *Pennsylvania Bulletin* as follows, and will publish the final allocations after a 15-day public comment period:

(i) For allocations made under subsection (b)(1), by April 1, 2008.

(ii) For allocations made under subsection (b)(2), by April 1, 2009, and by April 1 every two years thereafter.

(iii) For allocations made under subsection (c), by March 1 each year, beginning in 2011.

§ 145.212. CAIR NO_x allowance allocations.

(a) *Provisions not incorporated by reference.* The requirements of 40 CFR 96.142 (relating to CAIR NO_x allowance allocations) are not incorporated by reference. Instead of 40 CFR 96.142, the requirements set forth in this section will apply.

(b) *Baseline heat input.* Except for new unit allocations made under subsection (e) based on a previous year's emissions, and except for allocations made to subsection (f)(1) qualifying resources, the control period baseline heat input (in mmBtu) used with respect to CAIR NO_x allowance allocations under subsection (c) for each CAIR NO_x unit will be converted as follows:

(1) A unit's control period heat input and a unit's status as coal-fired or oil-fired for a calendar year under this paragraph will be determined in one of the following two ways:

(i) In accordance with 40 CFR Part 75 (relating to continuous emission monitoring), to the extent that the unit was otherwise subject to the requirements of 40 CFR Part 75 for the year.

(ii) Based on the best available data reported to the Department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year.

(2) Except as provided in subparagraphs (iv) and (v), a unit's converted control period heat input for a calendar year shall be determined as follows:

(i) The control period gross electrical output of the generator(s) served by the unit multiplied by 7,900 Btu/kWh if the unit is coal-fired for the year, and divided by 1,000,000 Btu/mmBtu.

(ii) The control period gross electrical output of the generator(s) served by the unit multiplied by 6,675 Btu/kWh if the unit is not coal-fired for the year, and divided by 1,000,000 Btu/mmBtu.

(iii) If a generator is served by two or more units, the gross electrical output of the generator will be attributed to each unit in proportion to the share of the total control period heat input from each of the units for the year.

(iv) For a unit that is a 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 total heat energy (in Btus) of the steam produced by the boiler during the annual control period, divided by 0.8 and by 1,000,000 Btu/mmBtu.

(v) For a unit that is a combustion turbine 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 annual control period gross electrical output of the enclosed device comprising the compressor, combustor, and turbine multiplied by 3,413 Btu/KWh, plus the total heat energy (in Btu) of the steam produced by any associated heat recovery steam generator during the annual control period divided by 0.8, and with the sum divided by 1,000,000 Btu/mmBtu.

(vi) Calculations will be based on the best output data available on or before January 31 of the year the allocations are published. If unit level electrical or steam output data are not available from EIA, or submitted by this date by the owner or operator of the CAIR NOx unit, then heat input data for the period multiplied by 0.25 and converted to MWh will be used to determine total output.

(vii) If the total allowances calculated for all eligible recipients exceeds the CAIR NOx annual budget, the Department will adjust allocations on a pro-rata basis to meet the budget.

(c) *Existing unit, new unit and paragraph (f)(1) qualifying resource allocation baseline.* For each control period beginning with January 1, 2010, and each year thereafter, the Department will allocate to qualifying resources and CAIR NOx units, including CAIR NOx units issued allowances under subsection (e), a total amount of CAIR NOx allowances equal to the number of CAIR NOx allowances remaining in the Commonwealth's trading budget under 40 CFR 96.140 (relating to state trading budgets) for those control periods using baseline heat input data as determined under subsection (b) from a baseline year that is 5 years before the control period.

(d) *Proration of allowance allocations.* Except for allocations made under subsections (e) and (f)(2), the Department will allocate CAIR NOx allowances to each existing CAIR NOx unit and qualifying resource in an amount determined by multiplying the amount of CAIR NOx allowances allocated under subsection (c) or (f), as applicable, by the ratio of the baseline heat input of the existing CAIR NOx unit or qualifying resource to the amount of baseline heat input of existing CAIR NOx units and qualifying resources and rounding to the nearest whole allowance as appropriate. The Department will make CAIR NOx allowance allocations under this subsection after the Department makes CAIR NOx allowance allocations to units under subsection (e).

(e) *Allocations to new CAIR NOx units.* By March 31, 2011, and March 31 each year thereafter, the Department will allocate CAIR NOx allowances under § 145.211(c) to CAIR NOx units equal to the previous year's emissions at each unit, unless the unit has been issued allowances of the previous year's vintage in a regular allocation under § 145.211(b). The Department will allocate CAIR NOx allowances under this subsection of a vintage year that is 5 years later than the year in which the emissions were generated. The number of CAIR NOx allowances allocated shall not exceed the actual emission of the year preceding the year in which the Department makes the allocation. The allocation of these allowances to the new unit will not reduce the number of allowances the unit is entitled to receive under § 145.211(b).

(f) *Allocations to qualifying resources and units exempted by 42 U.S.C.A. § 7651d(g)(6)(A) (relating to phase II sulfur dioxide requirements).* For each two control periods beginning with 2010 and thereafter, the Department will allocate CAIR NOx allowances to qualifying resources under paragraph (1) in this Commonwealth that are not also allocated CAIR NOx allowances under subsection (c) and to existing units under paragraph (2) that were exempted at any time under 42 U.S.C.A. § 7651d(g)(6)(A), regarding phase II sulfur dioxide requirements, and that commenced operation prior to January 1, 2000, but did not receive an allocation of SO₂ allowances under EPA's Acid Rain program, as follows:

(1) The Department will allocate CAIR NOx allowances to a tier I renewable energy qualifying resource or tier II demand side management energy efficiency qualifying resource in accordance with subsections (c) and (d) upon receipt by the Department of an application, in writing, meeting the requirements of this paragraph. The number of allowances allocated to the qualifying resource will be determined by converting the certified quantity of electric energy production, useful thermal energy, and energy equivalent value of the measures approved under the Pennsylvania Alternative Energy Portfolio Standard to equivalent thermal energy. In order to receive allowances under this subsection, the qualifying resource must have commenced operation after January 1, 2005, must be located in this Commonwealth, and must not be a CAIR NOx unit. The following procedures apply:

(i) The Department will transfer the allowances into an account designated by the owner or operator of the qualifying resource, or into an account designated by an aggregator approved by the Public Utility Commission or its designee.

(ii) The applicant shall provide the Department with the corresponding renewable energy certificate serial numbers.

(iii) At least one whole allowance must be generated per owner, operator or aggregator for an allowance to be issued.

(2) The Department will allocate CAIR NOx allowances to the owner or operator of a CAIR SO₂ unit that commenced operation prior to January 1, 2000, that has not received an SO₂ allocation for that compliance period, as follows:

(i) The owner or operator of a unit may apply, in writing, to the Department under this subsection to receive a cost-equivalent additional amount of CAIR NOx allowances that were needed during each CAIR NOx allowance allocation cycle to be allocated in the following allocation cycle.

(ii) The cost-equivalent additional amount of CAIR NOx allowances an owner or operator may request under this paragraph is 1 CAIR NOx allowance for every 8 tons of SO₂ emitted from a qualifying unit during the control period.

(iii) If the original CAIR NOx allowance allocation for the unit for the cycle exceeded its actual emissions of NOx for the cycle, the value of the excess CAIR NOx allowances will not be included in the amount of CAIR NOx allowances allocated.

(iv) If the total number of NOx allowances requested by all qualified units under this paragraph exceeds 1.3% of the Pennsylvania annual CAIR NOx budget, units will receive a pro-rated allocation based upon the following equation:

$$\frac{(A \text{ unit's requested cost-equivalent CAIR NOx allowance allocation} - \text{facility excess allowances for the control period}) \times (0.013 \times \text{number of CAIR NOx allowances in Pennsylvania CAIR NOx budget for the control period})}{\text{Total number of CAIR NOx allowances requested from all units requesting allowances under this paragraph}}$$

(v) Owners and operators of previously exempted units that opt in to or are opted in to the Acid Rain Program will also reduce the number of NOx allowances requested each year under this section by 1 NOx allowance for every 8 SO₂ allowances they are issued under the opt-in provisions of the Acid Rain Program.

(3) The Department will review each CAIR NOx allowance allocation request under this subsection and will allocate CAIR NOx allowances for each control period pursuant to a request as follows:

(i) The Department will accept an allowance allocation request only if the request meets, or is adjusted by the Department as necessary to meet, the requirements of this section.

(ii) On or after January 1 of the year of allocation, the Department will determine the sum of the CAIR NOx allowances requested.

(4) Up to 1.3% of the Commonwealth's annual NOx budget is available for allocation in each control period from 2010--2015 for the purpose of offsetting SO₂ emissions under paragraph (2). Beginning January 1, 2016, the units will no longer be allocated CAIR NOx allowances under paragraph (2).

(5) Notwithstanding the provisions of paragraphs (2)--(4), the Department may extend, terminate or otherwise modify the allocation of NO_x allowances made available under this subsection for units exempted by 42 U.S.C.A. § 7651d(g)(6)(A) after providing notice in the *Pennsylvania Bulletin* and at least a 30-day public comment period.

(g) Any errors in allocations discovered after allocations are made shall be corrected in a subsequent allocation cycle.

§ 145.213. Supplemental monitoring, recordkeeping and reporting requirements for gross electrical output and useful thermal energy for units subject to 40 CFR 96.170 – 96.175.

(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 unit shall install, calibrate, maintain and operate a wattmeter, measure gross electrical output in megawatt-hours on a continuous basis and record the output of the wattmeter. If a generator is served by two or more units, the information to determine the heat input of each unit for that control period shall also be recorded, so as to allow each unit's share of the gross electrical output to be determined. If heat input data are used, the owner or operator shall comply with the applicable provisions of 40 CFR Part 75 (relating to continuous emission monitoring).

(b) By September 1, 2008, for a CAIR NO_x unit that is a cogeneration unit, and for a CAIR NO_x unit with cogeneration capabilities, the owner or operator shall 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. The owner or operator of a CAIR NO_x unit that produces useful thermal energy but uses an energy transfer medium other than steam, such as hot water or glycol, shall install, calibrate, maintain and operate the necessary meters to measure and record the data necessary to express the useful thermal energy produced, in mmBtu/hr, on a continuous basis. If the unit ceases to produce useful thermal energy, the owner or operator may cease operation of the meters, but operation of the meters shall be resumed if the unit resumes production of useful thermal energy.

(c) Beginning with 2008, the designated representative of the unit shall submit to the Department an annual report showing monthly gross electrical output and monthly useful thermal energy from the unit. The report is due by January 31 for the preceding calendar year.

(d) The owner or operator of a CAIR NO_x unit shall maintain onsite the monitoring plan detailing the monitoring system and maintenance of the monitoring system, including quality assurance activities. The owner or operator of a CAIR NO_x unit shall retain the monitoring plan for at least 5 years from the date that it is replaced by a new or revised monitoring plan. The owner or operator of a CAIR NO_x unit shall provide the

Department with a written copy of the monitoring plan by January 1, 2008, and thereafter within 3 calendar months of making updates to the plan.

(e) The owner or operator of a CAIR NO_x unit shall retain records for at least 5 years from the date the record is created or the data collected as required by subsections (a) and (b), and the reports submitted to the Department and EPA in accordance with subsections (c) and (d).

ADDITIONAL REQUIREMENTS FOR CAIR NO_x OZONE SEASON TRADING PROGRAM

§ 145.221. Timing requirements for CAIR NO_x Ozone Season allowance allocations.

(a) *Provisions not incorporated by reference.* The requirements of 40 CFR 96.341 (relating to timing requirements for CAIR NO_x Ozone Season allowance allocations) are not incorporated by reference. Instead of 40 CFR 96.341, the requirements set forth in this section will apply.

(b) *Regular allocations.* The Department will make regular allocations of CAIR NO_x Ozone Season allowances as follows:

(1) Except for allocations made under subsection (c), by April 30, 2008, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations made in accordance with § 145.222 (relating to CAIR NO_x Ozone Season allowance allocations) for the control periods in 2010 and 2011 in a format prescribed by the Administrator.

(2) Except for allocations made under subsection (c), by April 30, 2009, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations made in accordance with § 145.222 for the control periods in 2012 and 2013 in a format prescribed by the Administrator. By April 30 every 2 years after 2009, the Department will submit the allocations for the next two consecutive control periods.

(c) *New CAIR NO_x unit allowance allocations.* By April 30, 2011, and by April 30 every year thereafter, the Department will submit to the Administrator the CAIR NO_x Ozone Season allowance allocations made in accordance with § 145.222(e). The Department will base the allocations on actual emissions in the Ozone Season in the calendar year preceding the year of the submission.

(d) *Publication.* The Department will publish notice of the proposed CAIR NO_x Ozone Season allowance allocations in the *Pennsylvania Bulletin* as follows and will publish the final allocations after a 15-day public comment period:

(i) For allocations made under subsection (b)(1), by April 1, 2008.

(ii) For allocations made under subsection (b)(2), by April 1, 2009, and by April 1 every two years thereafter.

(iii) For allocations made under subsection (c), by March 1 each year, beginning in 2011.

§ 145.222. CAIR NO_x Ozone Season allowance allocations.

(a) *Provisions not incorporated by reference.* The requirements of 40 CFR 96.342 (relating to CAIR NO_x Ozone Season allowance allocations) are not incorporated by reference. Instead of 40 CFR 96.342, the requirements set forth in this section will apply.

(b) *Baseline heat input.* Except for new unit allocations made under subsection (e) based on a previous year's emissions, and except for allocations made to subsection (f) qualifying resources, the control period baseline heat input (in mmBtu) used with respect to CAIR NO_x Ozone Season allowance allocations under subsection (c) for each CAIR NO_x Ozone Season unit will be converted as follows:

(1) A unit's control period heat input and a unit's status as coal-fired or oil-fired for the Ozone Season portion of a calendar year under this paragraph will be determined in one of the following two ways:

(i) In accordance with 40 CFR Part 75 (relating to continuous emission monitoring), to the extent that the unit was otherwise subject to the requirements of 40 CFR Part 75 for the control period.

(ii) Based on the best available data reported to the Department for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year.

(2) Except as provided in subparagraphs (iv) and (v), a unit's converted control period heat input for the ozone season portion of a calendar year shall be determined as follows:

(i) The control period gross electrical output of the generator(s) served by the unit multiplied by 7,900 Btu/kWh if the unit is coal-fired for the ozone season control period, and divided by 1,000,000 Btu/mmBtu.

(ii) The control period gross electrical output of the generator(s) served by the unit multiplied by 6,675 Btu/kWh if the unit is not coal-fired for the ozone season control period, and divided by 1,000,000 Btu/mmBtu.

(iii) If a generator is served by 2 or more units, the gross electrical output of the generator will be attributed to each unit in proportion to the share of the total control period heat input from each of the units for the ozone season control period.

(iv) For a unit that is a 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 total heat energy (in Btus) of the steam produced by the boiler during the ozone season control period, divided by 0.8 and by 1,000,000 Btu/mmBtu.

(v) For a unit that is a combustion turbine 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 control period gross electrical output of the enclosed device comprising the compressor, combustor and turbine multiplied by 3,413 Btu/kWh, plus the total heat energy (in Btu) of the steam produced by any associated heat recovery steam generator during the ozone season control period divided by 0.8, and with the sum divided by 1,000,000 Btu/mmBtu.

(vi) Calculations will be based on the best output data available on or before January 31 of the year the allocations are published. If unit level electrical or steam output data are not available from EIA, or submitted by this date by the owner or operator of the CAIR NO_x Ozone Season unit, then heat input data for the period multiplied by 0.25 and converted to MWh will be used to determine total output.

(vii) If the total allowances calculated for all eligible recipients exceeds the CAIR NO_x Ozone Season budget, the Department will adjust allocations on a pro-rata basis to meet the budget.

(c) *Existing unit, new unit and paragraph (f)(1) qualifying resource allocation baseline.* For each control period beginning with the 2010 control period and thereafter, the Department will allocate to qualifying resources and CAIR NO_x Ozone Season units, including CAIR NO_x Ozone Season units issued allowances under subsection (e), a total amount of CAIR NO_x Ozone Season allowances equal to the number of CAIR NO_x Ozone Season allowances remaining in the Commonwealth's trading budget under 40 CFR 96.140 (relating to state trading budgets) for those control periods using baseline heat input data as determined under subsection (b) from an ozone season control period in a baseline year that is 5 years before the control period.

(d) *Proration of allowance allocations.* Except for allocations made under subsection (e), the Department will allocate CAIR NO_x Ozone Season allowances to each existing CAIR NO_x Ozone Season unit and qualifying resource in an amount determined by multiplying the amount of CAIR NO_x Ozone Season allowances allocated under subsection (c) or (f), as applicable, by the ratio of the baseline heat input of the existing CAIR NO_x Ozone Season unit or qualifying resource to the amount of baseline heat input of existing CAIR NO_x Ozone Season units and qualifying resources and rounding to the nearest whole allowance as appropriate. The Department will make CAIR NO_x Ozone Season allowance allocations under this subsection after the Department makes CAIR NO_x Ozone Season allowance allocations to units under subsection (e).

(e) *Allocations to new CAIR NOx Ozone Season units.* By March 31, 2011, and March 31 each year thereafter, the Department will allocate CAIR NOx Ozone Season allowances under § 145.221(c) to CAIR NOx Ozone Season units equal to the previous year's emissions at each unit, unless the unit has been issued allowances of the previous year's vintage in a regular allocation under § 145.221(b). The Department will allocate CAIR NOx allowances under this subsection of a vintage year that is 5 years later than the year in which the emissions were generated. The number of CAIR NOx Ozone Season allowances allocated shall not exceed the actual emission of the year preceding the year in which the Department makes the allocation. The allocation of these allowances to the new unit will not reduce the number of allowances the unit is entitled to receive under § 145.221(b).

(f) *Allocations to qualifying resources.* For each two control periods beginning with the 2010 control period, and thereafter, the Department will allocate CAIR NOx Ozone Season allowances to qualifying resources in this Commonwealth that are not also allocated CAIR NOx Ozone Season allowances under subsection (c), as follows:

(1) The Department will allocate CAIR NOx Ozone Season allowances to a tier I renewable energy qualifying resource or tier II demand side management energy efficiency qualifying resource in accordance with subsections (c) and (d) upon receipt by the Department of an application, in writing, meeting the requirements of this paragraph. The number of allowances allocated to the qualifying resource will be determined by converting the certified quantity of electric energy production, useful thermal energy, and energy equivalent value of the measures approved under the Pennsylvania Alternative Energy Portfolio Standard to equivalent thermal energy. In order to receive allowances under this subsection, the qualifying resource must have commenced operation after January 1, 2005, must be located in the Commonwealth and must not be a CAIR NOx Ozone Season unit. The following procedures apply:

(i) The Department will transfer the allowances into an account designated by the owner or operator of the qualifying resource, or into an account designated by an aggregator approved by the Public Utility Commission or its designee.

(ii) The applicant shall provide the Department with the corresponding renewable energy certificate serial numbers.

(iii) At least one whole allowance must be generated per owner, operator or aggregator for an allowance to be issued.

(2) The Department will review each CAIR NOx Ozone Season allowance allocation request under this subsection and will allocate CAIR NOx Ozone Season allowances for each control period pursuant to a request as follows:

(i) The Department will accept an allowance allocation request only if the request meets, or is adjusted by the Department as necessary to meet, the requirements of this section.

(ii) On or after January 1 of the year of allocation, the Department will determine the sum of the CAIR NOx Ozone Season allowances requested.

(g) Any errors in allocations discovered after allocations are made shall be corrected in a subsequent allocation cycle.

§ 145.223. Supplemental monitoring, recordkeeping and reporting requirements for gross electrical output and useful thermal energy for units subject to 40 CFR 96.370 – 96.375.

(a) By January 1, 2008, or by the date of commencing commercial operation, whichever is later, the owner or operator of the CAIR NOx Ozone Season unit shall install, calibrate, maintain and operate a wattmeter, measure gross electrical output in megawatt-hours on a continuous basis and record the output of the wattmeter. If a generator is served by two or more units, the information to determine the heat input of each unit for that control period shall also be recorded, so as to allow each unit's share of the gross electrical output to be determined. If heat input data are used, the owner or operator shall comply with the applicable provisions of 40 CFR Part 75 (relating to continuous emission monitoring).

(b) By September 1, 2008, for a CAIR NOx Ozone Season unit that is a cogeneration unit, and for a CAIR NOx Ozone Season unit with cogeneration capabilities, the owner or operator shall 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. The owner or operator of a CAIR NOx Ozone Season unit that produces useful thermal energy but uses an energy transfer medium other than steam, such as hot water or glycol, shall install, calibrate, maintain and operate the necessary meters to measure and record the data necessary to express the useful thermal energy produced, in mmBtu/hr, on a continuous basis. If the unit ceases to produce useful thermal energy, the owner or operator may cease operation of the meters, but operation of the meters shall be resumed if the unit resumes production of useful thermal energy.

(c) Beginning with 2008, the designated representative of the unit shall submit to the Department an annual report showing monthly gross electrical output and monthly useful thermal energy from the unit. The report is due by January 31 for the preceding calendar year.

(d) The owner or operator of a CAIR NOx Ozone Season unit shall maintain onsite the monitoring plan detailing the monitoring system and maintenance of the monitoring system, including quality assurance activities. The owner or operator of a CAIR NOx Ozone Season unit shall retain the monitoring plan for at least 5 years from the date that it is replaced by a new or revised monitoring plan. The owner or operator of a CAIR NOx Ozone Season unit shall provide the Department with a written copy of the

monitoring plan by January 1, 2008, and thereafter within 3 calendar months of making updates to the plan.

(e) The owner or operator of a CAIR NO_x Ozone Season unit shall retain records for at least 5 years from the date the record is created or the data collected as required by subsections (a) and (b), and the reports submitted to the Department and EPA in accordance with subsections (c) and (d).