

SECTION 10**CAIR and NO_x BUDGET PERMIT ANALYSIS**

Section 110(a)(2)(D) of the Federal Clean Air Act gives EPA the authority to require States to develop plans to prohibit "any source...from emitting any air pollution in amounts which will contribute significantly to nonattainment in, or interfere with maintenance by, any other State...." The Clean Air Interstate Rule (CAIR) interprets this section of the Clean Air Act as it applies to non-attainment of the 8-hour ozone standard and the annual average PM_{2.5} NAAQS. On March 10, 2005, EPA finalized CAIR, a Rule that will result in the deepest cuts in SO₂ and NO_x since the Acid Rain Program. CAIR covers 28 eastern States and the District of Columbia. In this Rule, EPA finds that SO₂ and NO_x emissions contribute to non-attainment of both the 8-hour Ozone Standard and the annual PM_{2.5} Standard. Each State in the Region has some flexibility on how CAIR is implemented, and Pennsylvania has adopted a CAIR Rule in 25 Pa. Code Chapter 145 Subchapter D. On July 6, 2010, EPA proposed a Transport Rule that is intended to replace the CAIR Rule. This new Rule will require deeper reductions in both NO_x and SO₂ and will impact 31 states and the District of Columbia. This was discussed in Section 4.2.2.b. It is likely that PA DEP will have to revise its CAIR NO_x and SO₂ Trading Rule in 25 PA Code Chapter 145 Subchapter D to conform to the new Transport Rule when it is adopted. CRE is committed to meeting the CAIR/Transport Rule requirements at the proposed facility. Based on future uses defined for the facility, it may also qualify for a co-generation exemption.

The Pennsylvania CAIR Rule incorporates by reference in 25 PA Code Section 145.204 the CAIR NO_x Annual Trading Program and the CAIR NO_x Ozone Season Trading Program as a means of mitigating the interstate transport of fine particulates and NO_x, and the CAIR SO₂ Trading Program as a means of mitigating the interstate transport of fine particulates and SO₂ (40 CFR Part 96). The Pennsylvania Rule also establishes general provisions and the applicability, allowance and supplemental monitoring, recordkeeping and reporting provisions as required by the CAIR requirements. The provisions are included in 25 Pa. Code Chapter 145 Subchapter D "CAIR NO_x and SO₂ Trading Programs." The timing requirements for CAIR NO_x allowance allocations are not incorporated by reference and the Pennsylvania requirements are included in 25 PA Code Section 145.211 and 145.212.

As determined in the draft Plan Approval for the nearly identical Erie facility the proposed CRE facility will also be subject to the CAIR requirements.

The method by which PA DEP will allocate allowances under the new CAIR Program is included in 25 PA Code Sections 145.211 and 145.212.

Although the CAIR regulations will have some effect on the proposed CRE facility, it will have little or no effect on the proposal itself and/or the technology chosen for the project. In fact, with the addition of RSCR control technology, NO_x emissions from the CFB units will likely exceed expectations, and the impact of CAIR on the facility will not be significant.

Prior to startup, CRE will be required to apply for a CAIR/Transport Rule Budget Permit for the facility. It is anticipated that the CAIR/Transport Rule Budget Permit will be incorporated into the facility's Title V Permit, at PA DEP's discretion.

CRE will also be required to obtain NO_x allowances upon start-up of the facility. It is anticipated that a portion of the allowances will come from the State's new source allocation program as stated in 25 PA Code Section 145.212. Additionally, once the facility commences operation, it will be required to hold and surrender enough NO_x allowances to cover annual or ozone season emissions. In order to hold or surrender allowances or conduct other allowance-related transactions, CRE will need to formally identify

and empower a "CAIR/Transport Rule authorized account representative" in accordance with PA Code Title 25, Chapter 145, which incorporates by reference the Federal requirements. As drafted, Chapter 145, Subchapter D will define the "CAIR authorized account representative" as "...the natural person who is authorized by the owners and operators of the source and all CAIR budget units at the source, in accordance with this subchapter, to represent and legally bind each owner and operator in matters pertaining to the NO_x Budget program...."

10.1 CAIR/Transport Rule Budget Permit Application

When required, CRE will file a CAIR/Transport Rule Budget Permit application(s) as required by 40 CFR Part 96 and 25 PA Code Section 145 Subchapter D.

Also, if required in accordance with CAIR or the Transport Rule (if adopted), CRE will execute a legally binding agreement with the CAIR/Transport Rule authorized account representative as specified in the Certificate of Representation – OMB Form No. 2060 – 0445, or as otherwise specified. Inasmuch as this agreement is not required to be submitted to EPA or PA DEP, it will be kept by CRE and the CAIR authorized account representative.