

## **SECTION 2: CAIR NO<sub>x</sub> TRADING PROGRAMS RULE**

### **2.1 Background**

Upon finalizing CAIR, EPA anticipated that states would reduce emissions of SO<sub>2</sub> and NO<sub>x</sub> largely by reducing emissions from the power generation sector. Annual and seasonal NO<sub>x</sub> allocations will be on a unit by unit basis using the Louisiana budget provided as per the CAIR definition. The annual and ozone season allowances shall be calculated by LDEQ using the method as proposed in AQ285 and the Louisiana annual and ozone season budgets as defined in CAIR. The allowances will be submitted to EPA; EPA in turn will manage the allowances including transfers, purchases, and withdrawal for compliance each control period.

Further, LDEQ will be responsible for issuing the applicable CAIR permits to each facility. Only those facilities (facilities with one or more units subject to CAIR) with a Title V permit will need to apply for a CAIR permit. The CAIR permit will be separable from the Title V permit, much like the Acid Rain permits. This permit is necessary in order to participate in the CAIR programs (Annual NO<sub>x</sub>, Ozone Season NO<sub>x</sub>, and Annual SO<sub>2</sub>).

In order to implement CAIR, LDEQ has worked to identify and contact all subject facilities. A stakeholder group was formed to garner input from industry, government, and environmental entities. LDEQ engaged in discussions with the LPSC regarding the impact of CAIR on the Louisiana rate payer.

As part of its effort to identify all the EGUs in the state, LDEQ reviewed data from the its databases (TEMPO and Emission Inventory), the National Electric Energy System Database (NEEDS 2000, 2003, and 2004), the Department of Energy and the Acid Rain Program. The results of the review were compared to a list of potentially subject units and facilities provided by the LSUCES. The final list was published in the Louisiana Register on January 20, 2006 (LR 32:179 January 20, 2006) and the potentially subject facilities were asked to verify the status of the units. The published list was revised based on the responses received and the facilities remaining on the list that did not respond were contacted by LDEQ to confirm the status of potentially subject units.

### **2.2 Rule Provisions**

CAIR establishes a cap-and-trade system based on EPA's Acid Rain Program and NO<sub>x</sub> SIP Call Program for SO<sub>2</sub> and NO<sub>x</sub> emissions from EGUs. An annual NO<sub>x</sub> budget and an Ozone Season budget were created for each CAIR state. The NO<sub>x</sub> "allowances" in each state's budget are to be allocated to subject facilities within each state. §51.123(p) of the federal CAIR allows each state some flexibility in the implementation of certain rule provisions related to methods for allocating NO<sub>x</sub> allowances. Rule AQ285, CAIR NO<sub>x</sub> Trading Programs, defines the state's method under the CAIR Annual and Ozone Season Trading Programs for allocating NO<sub>x</sub> allowances to EGUs subject to CAIR. The provisions in the proposed state rule located at LAC 33:III.506 would be used in lieu of

40 CFR 97, Subpart EE – CAIR NO<sub>x</sub> Allowance Allocations (§97.141 and §97.142) and Subpart EEEE – CAIR NO<sub>x</sub> Ozone Season Allowance Allocations (§97.341 and §97.342). The proposed rule is included in Appendix B.

In AQ285, CAIR facilities in Louisiana are defined as either utility unit (LPSC regulated and municipals) or non-utility units (independent power producers, and co-generation facilities). The allocation of NO<sub>x</sub> allowances is based on whether a facility is a utility unit or a non-utility unit. Should the designation of a facility as utility or non-utility change, the method for allocating allowances for the facility/unit will change for the next control period in which allowances are allocated. For both utility and non-utility units, the initial annual and ozone season NO<sub>x</sub> allocations for control periods 2009, 2010, and 2011 will be made using data from 2002, 2003, and 2004. For control period 2012 and thereafter, the allowance calculation will use the last three (3) years of actual data prior to the control period for which NO<sub>x</sub> allocations are submitted to the Administrator. [Example - allocations for control period 2012 will use actual emissions from 2007, 2006, and 2005] If three (3) years of data is not available for a unit, the data available will be used and averaged if possible. The primary source of data will be the LDEQ annual emission inventory, but the EPA Acid Rain database will be used if data is missing in the Louisiana LDEQ emission inventory.

For non-utility units, annual and ozone season NO<sub>x</sub> allowances will be based on an average of the unit's actual annual, or ozone season, emissions for three (3) years prior to the control period for which NO<sub>x</sub> allocations are being made. The annual NO<sub>x</sub> allowances for the units will be totaled and subtracted from the Louisiana Annual NO<sub>x</sub> budget the control period for which allocations are being made. The ozone season allowances for non-utility units are also totaled and subtracted from the Louisiana Ozone Season NO<sub>x</sub> budget.

The remaining Louisiana annual NO<sub>x</sub> and ozone season NO<sub>x</sub> budgets are allocated to the utility units based on an average of the actual annual, or ozone season, heat input of the units as a ratio to the total average annual actual heat input for the annual, or ozone season.

Provisions for LPSC certified and municipally approved new units are included to provide NO<sub>x</sub> allocations until the units has been in operation for 3 years.

For the Louisiana calculation methodology for annual and ozone season NO<sub>x</sub> allowances for utility and non-utility units, see Appendix C.

### **2.3 Public Notice**

In accordance with La. R.S. 49:950 et seq., and to comply with 40 CFR 51.285 Public Notification, the LDEQ published a notice seeking comment on this rule revision on May 20, 2007, in the *Louisiana Register*. A public hearing concerning this proposed rule revision will be held at 1:30 p.m. on June 26, 2007, in the Galvez Building, Oliver

Pollock Room C111, at 602 N. Fifth Street, Baton Rouge, Louisiana. Interested parties are invited to submit written or oral comments on the proposal at that time. The comment period will close at 4:30 p.m. on July 3, 2007. Written comments will be accepted via mail, fax, or email. A copy of the notice is included in Appendix A.