

SUMMARY OF LEGISLATIVE BILLS FOR EPA ANALYSIS



	Clear Skies 2003 (S. 485 (108 th) – February 27, 2003)	Clear Skies 2005 (S. 131 – January 24, 2005)	Clear Skies 2005 (Managers’ Amendment)	Clean Air Planning Act of 2003 (S. 843 (108 th) – April 9, 2003)	Clean Power Act of 2005 (S. 150 – January 25, 2005)
Sponsor	Inhofe	Inhofe	Inhofe	Carper	Jeffords
Affected units	Fossil fuel-fired electricity generating facilities with a nameplate capacity > 25 MW that generate electricity for sale. New gas-fired units serving a generator with capacity <= 25 MW exempted for SO ₂ . Otherwise, new units included regardless of size.	Fossil fuel-fired electricity generating facilities with a nameplate capacity > 25 MW that generate electricity for sale. Exempts most co-gens from mandatory inclusion but allows them to opt-in. New gas-fired units serving a generator with capacity <= 25 MW exempted for NO _x ; all new units <= 25 MW exempted for SO ₂ . Otherwise, new units included regardless of size. For Hg, units emitting 50 lbs or less are exempted on an annual basis.	Fossil fuel-fired electricity generating facilities with a nameplate capacity > 25 MW that generate electricity for sale. Exempts most co-gens from mandatory inclusion but allows them to opt-in. New gas-fired units serving a generator with capacity <= 25 MW exempted for SO ₂ and NO _x ; For Hg, units emitting 30 lbs or less are exempted on an annual basis.	Fossil fuel-fired electricity generating facilities with a nameplate capacity > 25 MW that generate electricity for sale. SO ₂ applicability is same as Acid Rain Program. Nuclear and renewable electricity generating units included in CO ₂ program.	Fossil fuel-fired electricity generating facilities with a nameplate capacity >= 15 MW that generate electricity for sale.
Affected States	50 States + DC, as well as Territories	50 States + DC, as well as Territories	50 States + DC, as well as Territories	50 States + DC	50 States + DC
Sulfur Dioxide (SO₂)	2010: 4.5 million tons 2018: 3.0 million tons	2010: 4.5 million tons 2018: 3.0 million tons	2010: 4.5 million tons 2016: 3.0 million tons	2009: 4.5 million tons 2013: 3.5 million tons 2016: 2.25 million tons	2010: 2.25 million tons (split into West and Non-West) West: 275,000 tons Non-West: 1.975 million tons
Nitrogen Oxides (NO_x)	2008: 2.1 million tons 2018: 1.7 million tons Zone 1 2008: 1,562,000 2018: 1,162,000 Zone 2: 2008 and beyond: 538,000	2008: 2.2 million tons 2018: 1.8 million tons Zone 1 2008: 1,473,603 2018: 1,073,603 Zone 2: 2008 and beyond: 714,794 *Zones differ slightly from CSA 2003	2008: 2.2 million tons 2016: 1.8 million tons Zone 1 2008: 1,473,603 2016: 1,073,603 Zone 2: 2008 and beyond: 714,794 *Zones differ slightly from CSA 2003 Requires EPA to set ozone season cap b/c of NO _x ERCs, but levels not indicated.	2009: 1.87 million tons 2013: 1.7 million tons	2010: 1.51 million tons
Carbon Dioxide (CO₂)	Not covered	Not covered	Not covered	2009: 2006 emissions (2.655 billion tons) 2013: 2001 emissions (2.454 billion tons)	2010: 2.050 billion tons
Mercury (Hg)	2010: 26 tons 2018: 15 tons	2010: 34 tons 2018: 15 tons	2010: 34 tons 2016: 15 tons	2009: 24 tons 2013: 10 tons	2010: 5 tons No Hg trading.

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Additional Constraints (e.g, WRAP, Hg)	A separate cap-and-trade program goes into effect for the 9 WRAP States if SO ₂ emissions in these States exceeds (or is projected to exceed) 271,000 tons in 2018 or later.	A separate cap-and-trade program goes into effect for the 9 WRAP States if SO ₂ emissions in these States exceeds (or is projected to exceed) 271,000 tons in 2018 or later.	A separate cap-and-trade program goes into effect for the 9 WRAP States if SO ₂ emissions in these States exceeds (or is projected to exceed) 271,000 tons in 2016 or later.	Hg unit-specific emissions limitation: 2009-2012 – emissions cannot exceed 50% of total Hg content of delivered coal at affected unit; starting in 2013 – the percentage drops to 30%. Emissions in all years must be below an output-based rate determined by the administrator.	Hg unit-specific emissions limitation of no greater than 2.48 grams per 1,000 MWh in 2009. The Administrator may not differentiate between facilities that burn different types of coal. Emissions rate averaging among affected units at the same facility is allowed.
Trading Restrictions	NO _x : Allowances cannot be traded between the two regions.	NO _x : Allowances cannot be traded between the two regions.	NO _x : Allowances cannot be traded between the two regions.	None	SO ₂ : Allowances cannot be traded between regions. Hg : Trading is not permitted.
Banking Restrictions	None	None	None	None	Hg : Cannot be banked
Integration with Acid Rain Program and NO_x SIP Call allowances	ARP : Banked pre-2010 Title IV SO ₂ allowances can be used at a 1:1 ratio. NO_x SIP Call : pre-2008 NO _x allowances can be used for compliance.	ARP : Banked pre-2010 Title IV SO ₂ allowances can be used at a 1:1 ratio. NO_x SIP Call : pre-2008 NO _x allowances can be used for compliance.	ARP : Banked pre-2010 Title IV SO ₂ allowances can be used at a 1:1 ratio. NO_x SIP Call : pre-2008 NO _x allowances can be used for compliance.	ARP : Banked pre-2009 Title IV SO ₂ allowances can be used at a 1:1 ratio. NO_x SIP Call would exist separately from S. 843.	NO_x SIP Call would exist separately from S. 150. Banked Title IV SO ₂ allowances and NO _x credits can be used for compliance at a 4:1 retirement ratio. Pre-2010 NO _x or SO ₂ credits due to achievement of NSPS can be used at full value for compliance.
Early Reduction Credits	None	Early reduction credits granted for Hg and NO _x non-SIP Call reductions (1 allowance per 1.05 tons).	Early reduction credits granted for Hg (from Hg-specific controls) and NO _x non-SIP Call reductions (1 allowance per 1.05 tons). Caps to be reduced in years 2018-2027 by 1/10 the amount of ERCs generated.	None for SO ₂ , NO _x , and Hg, but projects can demonstrate carbon offsets and generate CO ₂ allowances.	See discussion of interaction with Acid Rain Program and NO _x SIP Call allowances.
Opt-ins	Fossil-fuel fired boilers, turbines, and IGCC plants can opt-in to the SO ₂ , NO _x , and Hg trading programs if certain conditions are met.	Fossil-fuel fired boilers, turbines, IGCC plants, and some non-boiler sources can opt-in to the SO ₂ , NO _x , and Hg trading programs if certain conditions are met.	Fossil-fuel fired boilers, turbines, IGCC plants, and some non-boiler sources can opt-in to the SO ₂ , NO _x , and Hg trading programs if certain conditions are met.	None, though provisions for CO ₂ offsets.	None

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New Source Review (NSR) and other Regulatory Implications	Exempts new and existing affected units meeting certain requirements from NSR and the requirement to install best available retrofit technology (BART).	Exempts new and existing affected units meeting certain requirements from NSR and the requirement to install best available retrofit technology (BART). Added exemptions for affected sources from regional haze requirements of Sections 169A and B, for 20 years after enactment. Allows States to seek “transitional” classification for PM _{2.5} or 8-hour ozone NAAQS nonattainment areas. Allows state petitions to EPA to address interstate transport beginning in 2011 based on the cost-effectiveness of controls in upwind areas.	Exempts new and existing affected units meeting certain requirements from NSR and the requirement to install best available retrofit technology (BART). Added exemptions for affected sources from regional haze requirements of Sections 169A and B, for 20 years after enactment. Allows States to seek “transitional” classification for PM _{2.5} or 8-hour ozone NAAQS nonattainment areas. Allows States to petition EPA to address interstate transport beginning in 2011.	NSR applies to construction of a new unit (including existing boiler replacement) or any modification to an existing unit that increases the hourly emissions rate of an NSR-covered pollutant, after netting among covered units at a source. Birthday provision: Starting in 2020, any affected unit on which construction commenced before 8/17/1971 must meet performance standards of: (A) 4.5 lbs/MWh for SO ₂ ; and (B) 2.5 lbs/MWh for NO _x	Beginning on January 1, 2014, or 40 years after commencement of generation at a facility, (whichever date is later), the facility is subject to emissions limitations reflecting best available control technology (BACT) on a new source facility of the same generating capacity.
Safety Valve(s)	Units can purchase future year allowances for current use.. SO ₂ : \$4,000 per ton NO _x : \$4,000 per ton Hg: \$2,187.50 per ounce Prices are adjusted for inflation based on the CPI.	Units can purchase future year allowances for current use.. SO ₂ : \$2,000 per ton NO _x : \$4,000 per ton Hg: \$2,187.50 per ounce Prices are adjusted for inflation based on the CPI.	Units can purchase future year allowances for current use.. SO ₂ : \$2,000 per ton NO _x : \$4,000 per ton Hg: \$2,187.50 per ounce Prices are adjusted for inflation based on the CPI.	None except to exercise penalty for excess emissions.	None except to exercise penalty for excess emissions.
Penalties	Excess emissions must be offset in a future year, as determined by the Administrator. Also: Within 30 days: Clearing price of an allowance in the most recent auction. After 30 days: three times the clearing price in the most recent auction.	Excess emissions must be offset in a future year, as determined by the Administrator. Also: Within 30 days: SO ₂ : \$2,000 penalty for each ton of excess emissions. NO _x : \$4,000 penalty for each ton of excess emissions. Hg: \$2,187.50 penalty for each ounce of excess emissions. After 30 days: Penalty is multiplied by 1.5 Excess emissions fees are adjusted with the CPI.	Excess emissions must be offset in a future year, as determined by the Administrator. Also: Within 30 days: SO ₂ : \$2,000 penalty for each ton of excess emissions. NO _x : \$4,000 penalty for each ton of excess emissions. Hg: \$2,187.50 penalty for each ounce of excess emissions. After 30 days: Penalty is multiplied by 2.0 Excess emissions fees are adjusted with the CPI.	Excess emissions must be offset in a future year, as determined by the Administrator. Also: SO ₂ : \$2,000 penalty for each ton of excess emissions. NO _x : \$5,000 penalty for each ton of excess emissions. Hg: \$10,000 penalty for each pound of excess emissions. CO ₂ : \$100 penalty for each ton of excess emissions. Excess emissions fees are adjusted with the CPI.	SO ₂ , NO _x , and CO ₂ : three times the excess emissions in tons (or failed allowance submissions) multiplied by the average annual market price of the appropriate allowance. Hg: Three times the excess emissions in grams multiplied by the average cost of mercury controls.

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Allocation Methodology	<p>SO₂, NO_x, Hg – Each year, the number of allocated allowances decreases, and the number of allowances auctioned increases, until all allowances are eventually auctioned.</p> <p>SO₂ – 95% of available allowances allocated to existing Title IV units that were allocated ARP allowances. This is done by adjusting the 2010 and later ARP accounts of these units proportionally.</p> <p>5% of allowances distributed to affected units without ARP allocations based on baseline heat input.</p> <p>NO_x – Allowances allocated to affected units on a heat input basis.</p> <p>Hg – Allowances allocated to existing affected units on an adjusted baseline heat input basis (1.0 for bituminous, 1.25 for subbituminous, 3.0 for lignite)</p>	<p>SO₂ – 93% of available allowances allocated to existing Title IV units that were allocated ARP allowances. This is done by adjusting the 2010 and later ARP accounts of these units proportionally.</p> <p>7% of allowances distributed to affected units without ARP allocations based on baseline heat input.</p> <p>Separate allowance reserve for commitment to use SO₂ control technology w/ bituminous coal through 2009. (83,334 allowances in 2010; 83,333 in 2011 and 2012).</p> <p>NO_x – 95% of allowances allocated to existing affected units on an adjusted baseline heat input basis (1.0 for coal; 0.55 for oil and gas in zone one for 2008-2017; 0.8 for those units in 2018 and beyond; 0.4 for oil and gas in Zone 2)</p> <p>5% of allowances allocated to new units on an adjusted heat input basis.</p> <p>Hg – 95% of allowances allocated to existing affected coal-fired units on an adjusted baseline heat input basis (1.0 for bituminous, 1.25 for subbituminous, 3.0 for lignite)</p> <p>5% of allowances allocated to new units on an adjusted heat input basis.</p>	<p>SO₂ – 88% of available allowances allocated to existing Title IV units that were allocated ARP allowances. This is done by adjusting the 2010 and later ARP accounts of these units proportionally.</p> <p>7% of allowances distributed to affected units without ARP allocations based on fuel-adjusted baseline heat input.</p> <p>Separate allowance reserve for commitment to use SO₂ control technology w/ bituminous coal through 2009. (83,334 allowances in 2010; 83,333 in 2011 and 2012).</p> <p>2% set-aside for direct sales (to provide for safety valve allowances)</p> <p>Additional allowance set aside of 18,855 allowances for owner of Absaloka mine.</p> <p>NO_x – 93% of allowances allocated to existing affected units on an adjusted baseline heat input basis (1.0 for coal; 0.55 for oil and gas in zone one for 2008-2017; 0.8 for those units in 2018 and beyond; 0.4 for oil and gas in Zone 2)</p> <p>5% of allowances allocated to new units on an adjusted heat input basis</p> <p>2% set-aside for direct sales (to provide for safety valve allowances)</p> <p>Hg – 93% of allowances allocated to existing affected coal-fired units on an adjusted baseline heat input basis (1.0 for bituminous, 1.25 for subbituminous, 3.0 for lignite)</p> <p>5% of allowances allocated to new units on an adjusted heat input basis.</p> <p>2% set-aside for direct sales (to provide for safety valve allowances)</p>	<p>SO₂ – Existing Sources: Existing fossil fuel-fired units (includes Title IV existing units, and units built at least three years before the current year) receive allowances based on Title IV allocations, adjusted on a pro-rata basis for the SO₂ cap and the new unit set-aside for SO₂.</p> <p>SO₂ – New Sources: New units receive allowances from set-aside according to regulations to be promulgated by the Administrator.</p> <p>NO_x – Existing Sources: Existing fossil fuel-fired units receive allowances equal to the product of 1.5 lbs/MWh times the average annual net quantity of electricity generated during the most recent 3-calendar year period, divided by 2,000 lbs of NO_x per ton. Any remaining allowances are allocated on a pro-rata basis.</p> <p>NO_x – New Sources: New units are to be allocated allowances based on projected emissions.</p> <p>Hg – Existing Sources: Existing coal-fired units receive allowances equal to the product of 0.0000227 lbs/MWh times the average annual net quantity of electricity generated during the most recent 3-calendar year period measured in MWh. Any remaining allowances are allocated on a pro-rata basis.</p> <p>Hg – New Sources: New units are to be allocated allowances based on projected emissions.</p> <p>CO₂ – Existing Sources: Existing units receive allowances in proportion to the average annual net quantity of electricity generated during the most recent 3-calendar year period</p> <p>CO₂ – New Sources: New units are to be allocated allowances based on projected share of total generation.</p>	<p>SO₂, NO_x, CO₂ – Existing affected sources: 10% of all SO₂, NO_x, and CO₂ allowances in 2010 are to be allocated to affected facilities based on their share of total generation by affected facilities in 2003. This % declines by 1% every year until 2019, such that 1% of allowances go directly to affected facilities in 2019.</p> <p>SO₂, NO_x, CO₂ – Transition assistance: 6% of all SO₂, NO_x, and CO₂ allowances in 2010 are to be allocated to workers, communities, and non-electricity generating firms impacted by the bill. This % declines by 0.5% every year until 2019, where it stays at 1.5%. Of this set of allowances, 80% is to provide assistance to dislocated workers and communities that have been disproportionately affected; 20% is to be allocated to producers of electricity-intensive products based on share of production and energy intensity.</p> <p>SO₂, NO_x, CO₂ – Renewable Generation, Energy Efficiency, and Clean Product Incentives: Not more than 20% of all SO₂, NO_x, and CO₂ allowances in 2010 and beyond are to be allocated to renewable generation facilities and owners of energy-efficient buildings, producers of energy-efficient products, entities that carry out energy-efficient projects, owners of new clean fossil-fuel electricity generation units, and owners of combined heat and power generators.</p> <p>SO₂, NO_x, CO₂ – Household Allocations: Any allocations not allocated to other sectors are given to electricity consumers through and appointed trustee. Households receive allowances based on the number of people in the household and their state’s ratio of residential electricity consumption to national residential electricity consumption.</p> <p>CO₂ – Sequestration: Not more than 0.075% of total CO₂ allowances shall be allocated to encourage biological carbon sequestration and not more than 1.5% of total CO₂ allowances shall be allocated to encourage geological carbon sequestration.</p>