

10 CSR 10-6.362 Clean Air Interstate Rule Annual NO_x Trading Program

(1) Applicability.

(A) Except as provided in subsection (1)(B) of this rule-

1. The following units in this state shall be Clean Air Interstate Rule (CAIR) nitrogen oxides (NO_x) units, and any source that includes one (1) or more such units shall be a CAIR NO_x source, subject to the requirements of this rule: any stationary, fossil-fuel-fired boiler or stationary, fossil-fuel-fired combustion turbine serving at any time, since the later of November 15, 1990 or the startup of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) megawatts electric (MWe) producing electricity for sale.

2. If a stationary boiler or stationary combustion turbine that, under paragraph (1)(A)1. of this rule, is not a CAIR NO_x unit begins to combust fossil fuel or to serve a generator with nameplate capacity of more than twenty-five (25) MWe producing electricity for sale, the unit shall become a CAIR NO_x unit as provided in paragraph (1)(A)1. of this rule on the first date on which it both combusts fossil fuel and serves such generator.

(B) The units in the state that meet the requirements set forth in subparagraph (1)(B)1.A., (1)(B)2.A., or (1)(B)2.B. of this rule shall not be CAIR NO_x units-

1. Cogenerator exemption.

A. Any unit that is a CAIR NO_x unit under paragraph (1)(A)1. or 2. of this rule-

(I) Qualifying as a cogeneration unit during the twelve (12)-month period starting on the date the unit first produces electricity and continuing to qualify as a cogeneration unit; and

(II) Not serving at any time, since the later of November 15, 1990 or the startup of the unit's combustion chamber, a generator with nameplate capacity of more than twenty-five (25) MWe supplying in any calendar year more than one-third of the unit's potential electric output capacity

or two hundred nineteen thousand (219,000) megawatt hours (MWh), whichever is greater, to any utility power distribution system for sale.

B. If a unit qualifies as a cogeneration unit during the twelve (12)-month period starting on the date the unit first produces electricity and meets the requirements of subparagraph (1)(B)1.A. of this rule for at least one (1) calendar year, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a cogeneration unit or January 1 after the first calendar year during which the unit no longer meets the requirements of part (1)(B)1.A.(II) of this rule.

2. Solid waste incinerator exemption.

A. Any unit that is a CAIR NO_x unit under paragraph (1)(A)1. or 2. of this rule commencing operation before January 1, 1985-

(I) Qualifying as a solid waste incineration unit; and

(II) With an average annual fuel consumption of non-fossil fuel for 1985-1987 exceeding eighty percent (80%) (on a British thermal unit (Btu) basis) and an average annual fuel consumption of non-fossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%) (on a Btu basis).

B. Any unit that is a CAIR NO_x unit under paragraph (1)(A)1. or 2. of this rule commencing operation on or after January 1, 1985-

(I) Qualifying as a solid waste incineration unit; and

(II) With an average annual fuel consumption of non-fossil fuel for the first three (3) calendar years of operation exceeding eighty percent (80%) (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three (3) consecutive calendar years after 1990 exceeding eighty percent (80%) (on a Btu basis).

C. If a unit qualifies as a solid waste incineration unit and meets the requirements of subparagraph (1)(B)2.A. or B. of this rule for at least three (3) consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR NO_x unit starting on the earlier of January 1 after the first calendar year during which the unit first no longer qualifies as a solid waste incineration unit or January 1 after the first three (3) consecutive calendar years after 1990 for which the unit has an average annual fuel consumption of fossil fuel of twenty percent (20%) or more.

(C) Retired Unit Exemption. Unless otherwise noted in this section of the rule, all of the sections of 40 CFR 96.105 promulgated as of April 28, 2006 are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(2) Definitions.

(A) Definitions for key words and phrases used in this rule may be found in sections 40 CFR 96.102 and 96.103 of 40 CFR 96 subpart AA promulgated as of April 28, 2006 are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(B) Definitions of certain terms specified in this rule, other than those defined in this rule section, may be found in 10 CSR 10-6.020.

(3) General Provisions.

(A) Unless otherwise noted in this section of the rule, 40 CFR 96.106, 96.107, and 96.108 as well as all of the sections of 40 CFR 96 subparts BB, CC (excluding any reference to 40 CFR 96 subpart EE), DD, FF, GG, and II promulgated as of April 28, 2006 are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(B) NO_x Allowances.1. Timing requirements for CAIR NO_x allowance allocations.

A. By October 31, 2006, the permitting authority will submit to the administrator the CAIR NO_x allowance allocations, in a format prescribed by the administrator, for the calendar years in 2009, 2010, 2011, 2012, 2013, and 2014 consistent with the allocations listed in Table I of this rule.

B. By October 31, 2006, the permitting authority will submit to the administrator the CAIR NO_x allowance allocations, in a format prescribed by the administrator, for the calendar year beginning 2015 and extending through ten (10) calendar years consistent with the allocations listed in Table I of this rule.

C. By October 31, 2015 and October 31 of every tenth year following, the permitting authority will submit to the administrator the CAIR NO_x allowance allocations, in a format prescribed by the administrator, for the calendar year ten (10) years in the future and extending through ten (10) calendar years consistent with the allocations listed in Table I of this rule.

2. NO_x allowance allocations.

A. The state trading program NO_x budget allocated by the director under subparagraphs (3)(B)2.B. and (3)(B)2.C. of this rule for a calendar year will equal fifty-nine thousand eight hundred seventy-one (59,871) tons for 2009-2014 and forty-nine thousand eight hundred ninety-two (49,892) tons for 2015 and beyond.

B. The following NO_x budget units shall be allocated NO_x allowances for each calendar year in accordance with Table I of paragraph (3)(B)2.B. of this rule.

Table I

| Facility ID | Facility Name | Unit ID | Portion Statewide Pool | NO_x Allocation 2009-2014 | NO_x Allocation 2015 and Beyond |
|--------------------|----------------------|----------------|-------------------------------|--|--|
| 2076 | ASBURY | 1 | 1.842% | 1,097 | 914 |
| 2079 | HAWTHORN STATION | 5A | 5.531% | 3,294 | 2,743 |
| 2079 | HAWTHORN STATION | 6 | 0.053% | 31 | 26 |

| Facility ID | Facility Name | Unit ID | Portion Statewide Pool | NO _x Allocation 2009-2014 | NO _x Allocation 2015 and Beyond |
|-------------|---------------------------|---------|------------------------|--------------------------------------|--|
| 2079 | HAWTHORN STATION | 7 | 0.031% | 18 | 15 |
| 2079 | HAWTHORN STATION | 8 | 0.027% | 16 | 13 |
| 2079 | HAWTHORN STATION | 9 | 0.116% | 69 | 58 |
| 2080 | MONTROSE STATION | 1 | 1.530% | 911 | 759 |
| 2080 | MONTROSE STATION | 2 | 1.589% | 947 | 788 |
| 2080 | MONTROSE STATION | 3 | 1.581% | 942 | 784 |
| 2081 | NORTHEAST #11 | | 0.005% | 3 | 2 |
| 2081 | NORTHEAST #12 | | 0.004% | 2 | 2 |
| 2081 | NORTHEAST #13 | | 0.011% | 7 | 6 |
| 2081 | NORTHEAST #14 | | 0.009% | 5 | 5 |
| 2081 | NORTHEAST #15 | | 0.008% | 4 | 4 |
| 2081 | NORTHEAST #16 | | 0.005% | 3 | 2 |
| 2081 | NORTHEAST #17 | | 0.011% | 6 | 5 |
| 2081 | NORTHEAST #18 | | 0.007% | 4 | 3 |
| 2082 | FAIRGROUNDS | | 0.004% | 2 | 2 |
| 2092 | RALPH GREEN | 3 | 0.015% | 9 | 8 |
| 2094 | SIBLEY | 1 | 0.514% | 306 | 255 |
| 2094 | SIBLEY | 2 | 0.512% | 305 | 254 |
| 2094 | SIBLEY | 3 | 3.319% | 1,977 | 1,646 |
| 2096 | AMEREN VIADUCT | | 0.001% | — | — |
| 2098 | LAKE ROAD | 6 | 0.910% | 542 | 452 |
| 2098 | LAKE ROAD | 5 | 0.009% | 5 | 4 |
| 2102 | HOWARD BEND | | 0.002% | 1 | 1 |
| 2103 | LABADIE | 1 | 4.890% | 2,913 | 2,425 |
| 2103 | LABADIE | 2 | 5.033% | 2,998 | 2,496 |
| 2103 | LABADIE | 3 | 5.589% | 3,329 | 2,772 |
| 2103 | LABADIE | 4 | 5.009% | 2,984 | 2,484 |
| 2104 | MERAMEC | 1 | 1.225% | 730 | 607 |
| 2104 | MERAMEC | 2 | 1.134% | 676 | 562 |
| 2104 | MERAMEC | 3 | 1.966% | 1,171 | 975 |
| 2104 | MERAMEC | 4 | 2.985% | 1,778 | 1,480 |
| 2104 | MERAMEC | GT1 | 0.000% | 2 | 2 |
| 2104 | MERAMEC | GT2 | 0.000% | 3 | 2 |
| 2107 | SIOUX | 1 | 3.891% | 2,318 | 1,930 |
| 2107 | SIOUX | 2 | 3.832% | 2,282 | 1,900 |
| 2122 | CHILLICOTHE | | 0.003% | 2 | 2 |
| 2123 | COLUMBIA | 6 | 0.068% | 41 | 34 |
| 2123 | COLUMBIA | 7 | 0.073% | 44 | 36 |
| 2123 | COLUMBIA | 8 | 0.001% | 1 | — |
| 2132 | BLUE VALLEY POWER | 3 | 0.270% | 161 | 134 |
| 2132 | BLUE VALLEY POWER | GT1 | 0.000% | — | — |
| 2161 | JAMES RIVER | GT1 | 0.025% | 15 | 12 |
| 2161 | JAMES RIVER | GT2 | 0.015% | 9 | 8 |
| 2161 | JAMES RIVER | 3 | 0.492% | 293 | 244 |
| 2161 | JAMES RIVER | 4 | 0.604% | 360 | 300 |
| 2161 | JAMES RIVER | 5 | 1.031% | 614 | 511 |
| 2167 | NEW MADRID POWER PLANT | 1 | 4.611% | 2,747 | 2,287 |
| 2167 | NEW MADRID POWER PLANT | 2 | 5.095% | 3,035 | 2,527 |
| 2168 | THOMAS HILL ENERGY CENTER | MB1 | 1.891% | 1,126 | 938 |

| Facility ID | Facility Name | Unit ID | Portion Statewide Pool | NO _x Allocation 2009-2014 | NO _x Allocation 2015 and Beyond |
|-------------|---------------------------|---------|------------------------|--------------------------------------|--|
| 2168 | THOMAS HILL ENERGY CENTER | MB2 | 2.792% | 1,663 | 1,385 |
| 2168 | THOMAS HILL ENERGY CENTER | MB3 | 6.793% | 4,046 | 3,369 |
| 2169 | CHAMOIIS POWER PLANT | 2 | 0.530% | 315 | 263 |
| 6065 | IATAN STATION | 1 | 6.699% | 3,990 | 3,322 |
| 6074 | GREENWOOD ENERGY CENTER | 1 | 0.021% | 12 | 10 |
| 6074 | GREENWOOD ENERGY CENTER | 2 | 0.020% | 12 | 10 |
| 6074 | GREENWOOD ENERGY CENTER | 3 | 0.024% | 14 | 12 |
| 6074 | GREENWOOD ENERGY CENTER | 4 | 0.025% | 15 | 12 |
| 6155 | RUSH ISLAND | 1 | 4.838% | 2,882 | 2,399 |
| 6155 | RUSH ISLAND | 2 | 4.613% | 2,748 | 2,287 |
| 6195 | SOUTHWEST | 1 | 2.248% | 1,339 | 1,115 |
| 6195 | SOUTHWEST | CT1A | 0.005% | 3 | 2 |
| 6195 | SOUTHWEST | CT1B | 0.005% | 3 | 2 |
| 6195 | SOUTHWEST | CT2A | 0.005% | 3 | 2 |
| 6195 | SOUTHWEST | CT2B | 0.005% | 3 | 2 |
| 6223 | EMPIRE | 3A | 0.004% | 2 | 2 |
| 6223 | EMPIRE | 3B | 0.004% | 2 | 2 |
| 6223 | EMPIRE | 4A | 0.003% | 2 | 2 |
| 6223 | EMPIRE | 4B | 0.003% | 2 | 2 |
| 6563 | EMPIRE-ENERGY CENTER 1 | | 0.036% | 21 | 18 |
| 6563 | EMPIRE-ENERGY CENTER 2 | | 0.031% | 19 | 16 |
| 6650 | MEXICO | | 0.003% | 2 | 2 |
| 6651 | MOBERLY | | 0.002% | 2 | 1 |
| 6652 | MOREAU | | 0.003% | 2 | 2 |
| 6768 | SIKESTON | 1 | 2.612% | 1,556 | 1,295 |
| 7296 | STATE LINE UNIT 1 | 1 | 0.131% | 78 | 65 |
| 7296 | STATE LINE UNIT 1 | 2-1 | 0.204% | 122 | 101 |
| 7296 | STATE LINE UNIT 1 | 2-2 | 0.256% | 153 | 127 |
| 7604 | ST. FRANCIS POWER PL | 1 | 0.155% | 92 | 77 |
| 7604 | ST. FRANCIS POWER PL | 2 | 0.117% | 70 | 58 |
| 7749 | ESSEX POWER PLANT | 1 | 0.018% | 11 | 9 |
| 7754 | NODAWAY POWER PLANT | 1 | 0.019% | 11 | 9 |
| 7754 | NODAWAY POWER PLANT | 2 | 0.018% | 11 | 9 |
| 7848 | HOLDEN POWER PLANT | 1 | 0.004% | 2 | 2 |
| 7848 | HOLDEN POWER PLANT | 2 | 0.006% | 4 | 3 |
| 7848 | HOLDEN POWER PLANT | 3 | 0.004% | 2 | 2 |
| 7903 | MCCARTNEY | MGS1A | 0.002% | 1 | 1 |
| 7903 | MCCARTNEY | MGS1B | 0.002% | 1 | 1 |
| 7903 | MCCARTNEY | MGS2A | 0.002% | 1 | 1 |
| 7903 | MCCARTNEY | MGS2B | 0.002% | 1 | 1 |
| 7964 | PENO CREEK ENERGY CTR | CT1A | 0.003% | 2 | 1 |
| 7964 | PENO CREEK ENERGY CTR | CT1B | 0.003% | 2 | 1 |
| 7964 | PENO CREEK ENERGY CTR | CT2A | 0.003% | 2 | 1 |
| 7964 | PENO CREEK ENERGY CTR | CT2B | 0.003% | 2 | 1 |
| 7964 | PENO CREEK ENERGY CTR | CT3A | 0.003% | 2 | 1 |

| Facility ID | Facility Name | Unit ID | Portion Statewide Pool | NO _x Allocation 2009-2014 | NO _x Allocation 2015 and Beyond |
|-------------|---|---------|------------------------|--------------------------------------|--|
| 7964 | PENO CREEK ENERGY CTR | CT3B | 0.003% | 2 | 1 |
| 7964 | PENO CREEK ENERGY CTR | CT4A | 0.003% | 1 | 1 |
| 7964 | PENO CREEK ENERGY CTR | CT4B | 0.002% | 1 | 1 |
| 8567 | HIGGINSVILLE | | 0.006% | 3 | 3 |
| 55178 | MEP PLEASANT HILL | CT-1 | 0.166% | 99 | 82 |
| 55178 | MEP PLEASANT HILL | CT-2 | 0.153% | 91 | 76 |
| 55234 | AUDRAIN GENERATING | CT1 | 0.001% | 1 | 1 |
| 55234 | AUDRAIN GENERATING | CT2 | 0.001% | 1 | — |
| 55234 | AUDRAIN GENERATING | CT3 | 0.001% | 1 | — |
| 55234 | AUDRAIN GENERATING | CT4 | 0.001% | 1 | — |
| 55234 | AUDRAIN GENERATING | CT5 | 0.001% | 1 | 1 |
| 55234 | AUDRAIN GENERATING | CT6 | 0.000% | — | — |
| 55234 | AUDRAIN GENERATING | CT7 | 0.000% | — | — |
| 55234 | AUDRAIN GENERATING | CT8 | 0.001% | — | — |
| 55447 | COLUMBIA ENERGY CTR | CT01 | 0.001% | 1 | 1 |
| 55447 | COLUMBIA ENERGY CTR | CT02 | 0.001% | 1 | 1 |
| 55447 | COLUMBIA ENERGY CTR | CT03 | 0.001% | 1 | — |
| 55447 | COLUMBIA ENERGY CTR | CT04 | 0.001% | — | — |
| | Energy Efficiency/ Renewable Energy set aside | | | 300 | 300 |
| | Total | | 100.000% | 59,871 | 49,892 |

C. Any unit subject to section (1) of this rule other than those listed in Table I of this subsection will not be allocated NO_x budget allowances under this rule.

D. *Reserved.*

E. Any person seeking set-aside allowances for energy efficiency and renewable generation projects shall meet the requirements of subparagraph (3) (B) 2.E. of this rule.

(I) The purpose for establishing this set-aside is to allocate allowances to serve as incentives for saving or generating electricity through the implementation of energy efficiency and renewable generation projects as defined in this section.

(a) Each energy efficiency and renewable generation set-aside shall contain the number of NO_x allowances as provided in Table I of this subsection.

(b) Awards of allowances will be available only to eligible energy efficiency or renewable generation projects that—

I. Commence operation after September 1, 2005;

II. Reduce electricity use, generate electricity from renewable resources or provide combined heat and power benefits during the twelve (12)-month energy efficiency/renewable energy project period of January 1, 2008 through December 31, 2008 or subsequent twelve (12)-month energy efficiency/renewable energy project periods; and

III. In an application submitted by March 1 of each year, include adequate documentation of these energy savings, renewable energy generation or combined heat and power benefits.

(c) Projects will be awarded allowances for the control period following the twelve (12)-month energy efficiency/renewable energy project period during which the qualifying project activities took place. For example, sponsors of project activities that take place during the twelve (12)-month energy efficiency/renewable energy project period of January 1, 2008 through December 31, 2008 will receive allowances for the 2009 control period.

(d) Eligible projects located in Missouri may qualify for awards from the set-aside for up to seven (7) consecutive control periods. Eligible projects located outside Missouri may qualify for awards for up to five (5) consecutive control periods.

(e) Department actions on applications for awards from the set-aside. The department shall act upon applications as follows:

I. By May 31 of the control period for which NO_x allowances are requested, the department shall take the following actions:

a. For each application, the department shall determine whether the project is eligible and the application is complete and shall notify the applicant of its determination; and

b. For the eligible and complete applications, the department shall calculate the total number of allowances which the projects are qualified to

receive, not to exceed the total number of allowances allocated to the set-aside as provided in Table I of this subsection, and shall award said allowances to eligible energy efficiency or renewable generation projects.

II. If the number of allowances awarded is fewer than allowances allocated to the set-aside as provided in Table I of this subsection, the department shall transfer surplus allowances to the accounts of the electric utilities listed in Table I of this subsection on a pro rata basis in the same proportion as allocations to NO_x budget units set forth in Table I of this subsection.

III. If the number of allowances claimed for award is more than allowances allocated to the set-aside as provided in Table I of this subsection, the department shall allocate awards to sponsors of eligible projects as follows:

a. Up to the first one hundred fifty (150) allowances in the set-aside shall be awarded for eligible projects located in Missouri, as follows. Up to the first sixty (60) allowances shall be awarded for eligible energy efficiency projects in the order that the projects first achieved eligible status. The remaining allowances shall be awarded for eligible projects located in Missouri in the order the projects first achieved eligible status, regardless of the type of project; and

b. The remaining allowances in the set-aside shall be awarded for eligible projects on a pro rata basis in proportion to total remaining claims for awards, regardless of project location.

(II) Project eligibility. Allocations from the energy efficiency and renewable generation set-aside may be requested by any entity, including an electric utility listed in Table I of this subsection or its affiliate, that implements and demonstrates eligible projects as defined in this subparagraph.

(a) Eligibility requirements. The department shall establish requirements for project eligibility and shall determine which projects are eligible to receive awards from the set-aside.

(b) Only the following shall be eligible for awards from the set-aside:

I. Energy efficiency projects resulting in reduced or more efficient electricity use through the voluntary installation, replacement, or modification of equipment, fixtures, or materials in a building or facility.

a. Energy efficiency projects may be directed toward or located within buildings or facilities owned, leased, operated or controlled by an electric utility listed in Table I of this subsection or its affiliate. Eligibility requirements for these projects shall be the same as for any other energy efficiency project.

b. Energy efficiency projects may include demand-side programs that result in reduced or more efficient electricity use;

II. Renewable generation projects, includes electric generation from wind, photovoltaic systems, biogas and hydropower projects. Renewable generation projects do not include nuclear power projects. Eligible biogas projects include projects to generate electricity from methane gas captured from sanitary landfills, wastewater treatment plants, sewage treatment plants or agricultural livestock waste treatment systems. Eligible hydropower projects are restricted to systems—

a. That are certified by the Low Impact Hydropower Institute;

b. That employ a head of ten feet (10') or less; or

c. Employing a head greater than ten feet (10') that make use of a dam that existed prior to the effective date of this rule;

III. Renewable biomass generation projects include projects in which one (1) or more biomass fuels is fired separately or co-fired with one (1) or more fossil fuels to generate electricity. Biomass includes wood and wood waste, energy crops such as switchgrass and agricultural wastes such as crop and animal waste. Electric generation from combustion of municipal solid waste is not included; and

IV. Combined heat and power (CHP) projects that use integrated technologies, including

cogeneration, which convert fuel to electric, thermal, and mechanical energy for on-site or local use. In the case of electricity generation, combined heat and power can include export of power to the local electric utility transmission grid. The thermal energy from combined heat and power systems can be created and used in the form of steam, hot or chilled water for process, space heating or cooling, or other applications. To be eligible, the combined heat and power installation must meet or exceed technology-specific efficiency thresholds that will be established by the department.

(c) Additional eligibility requirements shall include the following:

I. Project information must be submitted on forms provided by the department. After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period;

II. Only projects that are not required by federal government regulation and that are not and will not be used to generate compliance or permitting credits otherwise in the state implementation plan (SIP) are eligible to receive allowances from the set-aside;

III. Only electricity generation or savings that are not the basis for an award of CAIR annual NO_x allowance from a set-aside in another state's CAIR annual NO_x rule can be the basis for a claim from the Missouri set-aside;

IV. Only projects that equal at least one (1) ton of NO_x emissions, using conventional arithmetic rounding, are eligible to receive allowances from the set-aside. Multiple projects may be aggregated into a single allowance allocation request to equal one (1) or more tons of NO_x emissions;

V. Only projects that commence operation after September 1, 2005, are eligible to receive allowances from the set-aside;

VI. Sponsors must establish a compliance account or general account in EPA's NO_x Allowance Tracking System (NATS). The application for an award from the set-aside must be submitted to the department by the CAIR authorized account representative or alternate CAIR authorized

account representative for the compliance account or general account; and

VII. Location of eligible projects.

a. To be eligible, an energy efficiency project or combined heat and power project must be located within Missouri.

b. To be eligible, a renewable generation project or biomass generation project may be located within or outside of Missouri and must meet the following criteria:

(i) The number of allowances awarded to a renewable generation project or biomass generation project located within or outside of Missouri shall be calculated based on the amount of power the facility delivers to Missouri end-use customers. The sponsor must certify and demonstrate the amount of power from the renewable generation project or biomass generation project that is delivered to Missouri end-use customers; and

(ii) If the renewable generation project or biomass generation project is located outside of Missouri, the project must be sponsored by a Missouri electric generation and transmission cooperative, a Missouri electric distribution utility or the affiliate of a Missouri electric distribution utility. For the purpose of this rule, "affiliate" shall be defined as in 4 CSR 240-20.010.

(d) Pre-application project review. Sponsors of new energy efficiency/renewable energy projects must submit a request for pre-application project review by March 31 of the year prior to the control period for which set-aside awards will be claimed. For example, a project sponsor intending to apply for an award of 2009 control period allowances must request a pre-application project review by March 31, 2008, and may request the review at any time prior to that date. Pre-application project reviews will cover eligibility requirements and proposed measurement and verification procedures. The request for pre-application project review must be submitted on forms provided by the department. After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period;

(e) Eligibility for any project may be claimed by only one (1) entity. The department shall determine procedures to be followed if multiple claims of eligibility for the same project are received.

(III) Applications and calculations of awards. To qualify for an award of allowances from the set-aside an applicant must meet the following requirements:

(a) The project must be eligible as provided in part (3)(B)2.E.(II) of this rule;

(b) By March 1 following the twelve (12)-month energy efficiency/renewable energy project period during which the eligible project activities occurred, the department must receive a complete application that meets the following requirements:

I. The application shall be prepared on forms provided by the department and must be submitted by the project's CAIR authorized account representative or alternate CAIR authorized account representative. After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period;

II. The applicant must demonstrate electricity savings or renewable generation and calculate the NO_x allowance award requested using methods that adhere to measurement and verification standards approved by the department. The department shall have the right to require verification of data and calculations that are presented in an application as a condition for awarding allowances to the applicant. Verification may include site visits by agents of the department; and

III. If the applicant intends to reapply in subsequent years, the application must indicate the stream of benefits that is expected in subsequent years;

(c) The department shall determine methods for calculating awards of allowances based upon the following principles:

I. Allowances awarded to end-use electrical energy efficiency projects shall be calculated as the number of MWh of electricity saved during a twelve (12)-month energy efficiency/renewable energy project period multiplied by an emissions factor of 1.5 pounds of NO_x per MWh appropriately converted and rounded to tons using conventional arithmetic rounding. The department shall provide a factor to adjust the calculation of electricity saved to account for transmission and distribution line losses;

II. Allowances awarded to renewable generation projects from wind, photovoltaic systems, biogas and hydropower projects shall be calculated as the number of MWh of electricity generated during a twelve (12)-month energy efficiency/renewable energy project period multiplied by an emissions factor of 1.5 pounds of NO_x per MWh appropriately converted and rounded to tons using conventional arithmetic rounding;

III. Allowances awarded to renewable biomass generation projects shall be calculated based on net NO_x emission reductions, appropriately converted and rounded to tons using conventional arithmetic rounding where—

a. Net NO_x emissions shall be calculated as the number of MWh of electricity generated during a twelve (12)-month energy efficiency/renewable energy project period multiplied by an emissions factor of 1.5 pounds of NO_x per MWh, minus the tons of NO_x emitted by the renewable generating project during the twelve (12)-month energy efficiency/renewable energy project period; and

b. When biomass is co-fired with other fuels, its share of electric generation and NO_x emissions shall be calculated based on its share of the total heat content of all fuels used in the co-firing process; and

IV. Allowances awarded to combined heat and power (CHP) projects shall be calculated based on the difference between actual NO_x emissions from the CHP system and the NO_x emissions that would be emitted by an equivalent business-as-usual (BAU) system. An equivalent BAU system consists of a conventional power plant that produces electricity plus a conventional industrial boiler that produces useful heat (heat used for space, water or industrial process heat). The department shall provide efficiency and NO_x emission rates to be used in calculating NO_x emissions from the equivalent

BAU system. In addition, to qualify for an award, a CHP system shall be required to achieve an efficiency threshold. The threshold shall be set by the department and the efficiency of the CHP system shall be calculated based on a method provided by the department; and

(d) The sponsor of a project located in Missouri that receives an award from the set-aside may reapply for set-aside awards for up to an additional six (6) consecutive control periods by meeting the following requirements. The sponsor of a project located outside of Missouri that receives an award from the set-aside may reapply for set-aside awards for up to an additional four (4) consecutive control periods by meeting the following requirements:

I. Reapplication must be received by March 1 following the last day of the twelve (12)-month energy efficiency/renewable energy project period during which the energy efficiency and renewable electric generation activities took place; and

II. The reapplication must be prepared on forms provided by the department and must be submitted by the project's CAIR authorized account representative or alternate CAIR authorized account representative. After the effective date of this rule, any revision to the department-supplied forms will be presented to the regulated community for a forty-five (45)-day comment period;

3. Compliance supplement pool.

A. For any CAIR NO_x unit in the state that achieves NO_x emission reductions in 2007 and 2008 that are not necessary to comply with any state or federal emissions limitation applicable during such years, the CAIR designated representative of the unit may request early reduction credits, and allocation of CAIR NO_x allowances from the compliance supplement pool in accordance with the following:

(I) The owners and operators of such CAIR NO_x unit shall monitor and report the NO_x emissions rate and the heat input of the unit in accordance with section (4) of this rule in each calendar year for which early reduction credit is requested;

(II) The CAIR designated representative of such CAIR NO_x unit shall submit to the permitting authority by May 1, 2009 a request, in a format specified by the permitting authority, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the sum of the amounts (in tons) of the unit's NO_x emission reductions in 2007 and 2008 that are not necessary to comply with any state or federal emissions limitation applicable during such years, determined in accordance with section (4) of this rule; and

(III) For units subject to the Acid Rain Program that do not have an applicable NO_x emission limit, the Acid Rain Program NO_x emission rate limit that would have applied had the unit been limited by Acid Rain Program NO_x requirements or state emission rate limit shall be utilized to determine the number of potential CAIR NO_x allowances those units may receive.

B. For any CAIR NO_x unit in the state whose compliance with CAIR NO_x emissions limitation for the calendar year 2009 would create an undue risk to the reliability of electricity supply during such calendar year, the CAIR designated representative of the unit may request the allocation of CAIR NO_x allowances from the compliance supplement pool in accordance with the following:

(I) The CAIR designated representative of such CAIR NO_x unit shall submit to the permitting authority by May 1, 2009 a request, in a format specified by the permitting authority, for allocation of an amount of CAIR NO_x allowances from the compliance supplement pool not exceeding the minimum amount of CAIR NO_x allowances necessary to remove such undue risk to the reliability of electricity supply; and

(II) In the request under paragraph (3)(B)3. of this rule, the CAIR designated representative of such CAIR NO_x unit shall demonstrate that, in the absence of allocation to the unit of the amount of CAIR NO_x allowances requested, the unit's compliance with CAIR NO_x emissions limitation for the calendar year 2009 would create an undue risk to the reliability of electricity supply during such calendar year. This demonstration must include a showing that it would not be feasible for the owners and operators of the unit to:

(a) Obtain a sufficient amount of electricity from other electricity generation facilities, during the installation of control technology at the unit for

compliance with the CAIR NO_x emissions limitation, to prevent such undue risk; or

(b) Obtain under subparagraphs (3)(B)3.A. and C. of this rule, or otherwise obtain, a sufficient amount of CAIR NO_x allowances to prevent such undue risk.

C. The permitting authority will review each request under subparagraphs (3)(B)3.A. and B. of this rule submitted by May 1, 2009 and will allocate CAIR NO_x allowances for the calendar year 2009 to CAIR NO_x units in the state and covered by such request as follows:

(I) Upon receipt of each such request, the permitting authority will make any necessary adjustments to the request to ensure that the amount of the CAIR NO_x allowances requested meets the requirements of subparagraph (3)(B)3.A. or B. of this rule;

(II) If the total amount of CAIR NO_x allowances in all requests (as adjusted under part (3)(B)3.C.(I) of this rule) is not more than nine thousand forty-four (9,044), the permitting authority will allocate to each CAIR NO_x unit covered by such requests the amount of CAIR NO_x allowances requested (as adjusted under part (3)(B)3.C.(I) of this rule); and

(III) If the total amount of CAIR NO_x allowances in all requests (as adjusted under part (3)(B)3.C.(I) of this rule) is more than nine thousand forty-four (9,044), the permitting authority will allocate CAIR NO_x allowances to each CAIR NO_x unit covered by such requests as follows:

(a) The compliance supplement pool shall be divided into two (2) pools of three thousand fifteen (3,015) allowances and six thousand twenty-nine (6,029) allowances each;

(b) Units located in Buchanan, Jackson or Jasper County that combust at least one hundred thousand (100,000) passenger tire equivalents in each of 2007 and 2008 shall be eligible to request CAIR NO_x allowances from the smaller pool;

(c) CAIR NO_x allowances from the smaller pool shall be allocated according to the following formula:

$$\text{Unit's allocation} = \text{Unit's adjusted allocation} \times (3,015 / \text{Total adjusted allocations for eligible units})$$

Where:

"Unit's allocation" is the number of CAIR NO_x allowances allocated to the unit from the state's compliance supplement pool.

"Unit's adjusted allocation" is the amount of CAIR NO_x allowances requested for the unit under subparagraphs (3) (B)3.A. and B. of this rule, as adjusted under part (3) (B)3.C.(I) of this rule.

"Total adjusted allocations for eligible units" is the sum of the amounts of allocations requested under subparagraphs (3) (B)3.A. and B. of this rule, as adjusted under paragraph (3) (B)1. of this rule by the units identified in subpart (3) (B)3.C.(III) (b) of this rule.

(d) Units that receive CAIR NO_x allowances from the smaller portion of the compliance supplement pool shall not be eligible to receive CAIR NO_x allowances from the remaining portion of the compliance supplement pool; and

(e) Any CAIR NO_x allowances not allocated under subpart (3) (C)3.C. (III) (c) shall be added to the pool of six thousand twenty-nine (6,029) allowances and allocated according to the following formula:

$$\text{Unit's allocation} = \text{Unit's adjusted allocation} \times ((6,029 + \text{Remainder from first allocation}) / \text{Total adjusted allocations for eligible units})$$

Where:

"Unit's allocation" is the number of CAIR NO_x allowances allocated to the unit from the state's compliance supplement pool.

"Unit's adjusted allocation" is the amount of CAIR NO_x allowances requested for the unit under subparagraphs (3) (B)3.A. and B. of this rule, as adjusted under part (3) (B)3.C.(I) of this rule.

"Remainder from first allocation" is the amount of CAIR NO_x allowances from the smaller pool not allocated under subparagraph (3) (C)3.C.

"Total adjusted allocations for eligible units" is the sum of the amounts of allocations requested for all units under subparagraphs (3) (B)3.A. and B. of this rule, as adjusted under part (3) (B)3.C.(I) of this rule by units that were not allocated CAIR NO_x allowances under subparagraph (3) (C)3.C. of this rule; and

4. By November 30, 2009, the permitting authority will determine, and submit to the administrator, the allocations under subparagraphs (3) (B)3.B. and (3) (B)3.C. of this rule; and

5. By January 1, 2010, the administrator will record the allocations under subparagraphs (3) (B)3.B. and (3) (B)3.C. of this rule.

(4) Reporting and Record Keeping. Unless otherwise noted in this section of the rule, all of the sections of 40 CFR 96 subpart HH promulgated as of April 28, 2006 are hereby incorporated by reference in this rule, as published by the Office of the Federal Register, U.S. National Archives and Records, 700 Pennsylvania Avenue NW, Washington, D.C. 20408. This rule does not incorporate any subsequent amendments or additions.

(5) Test Methods. *(Not Applicable)*

10 CSR 10-6.362

EPA Rulemakings

CFR: 40 C.F.R. 52.1320(c)

FRM: 72 FR 71073 (12/14/2007)

PRM: 72 FR 52828 (09/17/2007)

State Submission: 05/18/2007

State Final: 10 C.S.R. 10-6 (04/30/2007; effective 05/30/2007)

APDB File: MO-249; EPA-R07-OAR-2007-0782

Description: This new rule adopts the EPA regional trading program for nitrogen oxides, which was developed to meet the requirements of the Clean Air Interstate Rule. The Clean Air Interstate Rule was published on May 12, 2005.

Difference Between the State and EPA-Approved Regulation

None.