

## Clean Air Interstate Rule NOx Annual Trading Program

- (a) General Requirements. The provisions of this subparagraph shall apply to any source and the owner and operator of any such source subject to any requirements under 40 Code of Federal Regulations (hereinafter, 40 CFR), Part 96 Subparts AA through II as amended. The term “Permitting Authority” as used in regulations adopted in this section shall mean the Environmental Protection Division of the Georgia Department of Natural Resources.
- (b) Clean Air Interstate Rule NOx Annual Trading Program General Provisions: 40 CFR Part 96, Subpart AA, as amended is hereby incorporated and adopted by reference with the following exception:
  - 1. In lieu of 40 CFR Part 96.105(b)(2), the following provision applies:
    - (i). The permitting authority will not allocate CAIR NOx allowances under subparagraph (f) to a unit exempt under 40 CFR Part 96.105(a) which has permanently retired in a control period prior to or during the control periods used in subparagraph (f)2 to determine the CAIR NOx allowance baseline.

The General Provisions of the CAIR NOx Annual Program includes: Purpose, Definitions; Measurements, Abbreviations, and Acronyms; Applicability; Retired Unit Exemption; Standard Requirements; Computation of time; and Appeal Procedures.

- (c) Clean Air Interstate Rule Designated Representative for CAIR NOx Sources: 40 CFR Part 96, Subpart BB, as amended is hereby incorporated and adopted by reference:
- (d) Permits: 40 CFR Part 96, Subpart CC, as amended is hereby incorporated and adopted by reference.

The Permits Subpart includes the general permitting requirements for EPD and affected utilities as it relates to documentation of unit or plant level allowance allocation; and information requirements for CAIR permit applications and CAIR permits.

- (e) Reserved: 40 CFR Part 96, Subpart DD, as amended is hereby incorporated and adopted by reference.

- (f) CAIR NOx Allowance Allocations: 40 CFR Part 96, Subpart EE, as amended is hereby incorporated and adopted by reference, with the following exceptions:

The CAIR NOx Allowance Subpart includes the specification of Georgia's NOx Budget; timing requirements for EPA to submit CAIR NOx allowance allocations to EPA; the formulas for computing the initial NOx allowance allocation and subsequent re-allocations; the NOx allowances available for allocation to both existing and new sources; and the compliance supplement pool.

1. Timing Requirements for CAIR NOx Allowance Allocations: In lieu of 40 CFR Part 96.141, the following provisions apply:
  - (i). By [placeholder], the Permitting authority will submit to the Administrator the CAIR NOx allowance allocations, in accordance with subparagraphs (f)2-(f)3. for the control periods 2009, 2010, and 2011. (This subparagraph implements a portion of 51.123(o)(2)(ii)B in lieu of 96.141(a).)
  - (ii). By October 31, 2008, and October 31 of each year thereafter, the permitting authority will submit to the Administrator the CAIR NOx allowance allocations, in accordance with subparagraphs (f)2-(f)3., for the control period in the year that is four years after the year of the applicable deadline for submission under this subparagraph. (This subparagraph implements a portion of 51.123(o)(2)(ii)B in lieu of 96.141(b)(1).)
  - (iii) If the permitting authority fails to submit to the Administrator the CAIR NOx allowance allocations in accordance with subparagraph (f)1(ii), the Administrator will assume that the allocations of CAIR NOx allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2015, the Administrator will assume that the allocations equal 83 percent of the allocations for the control period that immediately precedes the applicable control period. (This subparagraph implements 96.141(b)(2).)
  - (iv) By October 31, 2008 and October 31 of each year thereafter, the permitting authority will submit to the Administrator the CAIR NOx allowance allocations, in a format prescribed by the Administrator and in accordance with subparagraphs (f)2(i) through (iii), (f)4(i), and (f)5(i) for the control period in the year of the applicable deadline for submission under this subparagraph. (This subparagraph implements 96.141(c)(1).)

- (v) If the Permitting authority fails to submit to the Administrator the CAIR NOx allowance allocations in accordance with subparagraph (f)1(iv), the Administrator will assume that the allocations of CAIR NOx allowances for the applicable control period are the same as for the control period that immediately precedes the applicable control period, except that, if the applicable control period is in 2015, the Administrator will assume that the allocations equal 83 percent of the allocations for the control period that immediately precedes the applicable control period and except that any CAIR NOx unit that would otherwise be allocated CAIR NOx allowances under subparagraphs (f)2(i) through (iii) and (f)3(i) through (v) as well as under subparagraphs (f)4(i) and (f)5(i), for the applicable control period will be assumed to be allocated no CAIR NOx allowances under subparagraphs (f)2(i) through (iii), (f)4(i) and (f)5(i) for the applicable control period. **(This subparagraph implements 96.141(c)(2).)**

2. In lieu of 40 CFR Part 96.142(a), the following provisions apply:

**Subparagraph 2(i) specifies the Initial Allocation for Control Periods 2009, 2010, and 2011 for Units which operated 2001 through 2005 or for some portion of those years.**

- (i). The heat input (in MMBtu) used for calculating the NOx allowance allocations under subparagraph (f)3(i)-(iv) for each NOx CAIR unit under subparagraph (b) for control periods 2009, 2010, and 2011 will be the highest annual amount of the unit's adjusted control period heat input for 2001 through 2005, with the adjusted control period heat input for each year calculated as follows: **(This subparagraph implements 96.142(a)(1))**

- (I). If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by 100 percent;
- (II). If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by 60 percent; and
- (III). If the unit is not subject to subparagraph (f)2(i)(I) or (II), the unit's control period heat input for such year is multiplied by 40 percent.

**Subparagraph (f)2(ii) specifies Subsequent Allocations for Control Period 2012 and thereafter WHERE THE BASELINE IS UPDATED ANNUALLY.**

(ii). For a CAIR NO<sub>x</sub> unit that has operated during any or each of the years that are five, six, seven, eight, and nine years before the year for which the NO<sub>x</sub> CAIR allocation is being calculated, the heat input (in MMBtu) used for calculating the NO<sub>x</sub> allowance allocations under subparagraph (f)3(i)-(v) for each NO<sub>x</sub> CAIR unit under subparagraph (b) for control period 2012 and thereafter, is the highest amount of the unit's adjusted control period heat input, with the adjusted control period heat input for each control period calculated as follows: **(This subparagraph implements 96.142(a)(1))**

- (I). If the unit is coal-fired during the year, the unit's control period heat input for such year is multiplied by 100 percent;
- (II). If the unit is oil-fired during the year, the unit's control period heat input for such year is multiplied by 60 percent; and
- (III). If the unit is not subject to subparagraph (f)(2)(i)(I)1 or 2, the unit's control period heat input for such year is multiplied by 40 percent.

(iii). A unit's control period heat input, and a unit's status as coal-fired or oil-fired, for a calendar year under subparagraphs (f)(2)(i) or (ii), and a unit's total tons of NO<sub>x</sub> emissions during a calendar year under subparagraph (f)4(i)(IV), will be determined in accordance with 40 CFR Part 75, to the extent the unit was otherwise subject to the requirements of 40 CFR Part 75 for the year, or will be based on the best available data reported to the Permitting authority for the unit, to the extent the unit was not otherwise subject to the requirements of 40 CFR Part 75 for the year. **(This subparagraph implements 96.142(a)(2)(i))**

3. In lieu of 40 CFR Part 96.142(b), the following provisions apply:

**Subparagraph (f)(3) specifies the number of allowances available to be allocated.**

- (i). For each control period in 2009 through 2014, the permitting authority will allocate to all CAIR NO<sub>x</sub> units in the State that have a baseline heat input, as determined under subparagraph (f)2 a total amount of CAIR NO<sub>x</sub> allowances equal to sixty-four thousand three hundred and thirty-one (64,331), except as provided in subparagraph (f)2(viii). (This subparagraph implements 96.142(b)(1))
- (ii). For each control period in 2015 and thereafter, the permitting authority will allocate to all CAIR NO<sub>x</sub> units in the State that have a baseline heat input, as determined under subparagraph (f)2 a total amount of CAIR NO<sub>x</sub> allowances equal to fifty-three thousand six hundred and ten (53,610) for a control period during 2015 and thereafter. (This subparagraph implements 96.142(b)(1))
- (iii). The Permitting authority will allocate CAIR NO<sub>x</sub> allowances to each CAIR NO<sub>x</sub> unit under subparagraphs (f)3(i)-(ii) in an amount determined by multiplying the total amount of CAIR NO<sub>x</sub> allowances allocated under subparagraphs (f)2(i) and (ii) by the ratio of the heat input of such CAIR NO<sub>x</sub> unit, as determined under subparagraph (f)2(iii), to the total amount of heat input for all such CAIR NO<sub>x</sub> units in the State and rounding to the nearest whole allowance as appropriate. (This subparagraph implements 96.142(b)(2))

4. In lieu of 40 CFR Part 96.142(c), the following provisions apply:

**Note: Subparagraph 4(i) pertains to New Source Set-Asides**

- (i). For each control period in 2009 and thereafter, the permitting authority will allocate CAIR NO<sub>x</sub> allowances to CAIR NO<sub>x</sub> units in the State that commenced operation on or after January 1, 2006 and do not yet have a baseline heat input (as determined under subparagraphs (f)2(i)-(ii), in accordance with the following procedures: **(This subparagraph implements 96.142(c)) – NEW SOURCE SET-ASIDE ALLOCATION**
- (I). The permitting authority will establish a separate new unit-set-aside for each control period. Each new unit set-aside will be allocated CAIR NO<sub>x</sub> allowances equal to one thousand nine hundred ninety (1,990) for a control period in 2009 through 2014, except as specified in subparagraph (f)4(i)(II). **(This subparagraph implements 96.142(c)(1))**
- (II). The permitting authority will establish a separate new unit-set-aside for each control period. Each new unit set-aside will be allocated CAIR NO<sub>x</sub> allowances equal to one thousand six hundred fifty-eight (1,658) for a control period in 2015 and thereafter. **(This subparagraph implements 96.142(c)(1))**
- (III). The CAIR designated representative of such a CAIR NO<sub>x</sub> unit may submit to the permitting authority a request, in a format specified by the permitting authority, to be allocated CAIR NO<sub>x</sub> allowances, starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NO<sub>x</sub> unit commences commercial operation and until the first control period for which the unit is allocated CAIR NO<sub>x</sub> allowances under subparagraph **[Option A: (f)3(vi) or Option B: (f)3(iii)]**. The CAIR NO<sub>x</sub> allowance allocation request must be submitted on or before July 1 of the first control period for which the CAIR NO<sub>x</sub> allowances are requested and after the date on which the CAIR NO<sub>x</sub> unit commences commercial operation. **(This subparagraph implements 96.142(c)(2))**

- (IV). In a CAIR NO<sub>x</sub> allowance allocation request under subparagraph (f)4(i)(III), the CAIR designated representative may request for a control period CAIR NO<sub>x</sub> allowances in an amount not exceeding the CAIR NO<sub>x</sub> unit's total tons of NO<sub>x</sub> emissions during the calendar year immediately before such control period. **(This subparagraph implements 96.142(c)(3))**
- (V). The Permitting authority will review each CAIR NO<sub>x</sub> allowance allocation request under subparagraph (f)4(i)(III) and will allocate CAIR NO<sub>x</sub> allowances for each control period pursuant to such request as follows: **(This subparagraph implements 96.142(c)(4))**
- (1). The permitting authority will accept the allowance allocation request only if the request meets, or is adjusted by the permitting authority as necessary to meet, the requirements of subparagraphs (f)4(i)(III) and (IV). **(This subparagraph implements 96.142(c)(4)(i))**
- (2). On or after July 1 of the control period, the permitting authority will determine the sum of the CAIR NO<sub>x</sub> allowances requested (as adjusted under subparagraph (f)2(x)(V)(1)) in all allowance allocation requests accepted under subparagraph (f)4(i)(V)(1) for the control period. **(This subparagraph implements 96.142(c)(4)(ii))**
- (3). If the amount of CAIR NO<sub>x</sub> allowances in the new unit set-aside for the control period is greater than or equal to the sum under subparagraph (f)4(i)(V)(2), then the permitting authority will allocate the amount of CAIR NO<sub>x</sub> allowances requested ( as adjusted under subparagraph (f)2(x)(V)(1)). **(This subparagraph implements 96.142(c)(4)(iii))**

- (4). If the amount of CAIR NO<sub>x</sub> allowances in the new unit set-aside for the control period is less than the sum under subparagraph (f)4(i)(V)(2), then the permitting authority will allocate to each CAIR NO<sub>x</sub> unit covered by an allowance allocation request accepted under subparagraph (f)4(i)(V)(1) the amount of the CAIR NO<sub>x</sub> allowances requested (as adjusted under subparagraph (f)4(i)(V)(1)), multiplied by the amount of CAIR NO<sub>x</sub> allowances in the new unit set-aside for the control period, divided by the sum determined under subparagraph (f)4(i)(V)(2), and rounded to the nearest whole allowance as appropriate. (This subparagraph implements 96.142(c)(4)(iv))
- (5). The Permitting authority will notify each CAIR designated representative that submitted an allowance request of the amount of CAIR NO<sub>x</sub> allowances (if any) allocated for the control period to the CAIR NO<sub>x</sub> unit covered by the request. (This subparagraph implements 96.142(c)(4)(v))

5. In lieu of 40 CFR Part 96.142(d), the following provisions apply:

**Subparagraph 5(i) pertains to the allocation of un-used allowances contained in the new-source set-aside based**

- (i). If, after completion of the procedures under subparagraph (f)4(i)(V) for a control period, any unallocated CAIR NO<sub>x</sub> allowances remain in the new unit set-aside for the control period, the permitting authority will allocate to each CAIR NO<sub>x</sub> unit that was allocated CAIR NO<sub>x</sub> allowances under subparagraphs (f)3(i) through (ii) an amount of CAIR NO<sub>x</sub> allowances equal to the total amount of such remaining unallocated CAIR NO<sub>x</sub> allowances, multiplied by the unit's allocation under subparagraphs (f)3(i) through (ii), divided by 64,331 tons for a control period during 2009 through 2014, and 53,610 tons for a control period during 2015 and thereafter, and rounded to the nearest whole allowance as appropriate. (This subparagraph implements 96.142(d))

- (g). CAIR NO<sub>x</sub> Allowance Tracking System: 40 CFR Part 96, Subpart FF, as amended is hereby incorporated and adopted by reference, with the following exception(s):
1. In lieu of 40 CFR Part 96.153(a) through (d), the following provision applies:
    - (i) By **[placeholder]**, the Administrator will record in the CAIR NO<sub>x</sub> source's compliance account for the CAIR NO<sub>x</sub> units at a source, as submitted by the permitting authority in accordance with subparagraph (f)1(i), for the control periods 2009, 2010, and 2011. **(This subparagraph implements 96.153(a))**
    - (ii) By December 1, 2009 and December 1 of each year thereafter, the Administrator will record the CAIR NO<sub>x</sub> source's compliance account for the CAIR NO<sub>x</sub> units at the source, as submitted by the permitting authority in accordance with subparagraphs (f)1(ii) through (iii), for the control period in the fourth year after the year of the control period for which such deductions were or could have been made. **(This subparagraph implements 96.153(b))**
    - (iii) In 2011 and each year thereafter, after the Administrator has made all deductions (if any) from a CAIR NO<sub>x</sub> source's compliance account under 40 CFR 96.154, the Administrator will record in the CAIR NO<sub>x</sub> source's compliance account the CAIR NO<sub>x</sub> allowances allocated for the CAIR NO<sub>x</sub> units at the source, as submitted by the permitting authority or determined by the Administrator in accordance with subparagraphs (f)1(ii) through (iii), for the control period in the fourth year after the year of the control period for which such deductions were or could have been made. **(This subparagraph implements 96.153(c))**
    - (iv) By December 1, 2009 and December 1 of each year thereafter, the Administrator will record in the CAIR NO<sub>x</sub> source's compliance account the CAIR NO<sub>x</sub> allowances allocated for the CAIR NO<sub>x</sub> units at the source, as submitted by the permitting authority or determined by the Administrator in accordance with subparagraphs (f)1(iv) through (v), for the control period in the year of the applicable deadline for recordation under this paragraph. **(This subparagraph implements 96.153(d))**

- (h) Clean Air Interstate Rule Allowance Transfers: 40 CFR Part 96 Subpart GG, as amended is hereby incorporated and adopted by reference:
- (i) Clean Air Interstate Rule Monitoring and Reporting: 40 CFR Part 96 Subpart HH, as amended is hereby incorporated and adopted by reference:

## CAIR NOx Rule Outline

- (b) General Requirements
- (c) Incorporate and Adopt by Reference Part 96 Subpart AA with exception.  
Modify 96.105(b)(2) via (b)1(i) – Retired Unit Treatment
- (d) Incorporate and Adopt by Reference Part 96 Subpart BB
- (e) Incorporate and Adopt by Reference Part 96 Subpart CC
- (f) Incorporate and Adopt by Reference Part 96 Subpart DD
- (g) Incorporate and Adopt by Reference Part 96 Subpart EE with exceptions:  
*Note: Subpart EE pertains to CAIR NOx Allowance Allocations and includes 96.140 (State Trading Budgets); 96.141 (Timing Requirements for CAIR NOx allowance allocations); 96.142 (CAIR NOx allowance allocations); and 96.143 (Compliance Supplement Pool)*  
  
Incorporate and Adopt by Reference 96.140 – State Trading Budgets  
  
Modify 96.141 via (f)1(i)-(v) – Timing Requirements for Allowance Allocations  
  
Modify 96.142 – NOx Allowance Allocations
  - 96.142(a)(1) via (f)2(i)(I)-(III) – Formula for Initial Allocations for 2009 through 2011
  - 96.142(a)(1) via (f)2(ii)(I)-(III) – Formula for Allocations for 2012 and thereafter
  - 96.142(a)(2) via (f)2(iii) – Method prescribed for determining heat input
  - 96.142(b)(1) via (f)3(i)-(iv) – Two options presented - Option A specifies requirement to allocate NOx allowances to GEFA and to CAIR NOx units; Option B specifies requirement to allocate NOx allowances to CAIR NOx units.
  - 96.142(b)(2) via (f)3(v) – Allocation formula
  - 96.142(c) via (f)4(i)(I)-(V) – New Source Set Aside Allocations
  - 96.142(d) via (f)5(i) – Defines what to do with new source set-aside allocations not allocated  
Incorporate and Adopt by Reference 96.143 – Compliance Supplement Pool
- (h) Incorporate and Adopt by Reference Part 96 Subpart FF with exceptions  
Modify 96.153(a) through (d) – via (g)1(i)-(iv) – NOx Tracking
- (i) Incorporate and Adopt by Reference Part 96 Subpart GG
- (j) Incorporate and Adopt by Reference Part 96 Subpart HH