

**PROPOSED AMENDMENTS TO THE RULES OF THE
DEPARTMENT OF NATURAL RESOURCES
ENVIRONMENTAL PROTECTION DIVISION
RELATING TO AIR QUALITY, CHAPTER 391-3-1**

The Rules of the Department of Natural Resources, Chapter 391-3-1, Air Quality Control are hereby amended, added to, repealed, repealed in part, revised, as hereinafter explicitly set forth in the attached amendments, additions, partial repeals, and revisions for specific Rules, or such subdivisions thereof as may be indicated.

[Note: Underlined text is proposed to be added. Lined-through text is proposed to be deleted. *Bold, italicized text such as this is for descriptive comments on the proposed rule changes and is not part of the proposed change.*]

Rule 391-3-1-.02, "Provisions," is hereby amended by inserting new paragraph (12) to read as follows:

(12) Clean Air Interstate Rule NOx Annual Trading Program

- (a) General Requirements. The provisions of this paragraph (12) 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 any of the control periods used in subparagraph (f)2 to determine the CAIR NOx allowance baseline.
- (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:
- (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:
1. Timing Requirements for CAIR NOx Allowance Allocations: In lieu of 40 CFR Part 96.141, the following provisions apply:
 - (i) By March 31, 2007, 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.
 - (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.
 - (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.
 - (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.
 - (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 (iii) 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.

2. In lieu of 40 CFR Part 96.142(a), the following provisions apply:
- (i) The heat input (in MMBtu) used for calculating the NOx allowance allocations under subparagraph (f)3.(i) through (iii) 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:
- (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.
- (ii) For a CAIR NOx 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 NOx CAIR allocation is being calculated, the heat input (in MMBtu) used for calculating the NOx allowance allocations under subparagraph (f)3.(i) through (iii) for each NOx CAIR unit under subparagraph (b) for control period 2012 and thereafter is the highest amount of the unit's adjusted control period heat input from the years that are five, six, seven, eight and nine years before the year for which the NOx CAIR allocation is being calculated with the adjusted control period heat input for each control period calculated as follows:
- (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.(ii)(I) or (II), 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 NOx 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.

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

(i) For each control period in 2009 through 2014, the Permitting Authority will allocate to all CAIR NOx units in the State that have a baseline heat input, as determined under subparagraph (f)2., a total amount of CAIR NOx allowances equal to sixty-four thousand three hundred and thirty-one (64,331).

(ii) For each control period in 2015 and thereafter, the Permitting Authority will allocate to all CAIR NOx units in the State that have a baseline heat input, as determined under subparagraph (f)2., a total amount of CAIR NOx allowances equal to fifty-three thousand six hundred and ten (53,610) for a control period during 2015 and thereafter.

(iii) The Permitting Authority will allocate CAIR NOx allowances to each CAIR NOx unit under subparagraphs (f)3.(i) through (ii) in an amount determined by multiplying the total amount of CAIR NOx allowances allocated under subparagraphs (f)2.(i) and (ii) by the ratio of the heat input of such CAIR NOx unit, as determined under subparagraph (f)2.(iii), to the total amount of heat input for all such CAIR NOx units in the State and rounding to the nearest whole allowance as appropriate.

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

(i) For each control period in 2009 and thereafter, the Permitting Authority will allocate CAIR NOx allowances to CAIR NOx 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) through (ii)], in accordance with the following procedures:

(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 NOx allowances equal to one thousand nine hundred ninety (1,990) for a control period in 2009 through 2014.

(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 NOx allowances equal to one thousand six hundred fifty-eight (1,658) for a control period in 2015 and thereafter.

- (III) The CAIR designated representative of such a CAIR NOx unit may submit to the Permitting Authority a request, in a format specified by the Permitting Authority, to be allocated CAIR NOx allowances starting with the later of the control period in 2009 or the first control period after the control period in which the CAIR NOx unit commences commercial operation and until the first control period for which the unit is allocated CAIR NOx allowances under subparagraph (f)3.(i) through (iii). The CAIR NOx allowance allocation request must be submitted on or before July 1 of the first control period for which the CAIR NOx allowances are requested and after the date on which the CAIR NOx unit commences commercial operation.
- (IV) In a CAIR NOx allowance allocation request under subparagraph (f)4(i)(III), the CAIR designated representative may request for a control period CAIR NOx allowances in an amount not exceeding the CAIR NOx unit's total tons of NOx emissions during the calendar year immediately before such control period.
- (V) The Permitting Authority will review each CAIR NOx allowance allocation request under subparagraph (f)4(i)(III) and will allocate CAIR NOx allowances for each control period pursuant to such request as follows:
- I. 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).
 - II. On or after July 1 of the control period, the Permitting Authority will determine the sum of the CAIR NOx allowances requested [as adjusted under subparagraph (f)4.(i)(V)I.] in all allowance allocation requests accepted under subparagraph (f)4.(i)(V)I. for the control period.
 - III. If the amount of CAIR NOx 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)II., then the Permitting Authority will allocate the amount of CAIR NOx allowances requested [as adjusted under subparagraph (f)4.(i)(V)I.].

IV. If the amount of CAIR NO_x allowances in the new unit set-aside for the control period is less than the sum under subparagraph (f)4.(i)(V)II., then the Permitting Authority will allocate to each CAIR NO_x unit covered by an allowance allocation request accepted under subparagraph (f)4.(i)(V) I. the amount of the CAIR NO_x allowances requested [as adjusted under subparagraph (f)4.(i)(V)I.] multiplied by the amount of CAIR NO_x allowances in the new unit set-aside for the control period divided by the sum determined under subparagraph (f)4.(i)(V)II., and rounded to the nearest whole allowance as appropriate.

V. The Permitting Authority will notify each CAIR designated representative that submitted an allowance request of the amount of CAIR NO_x allowances (if any) allocated for the control period to the CAIR NO_x unit covered by the request.

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

(i) If, after completion of the procedures under subparagraph (f)4.(i)(V) for a control period, any unallocated CAIR NO_x allowances remain in the new unit set-aside for the control period, the Permitting Authority will allocate to each CAIR NO_x unit that was allocated CAIR NO_x allowances under subparagraphs (f)3.(i) through (iii), an amount of CAIR NO_x allowances equal to the total amount of such remaining unallocated CAIR NO_x allowances multiplied by the unit's allocation under subparagraphs (f)3.(i) through (iii) 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.

(g) CAIR NO_x 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 September 30, 2007, the Administrator will record in the CAIR NO_x source's compliance account the CAIR NO_x allowances allocated for the CAIR NO_x units at the source in accordance with subparagraph (f)2 through (f)3 for the control period in 2009.

- (ii) By September 30, 2008, the Administrator will record in the CAIR NOx source's compliance account the CAIR NOx allowances allocated for the CAIR NOx units at the source in accordance with subparagraph (f)2 through (f)3 for the control period in 2010.
- (iii) By September 30, 2009, the Administrator will record in the CAIR NOx source's compliance account the CAIR NOx allowances allocated for the CAIR NOx units at the source in accordance with subparagraph (f)2 through (f)3 for the control periods in 2011, 2012 and 2013.
- (iv) By December 1, 2010, and December 1 of each year thereafter, the Administrator will record in the CAIR NOx source's compliance account the CAIR NOx allowances allocated for the CAIR NOx units at the source in accordance with subparagraphs (f)2. and (f)3. for the control period in the year of the applicable deadline for recordation under this subparagraph.
- (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:

Rule 391-3-1-.02, "Provisions," is hereby amended by inserting new paragraph (13) to read as follows:

- (13) Clean Air Interstate Rule SO₂ Annual Trading Program
 - (a) General Requirements. The provisions of this paragraph (13) 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 AAA through HHH as amended. The term "Permitting Authority" as used in regulations adopted in this section shall mean the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.
 - (b) Clean Air Interstate Rule SO₂ Annual Trading Program General Provisions: 40 CFR Part 96, Subpart AAA, as amended is hereby incorporated and adopted by reference:
 - (c) Clean Air Interstate Rule Designated Representative for CAIR SO₂ Sources: 40 CFR Part 96, Subpart BBB, as amended is hereby incorporated and adopted by reference:
 - (d) Permits: 40 CFR Part 96, Subpart CCC, as amended is hereby incorporated and adopted by reference:
 - (e) Reserved: 40 CFR Part 96, Subpart DDD, as amended is hereby incorporated and adopted by reference:

- (f) Reserved: 40 CFR Part 96, Subpart EEE, as amended is hereby incorporated and adopted by reference:
- (g) CAIR SO₂ Allowance Tracking System: 40 CFR Part 96, Subpart FFF, as amended is hereby incorporated and adopted by reference:
- (h) Clean Air Interstate Rule Allowance Transfers: 40 CFR Part 96 Subpart GGG, as amended is hereby incorporated and adopted by reference:
- (i) Clean Air Interstate Rule Monitoring and Reporting: 40 CFR Part 96 Subpart HHH, as amended is hereby incorporated and adopted by reference:

Authority: O.C.G.A. Section 12-9-1 et seq., as amended.