



EPA Final Clean Air Interstate Rule: A Supplement to the RFF Legislative Comparison Table.¹ Version: 05/20/05

EPA Final Clean Air Interstate Rule (CAIR)	
Federal Register Title (Date)	Environmental Protection Agency 40 CFR Parts 51, 72, 73, 74, 77, 78, and 96 Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO _x SIP Call (signed by EPA Administrator: March 10, 2005, published in CFR: May 12, 2005) [OAR-2003-0053; FRL] [RIN 2060-AL76]
Summary	Implements an annual cap and trade program for 25 States and the District of Columbia to reduce emissions of SO ₂ and NO _x from electricity generating units. Implements a seasonal cap and trade program for 25 States and the District of Columbia to reduce emissions of NO _x from electricity generating units during the ozone season (May to September). ² Seasonal program replaces the NO _x SIP Call. Participation in the cap and trade programs is optional. States that opt-out of a trading program must meet State-level emission caps.
Affected States³	States included in both the annual SO ₂ / NO _x program and the seasonal NO _x program: AL, DE, FL, IL, IN, IA, KT, LA, MD, MI, MS, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WV, and WI. ⁴ States included in only the annual SO ₂ / NO _x program: GA, MN, and TX. States included in only the seasonal NO _x program: AR, CT, and MA.

¹ Prepared by David Lankton. This document can be found at www.rff.org/multipollutant/. For a table describing the features of the proposed version of CAIR see www.rff.org/multipollutant/propcair.

² The proposed version of CAIR did not replace the NO_x SIP Call and only included seasonal restrictions on NO_x for Connecticut.

³ States may opt-out of any or all trading programs. If states opt-out, they may achieve reductions from non-EGU sources (state allowance budgets would be adjusted to take this into account). If states opt-out of the trading program, they may choose allocation method and carryover ratios, among other options.

⁴ A separate proposed regulation (EPA 40 CFR Parts 51 and 96 (March 10, 2005) [OAR-2003-053; FRL] [RIN 2060-AM95] Inclusion of Delaware and New Jersey in the Clean Air Interstate Rule) includes DE and NJ in the annual SO₂ / NO_x program. We assume this regulation will also be implemented. Three states included in the proposed rule, Massachusetts, Kansas and Arkansas, are dropped from the annual SO₂ / NO_x program; however, Massachusetts and Arkansas are covered by the seasonal NO_x program.

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Affected Facilities	Fossil fuel-fired ⁵ electricity generating units with a capacity greater than 25 MW, AND Fossil fuel-fired steam co-generation units with a capacity greater than 25 MW that supply more than 1/3 of their potential electric output to an electricity generator.
Annual SO₂ / NO_x Allowance Allocation Caps⁶	SO₂: 3.674 million tons by 2010 and 2.572 million tons by 2015. NO_x: 1.522 million tons by 2009 and 1.268 million tons by 2015.
Seasonal NO_x Allowance Allocation Caps	NO_x: 0.568 million tons by 2009 ⁷ and 0.485 million tons by 2015
Allowance Allocation Method⁸	SO₂: Allowances are allocated as prescribed by Title IV (grandfathering). NO_x (Annual and Seasonal): EPA apportions allowances to States according to each State's allowance pool ⁹ . States are free to choose the method of allocating allowances (including auction, updating, and grandfathering) to individual units. However, EPA suggests that allowances be allocated to units based on their share of historic heat input (adjusted by fuel type). Also, a new unit allowance pool is created (5% of total permits from 2009 to 2014, 3% thereafter). ¹⁰
NO_x Supplement Pool	A supplemental annual NO _x program allowance pool of 199,997 ¹¹ permits is created. Units that reduce NO _x emissions beyond other Federal or State requirements in 2007 and 2008 or require additional permits for grid reliability may apply for these permits, which are distributed in 2009.
Banking	Allowances from the annual SO ₂ / NO _x and seasonal NO _x programs may be banked for future use.
Carryover	SO₂: The SO ₂ program would allow: <ul style="list-style-type: none"> ▪ Pre-2010 Title IV allowances to be used at a 1:1 ratio, and ▪ 2010 to 2014 Title IV allowances to be used at a 2:1 ratio, and ▪ 2015 and later Title IV allowances to be used at a 2.86:1 ratio.¹²

⁵ Fossil-fuel fired units those that fire: natural gas, petroleum, coal, or any fuel derived from such materials, alone or in combination with any other fuel.

⁶ Includes state budgets for DE and NJ. Without those states, the annual SO₂ allowance allocation caps are 3.619 M tons in 2010 and 2.533 M tons in 2015 and the annual NO_x allowance allocation caps are 1.504 M tons in 2009 and 1.254 M tons in 2015.

⁷ In the proposed rule NO_x trading did not begin until 2010.

⁸ State allocations depend on total heat input weighted by fuel related factors to capture differences in NO_x emission rates across fuels. See <http://www.epa.gov/cair/pdfs/finaltech06.pdf> for details on State budgets and allowance allocation.

⁹ A State's NO_x allowance pool is that State's share of total regional fuel-adjusted heat input (1999 – 2002) multiplied by the region-wide allocation cap. Fuel-adjustment factors are: 1.0 for coal, 0.4 for gas, and 0.6 for oil.

¹⁰ This set-aside provision was not included in the proposed rule.

¹¹ This figure assumes that DE and NJ are part of the annual program. Without those states, the supplement pool is 198,494 NO_x permits. This pool was not included in the proposed rule.

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	NO_x: Banked NO _x SIP Call allowances may be carried forward for use in the seasonal NO _x cap and trade program at a 1:1 ratio. Vintage 2009 and later SIP Call permits may not be used.
Penalties for Excess Emissions	Any unit in non-compliance must surrender permits to cover excess emissions. That unit's next future year allocation is reduced by 3 times the amount of excess emissions. Additionally, the offending unit must pay fines under the Clean Air Act or any applicable State regulation. ¹³

¹² In the proposed rule this ratio was left as either 2.86:1 or 3:1 with a determination to be made in the final rule.

¹³ This penalty specification is new to the final rule as penalties were not explicitly set in the proposed rule.