

SUBPART B: CAIR SO₂ ANNUAL TRADING PROGRAM

Section

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Section 225.200 Purpose

The purpose of this Subpart is to control the emissions of sulfur dioxide (SO₂) from electrical generating units (EGUs) annually by limiting the emissions of SO₂ from these units by implementing the CAIR SO₂ Trading Program pursuant to 40 CFR 96.

Section 225.205 Applicability

- a) A fossil fuel-fired stationary boiler, combustion turbine or combined cycle system is an electrical generating unit (EGU) if it serves a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale and is not included in 35 Ill. Adm. Code Part 217. Appendix E. An EGU is subject to the SO₂ Trading Program contained in this Subpart and is a CAIR SO₂ EGU or CAIR SO₂ unit for the purposes of this Subpart.
- b) Notwithstanding subsection (a) of this Section, an EGU that meets the requirements of subsections (b)(1) or (b)(2) of this Section shall not be CAIR SO₂ EGU and is not subject to the CAIR SO₂ Trading Program contained in this Subpart.
 - 1) An exempt cogeneration unit is a unit that meets the definition for exempt cogeneration unit in Section 225.130 of this Part and qualifies as an exempt cogeneration unit during the 12-month period starting on the date the unit first produces electricity and continues to qualify as a cogeneration unit and does not serve at any time, since the later of November 15, 1990, or the start-up of the unit's combustion chamber, a generator with a nameplate capacity of more than 25 MWe supplying in any calendar year more than one-third of the unit's potential capacity or 219,000 MWh, whichever is greater, to a utility power distribution system for sale. If a unit qualifies as an exempt cogeneration unit during the 12-month period starting on the date the unit first produces electricity but subsequently no longer qualifies as an exempt cogeneration unit, the unit shall be subject to subsection (a) of this Section starting on the day on which the unit first no longer qualifies as a cogeneration unit.

- 2) A solid waste incineration unit, as defined by Section 129(g) of the CAA [42 U.S.C. §7429(g)], that:
 - A) Commences operation on or after January 1, 1985:
 - i) Qualifies as a solid waste incineration unit; and
 - ii) Has an average annual fuel consumption of non-fossil fuel for the first three calendar years of operation exceeding 80 percent (on a Btu basis) and an average annual fuel consumption of non-fossil fuel for any three consecutive calendar years after 1990 exceeding 80 percent (on a Btu basis).
 - B) If a unit qualifies as a solid waste incineration unit and meets the requirements of subsection (b)(2)(A) of this Section for at least three consecutive calendar years, but subsequently no longer meets all such requirements, the unit shall become a CAIR SO₂ unit starting on the January 1 after which the unit has an annual fuel consumption of fossil fuel of 20 percent or more.

Section 225.210 Compliance Requirements

An EGU subject to the requirements of this Subpart must comply with the following:

- a) The requirements of this CAIR SO₂ Trading Program for Illinois as set forth in this Subpart and 40 CFR 96, Subpart AAA through Subpart HHH, as incorporated by reference in Section 225.140 of this Part. Specifically:

Subpart AAA	CAIR SO ₂ Trading Program General Provisions
Subpart BBB	CAIR Designated Representative for CAIR SO ₂ Sources
Subpart CCC	Permits
Subpart FFF	CAIR SO ₂ Allowance Tracking System
Subpart GGG	CAIR SO ₂ Allowance Transfers
Subpart HHH	Monitoring and Reporting

- b) CAIR SO₂ Permit requirements:
 - 1) The owner or operator of each source with one or more CAIR SO₂ EGUs at the source must apply for a permit issued by the Agency with federally enforceable conditions covering the CAIR SO₂ Trading Program (“CAIR SO₂ permit”) that complies with the requirements of Section 225.220 of this Part.

- 2) The owner or operator of each CAIR SO₂ source and each CAIR SO₂ unit at the source must operate the CAIR SO₂ EGU in compliance with such CAIR SO₂ permit.
- c) Monitoring requirements:
- 1) The owner or operator of each CAIR SO₂ source and each CAIR SO₂ EGU at the source must comply with the monitoring requirements of 40 CFR 96, subpart HHH and 40 CFR 75, subparts F and G. The CAIR designated representative of each CAIR SO₂ source and each CAIR SO₂ EGU at the CAIR SO₂ source must comply with those sections of the monitoring requirements of 40 CFR 96, subpart HHH, applicable to the CAIR designated representative.
 - 2) The compliance of each CAIR SO₂ EGU with the CAIR SO₂ emissions limitation under subsection (d) of this Section shall be determined by the emissions measurements recorded and reported in accordance with 40 CFR 96, subpart HHH, and 40 CFR 75, subparts F and G.
- d) CAIR SO₂ emission requirements:
- 1) By March 1, 2011, and by March 1 of each subsequent year, the allowance transfer deadline, the CAIR designated representative of each CAIR SO₂ source and each CAIR SO₂ unit at the source shall hold CAIR SO₂ allowances available for compliance deductions under 40 CFR 96.254(a) and (b) in the CAIR SO₂ source's compliance account. The number of allowances held shall not be less than the tons of SO₂ emissions for the control period from all CAIR SO₂ units at the CAIR SO₂ source, rounded to the nearest whole ton, as determined in accordance with 40 CFR 96, subpart HHH, plus any number necessary to account for actual utilization (e.g., for testing, start-up, malfunction, and shut down).
 - 2) Each ton of SO₂ emitted in excess of the number of CAIR SO₂ allowances held by the owner or operator for each CAIR SO₂ unit in its CAIR SO₂ compliance account for each control period shall constitute a separate violation of this Subpart and the Act.
 - 3) A CAIR SO₂ unit shall be subject to the monitoring and compliance requirements of subsections (c)(1) and (d)(1) of this Section starting on the later of January 1, 2010, or the deadline for meeting the unit's monitoring certification requirements under 40 CFR 96.270(b)(1) or (2).
 - 4) CAIR SO₂ allowances shall be held in, deducted from, or transferred among allowance accounts in accordance with this Subpart and 40 CFR 96, subparts FFF and GGG.

- 5) In order to comply with the requirements of subsection (d)(1) of this Section, a CAIR SO₂ allowance may not be utilized for a control period in a year prior to the year for which the allowance is allocated.
 - 6) A CAIR SO₂ allowance allocated by the Agency or USEPA under the CAIR SO₂ Trading Program is a limited authorization to emit SO₂ in accordance with the CAIR SO₂ Trading Program. No provision of the CAIR SO₂ Trading Program, the CAIR SO₂ permit application, the CAIR SO₂ permit, or a retired unit exemption under 40 CFR 96.205, and no provision of law, shall be construed to limit the authority of the United States or the State to terminate or limit this authorization.
 - 7) A CAIR SO₂ allowance allocated by the Agency or USEPA under the CAIR SO₂ Trading Program does not constitute a property right.
 - 8) Upon recordation by USEPA under 40 CFR 96, subpart FFF (CAIR SO₂ Allowance Tracking System) or GGG (CAIR SO₂ Allowance Transfers), every allocation, transfer, or deduction of an allowance to or from a CAIR SO₂ source is deemed to amend automatically, and become a part of, any CAIR SO₂ permit of the CAIR SO₂ source. This automatic amendment of the CAIR SO₂ permit shall be deemed an operation of law and will not require any further review.
- e) Recordkeeping and reporting requirements:
- 1) Unless otherwise provided, the owner or operator of the CAIR SO₂ source and each CAIR SO₂ EGU at the source shall keep on site at the source each of the documents listed in subsections (e)(1)(A) through (e)(1)(D) of this Section for a period of five (5) years from the date the document is created. This period may be extended for cause, at any time prior to the end of five (5) years, in writing by the Agency or USEPA.
 - A) The certificate of representation of the CAIR designated representative for the source and each CAIR EGU at the source, all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with 40 CFR 96.213, provided that the certificate and documents must be retained on site at the source beyond such five (5) year period until such documents are superseded because of the submission of a new account certificate of representation changing the CAIR designated representative.
 - B) All emissions monitoring information, in accordance with 40 CFR 96, subpart HHH.

- C) Copies of all reports, compliance certifications, and other submissions and all records made or required under the CAIR SO₂ Trading Program or documents necessary to demonstrate compliance with the requirements of the CAIR SO₂ Trading Program or with the requirements of this Subpart.
 - D) Copies of all documents used to complete a CAIR SO₂ permit application and any other submission under the CAIR SO₂ Trading Program.
- 2) The CAIR designated representative of a CAIR SO₂ source and each CAIR SO₂ EGU at the source must submit to the Agency and USEPA the reports and compliance certifications required under the CAIR SO₂ Trading Program, including those under 40 CFR 96, subpart HHH.
- f) Liability:
- 1) No revision of a CAIR SO₂ permit for a CAIR EGU shall excuse any violation of the requirements of the CAIR SO₂ Trading Program.
 - 2) Each CAIR SO₂ source and each CAIR SO₂ EGU shall meet the requirements of the CAIR SO₂ Trading Program.
 - 3) Any provision of the CAIR SO₂ Trading Program that applies to a CAIR SO₂ source (including any provision applicable to the CAIR designated representative of a CAIR SO₂ source) shall also apply to the owner and operator of such CAIR SO₂ source and to the owner and operator of each CAIR SO₂ EGU at the source.
 - 4) Any provision of the CAIR SO₂ Trading Program that applies to a CAIR SO₂ EGU (including any provision applicable to the CAIR designated representative of a CAIR SO₂ EGU) shall also apply to the owner and operator of such CAIR SO₂ EGU. Except with regard to the requirements applicable to CAIR SO₂ EGUs with a common stack under 40 CFR 96, subpart HHH, the owner, the operator, and the CAIR designated representative of a CAIR SO₂ EGU shall not be liable for any violation by any other CAIR SO₂ EGU of which they are not an owner or operator or the CAIR designated representative.
 - 5) The CAIR designated representative of a CAIR EGU that has excess SO₂ emissions in any control period shall surrender the allowances as required for deduction under 40 CFR 96.254(d)(1).
 - 6) The owner or operator of a CAIR SO₂ EGU that has excess SO₂ emissions in any control period shall pay any fine, penalty, or assessment or comply with any other remedy imposed under 40 CFR 96.254(d)(2) and the Act.

- g) Effect on other authorities. No provision of the CAIR SO₂ Trading Program, a CAIR SO₂ permit application, a CAIR SO₂ permit, or a retired unit exemption under 40 CFR 96.205 shall be construed as exempting or excluding the owner and operator and, to the extent applicable, the CAIR designated representative of a CAIR SO₂ source or CAIR SO₂ EGU, from compliance with any other regulation promulgated under the CAA, the Act, any state regulation, or a federally enforceable permit.

Section 225.215 Appeal Procedures

The appeal procedures for decisions of USEPA under the CAIR SO₂ Trading Program are set forth in 40 CFR Part 78, as incorporated by reference in Section 225.140 of this Part.

Section 225.220 CAIR SO₂ Permitting Requirements

- a) CAIR SO₂ permit requirements:
 - 1) Each source with a CAIR SO₂ unit is required to submit a complete permit application addressing all applicable CAIR SO₂ Trading Program requirements for a permit meeting the requirements of this Section, applicable to each CAIR SO₂ EGU at the source. Each CAIR SO₂ permit (including any draft or proposed CAIR SO₂ permit, if applicable) will contain elements required for a complete CAIR SO₂ permit application under subsection (b)(2) of this Section.
 - 2) Each CAIR SO₂ permit (including a draft or proposed CAIR SO₂ permit, if applicable) shall contain federally enforceable conditions addressing all applicable CAIR SO₂ Trading Program and requirements and shall be a complete and separable portion of the source's entire permit under subsection (a)(1) of this Section.
 - 3) No CAIR SO₂ permit shall be issued and no CAIR SO₂ allowance account shall be established for a CAIR SO₂ EGU at a source, until the Agency and USEPA have received a complete certificate of representation for a CAIR designated representative or alternate designated representative under 40 CFR 96, subpart BBB, for an account representative of the source and the CAIR SO₂ unit at the source.
 - 4) For CAIR SO₂ units that commenced operation before July 1, 2008, and for which a CAAPP permit is not required pursuant to Section 39.5 of the Act, the owner or operator of such unit must submit a CAIR SO₂ permit application meeting the requirements of this Section on or before July 1, 2008.

- 5) For CAIR SO₂ units that commenced operation before July 1, 2008, and for which a CAAPP permit is required pursuant to Section 39.5 of the Act, the owner or operator of such unit must submit a CAIR SO₂ permit application to the Agency meeting the requirements of this Section on or before July 1, 2008.
 - 6) For CAIR SO₂ units that are subject to Section 39.5 of the Act and that commence operation on or after July 1, 2008, and for CAIR SO₂ EGUs not subject to Section 39.5 of the Act and that commence operation on or after July 1, 2008, the owner or operator of such units must submit applications for construction and operating permits pursuant to the requirements of Sections 39 and 39.5 of the Act and 35 Ill. Adm. Code 201 and such applications must specify that they are applying for CAIR SO₂ permits, and must address the CAIR SO₂ permit application requirements of this Section.
- b) CAIR SO₂ permit applications:
- 1) Duty to apply. The owner or operator of any source with one or more CAIR SO₂ units shall submit to the Agency a CAIR SO₂ permit application for the source under subsection (b)(2) of this Section by the applicable deadline in subsection (a)(4), (a)(5), or (a)(6) of this Section. The CAIR owner or operator of any source with one or more CAIR SO₂ units shall reapply for a CAIR SO₂ permit for the source as required by this Subpart, 35 Ill. Adm. Code 201, and Sections 39 and 39.5 of the Act.
 - 2) Information requirements for CAIR SO₂ permit applications. A complete CAIR SO₂ permit application shall include the following elements concerning the source for which the application is submitted:
 - A) Identification of the source, including plant name. The ORIS (Office of Regulatory Information Systems) or facility code assigned to the source by the Energy Information Administration shall also be included, if applicable;
 - B) Identification of each CAIR SO₂ unit at the source; and
 - C) The compliance requirements applicable to each CAIR SO₂ unit is set forth in Section 225.210 of this Part.
 - 3) An application for a CAIR SO₂ permit shall be treated as a modification of the CAIR SO₂ unit's existing federally enforceable permit, if such a permit has been issued for that CAIR SO₂ unit, and shall be subject to the same procedural requirements. When the Agency issues a CAIR SO₂ permit, it shall be incorporated into and become part of that CAIR SO₂ unit's existing federally enforceable permit.

Section 225.225 CAIR SO₂ Annual Trading Program

- a) The CAIR SO₂ Annual Trading Program is administered by USEPA. CAIR SO₂ allowances are determined by USEPA pursuant to the Acid Rain Program title IV of the CAA, 42 U.S.C. 7651. The amount of such CAIR SO₂ allowances to be credited to a CAIR SO₂ unit shall be determined by USEPA.
- b) The CAIR SO₂ budget available for allowance allocations for each control period shall be determined as follows:
 - 1) The total base annual CAIR SO₂ EGU budget is 192,671 tons of SO₂ per year per control periods 2010 through 2014.
 - 2) The total base annual CAIR SO₂ EGU budget is 134,869 tons of SO₂ per year per control periods 2015 and thereafter.
- c) CAIR SO₂ allowances are allocated by USEPA under the Acid Rain Program. A CAIR SO₂ allowance is a limited authorization to emit SO₂ during the calendar year for which the allowance is allocated or any calendar year thereafter under the CAIR SO₂ Trading Program as follows:
 - 1) For a control period in a year before 2010, the retirement ratio shall be one ton of SO₂, to one CAIR SO₂ allowance, except as provided for in the compliance deductions under 40 CFR 96.254(b);
 - 2) For a control period in 2010 through 2014, the retirement ratio shall be one ton of SO₂ to 2 CAIR SO₂ allowances, except as provided for in the compliance deductions under 40 CFR 96.254(b); and
 - 3) For a control period in 2015 or later, the retirement ration shall be one tone of SO₂ to 2.86 CAIR SO₂ allowances, except as provided for in the compliance deductions under 40 CFR 96.254(b).