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# Energy Efficiency and Renewable Energy (EE/RE) CAIR Annual NOx Set-Aside

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Division of Energy fact sheet

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This fact sheet answers frequently asked questions on the Energy Efficiency and Renewable Energy (EE/RE) CAIR Annual NOx Set-Aside under the CAIR Annual NOx Trading Program in Missouri.

## What is Missouri's EE/RE Set-Aside?

In response to air quality improvement requirements set by the U.S. Environmental Protection Agency (EPA), Missouri has been implementing an annual NOx allowance cap and trade program in Missouri since 2009. NOx (nitrogen oxides) is a precursor of particulate matter and ground-level ozone. Ozone is a serious health hazard and a key ingredient in urban smog.

As part of this program, Missouri has set aside 300 NOx allowances to be awarded annually to energy efficiency and renewable energy (EE/RE) projects that reduce NOx emissions from power plants. Successful EE/RE projects can receive a stream of awards for up to seven years. The awards are in the form of NOx allowances that can be sold to the highest bidder.

The Missouri Department of Economic Development's Division of Energy is responsible for decisions about awards from the set-aside. Additional information is available in the [Guide for Applicants](#).

## What is CAIR?

CAIR is the acronym for Clean Air Interstate Rule, a model rule issued by EPA on March 10, 2005. EPA required 28 eastern states and the District of Columbia to implement its CAIR model rule or an equivalent rule to reduce power plant pollution that drifts from one state to another. The EPA model rule uses a cap and trade system to reduce the target pollutants—sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NOx)—by 70 percent. In response to the EPA requirement, Missouri has established several new air quality rules that collectively implement a cap and trade system based on EPA's CAIR. One of these Missouri rules, 10 CSR 10-6.362, establishes Missouri's CAIR Annual NOx Trading Program and includes Missouri's EE/RE set-aside.

## How does the NOx cap and trade system work?

All Missouri power plants affected by the requirements of 10 CSR 10-6.362 receive an annual allocation of NOx allowances or "cap"—a total of 59,871 allowances for 2009-2014 and 49,892 for 2015 and beyond. If a power plant emits more NOx than its annual "cap", the utility must acquire additional allowances to cover the deficit. If the utility has surplus allowances, it can sell or trade them.

The trading system for NOx allowances is maintained by EPA. EPA creates accounts for each

holder of allowances and tracks the certificates through its Allowance Management System (AMS).

### **What is the value of a NOx allowance awarded by Missouri's EE/RE Set-Aside?**

An annual NOx allowance is a certificate that allows its holder to emit one ton of NOx during the year. Anyone holding a NOx allowance can sell it to the highest bidder.

Adoption of CAIR-based allowance requirements by states across the eastern U.S. has created a regional market for these NOx allowances. The recent market value of NOx allowances has ranged from \$40 to \$50 per allowance. The market, not the EE/RE Set-Aside program, sets the value, and the Division of Energy cannot guarantee the future market value of these allowances.

### **Who may apply for an award from Missouri's EE/RE Set-Aside?**

Any individual, group, organization or business may apply for an award for a specific project. However, the applicant must have the legal right to claim an award for the project. This right normally belongs to the project owner or is assigned by the owner to a "project aggregator."

### **What kinds of projects are eligible for an award?**

To be eligible for an award, the project must fit into one of the following four categories. For further explanation of these categories, see the [Guide for Applicants](#).

- Energy efficiency (EE) projects that reduce the consumption of electricity or increase the efficiency of electricity use.
- Renewable energy (RE) projects that generate electricity from non-biomass renewable sources such as solar, wind and landfill gas or digester gas.
- Renewable energy (RE) projects based on burning biomass alone or co-fired with coal. The calculation of the award must take into account emissions from biomass combustion. Eligible biomass resources include wood and wood waste, energy crops such as switchgrass and agricultural wastes such as crop and animal waste. Municipal solid waste is not included.
- Combined Heat and Power (CHP) projects that use waste heat to generate electricity and/or use the waste heat from generation for purposes such as hot or chilled water or space heating or cooling.

### **What other requirements must a project meet to be eligible for an award?**

- The project must be located in Missouri, except that Missouri utilities can also sponsor otherwise eligible renewable generation projects that are located outside Missouri.
- The project must have commenced operation after September 1, 2005.
- The project must not already be required by federal government regulation or used to generate compliance credits or permitting credits in the State Implementation Plan.

### **What must a project achieve to qualify for an award?**

The project must reduce annual NOx emissions by at least one ton, calculated using conventional arithmetic rounding. The calculation of NOx reductions will be based on equations listed in the *Guide for Applicants* using verified project activity data from project operations during the preceding calendar year. For example, an award of vintage 2009 allowances would be based on project activities that took place during calendar year 2008.

Projects that do not achieve the one-ton threshold can still be part of an aggregate project.

Project “aggregators” may own a number of project sites or (like energy service companies) may manage a number of project sites owned by others. The aggregator must have the legal right to claim awards for the included projects.

### **What is the relationship between CAIR and CSAPR?**

CAIR was promulgated in 2005 and a 2008 court decision found CAIR to be unlawful and vacated the rule. EPA appealed the suspension of the rule, and the court agreed, with the stipulation that CAIR would be implemented as planned, starting on January 1, 2009, until EPA created a replacement.

In turn, Cross-State Air Pollution Rule (CSAPR) was proposed in 2010 and finalized in 2011. The first phase of CSAPR compliance was to begin January 1, 2012. On December 30, 2011, however, the District of Columbia Circuit Court ordered a stay of CSAPR and ordered that CAIR continue to be implemented until judicial review of CSAPR was completed. On August 21, 2012, the same court ultimately vacated CSAPR and ordered that CAIR continue to be implemented until the rule is rewritten. EPA requested a rehearing of this ruling on October 5, 2012, but the U.S. Court of Appeals for the District of Columbia denied the request. EPA petitioned the Supreme Court to review the Court’s ruling. On June 24, 2013, the Supreme Court announced that it will review the lower court’s ruling. CAIR will continue to be effective until a final decision on CSAPR is made.

### **What are the application deadlines?**

Potential project sponsors are required to request Pre-Application Project Review by March 31 of the year prior to the year in which the sponsor will apply for an award from the set-aside. For example, if the sponsor plans to apply for an award of 2015 vintage allowances, the sponsor should request a pre-application review by March 31, 2014 and may request the review any time prior to that date. The actual application would be due March 1, 2015.

Reapplication for projects previously awarded allowances must be received by March 1 of the year in which the sponsor applies for a set-aside award.

### **For More Information**

For more information, please visit our Web page at: <http://ded.mo.gov/division-of-energy/financial/missouri-cair-energy-efficiency-and-renewable-energy-set-aside-program>

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