

Environmental Protection Agency Implements Far-Reaching Air Quality Regulations

by Brett Rosenberg

The U.S. EPA on March 10 finalized the Clean Air Interstate Rule, known as CAIR, as a regulatory means of reducing sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions in the eastern United States. By addressing SO₂ and NO_x emissions, primarily from coal-fired power plants, the EPA anticipates substantial environmental and public health benefits. For those cities and regions out of compliance with National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter, the new rule will help attain air quality goals, according to the EPA.

The new rule will result in \$85 to \$100 billion in annual health benefits, according to EPA estimates, including the annual prevention of 17,000 premature deaths, millions of lost work and school days, and thousands of hospital admissions. Similar estimates predict nearly \$2 billion in annual visibility benefits in southeastern national parks.

CAIR, as published, will establish phased-in caps SO₂ and NO_x emissions in 28 eastern states and the District of Columbia. Through either an interstate system of tradable emissions allowances or specific state-mandated processes, power plants will either have to buy or sell emissions allowances, or install pollution control equipment to meet the new limits.

According to EPA computer modeling, states that opt to implement an emissions trading program will, through CAIR, reduce SO₂ emissions by 4.3 million tons by 2010, 45% lower than 2003 levels. By 2015, according to EPA estimates, CAIR will reduce SO₂ emissions in the eastern US by 5.4 million tons, or 57% below 2003 levels. When it is fully implemented, CAIR will cut SO₂ emissions to 73% below 2003 levels. With regard to NO_x emissions, similar EPA models predict that CAIR will achieve a 53% reduction from 2003 emissions by 2009, with emissions of 1.7 million tons per year. In 2015, CAIR trading programs are predicted to reduce NO_x emissions by 61% of 2003 levels, to 1.3 million tons.

"CAIR will result in the largest pollution reductions and health benefits of any air rule in more than a decade," said Acting EPA Administrator Steve Johnson. "The action we are taking will require all 28 states to be good neighbors, helping states downwind by

controlling airborne emissions at their source." Johnson, who President Bush recently nominated to lead the EPA, spoke before the Environment Committee at the recent U.S. Conference of Mayors Winter Meeting in Washington, DC.

The EPA originally intended to finalize the Clean Air Interstate Rule in December of 2004 but postponed regulatory action as Senate Republicans worked to move a legislative version of the President's Clear Skies Initiative. Its release this March also roughly coincided with the court-mandated release of a similar mercury emissions control regulation. Clear Skies, which stalled largely along party lines in the Senate Environment and Public Works Committee, would have implemented a nationwide cap-and-trade system to control SO₂, NO_x and mercury emissions.

Among the more controversial measures of Clear Skies were provisions seen as dismantling the new source review program, which requires pollution control equipment upgrades to coincide with other capital-intensive projects at power plants, and the elimination of Section 126 petitions, which allow states judicial recourse in addressing interstate air pollution sources. The lack of agreement among Committee members on whether to include caps on carbon dioxide emissions to ease the effects of global climate change also proved detrimental to the bill's progress.

While many in the Senate considered legislation such as Clear Skies to be relatively free of the threat of lawsuits, it is widely anticipated that CAIR will face numerous legal challenges.