

US EPA ARCHIVE DOCUMENT

## FACT SHEET

### **STAY OF CAIR AND CAIR FIP FOR MINNESOTA ONLY**

#### ACTION

- On May 6, 2009, the US Environmental Protection Agency (EPA), proposed to stay the effectiveness, for Minnesota only, of the Clean Air Interstate Rule (CAIR) and the associated CAIR Federal Implementation Plan (CAIR FIP).
- On May 12, 2005, EPA issued CAIR. In CAIR, EPA required Minnesota and other states to submit State Implementation Plan (SIP) revisions to limit nitrogen oxides and sulfur dioxide emissions from electric generating units for the purpose of reducing the contributions these emissions make to particulate matter and ozone transport across state boundaries in the eastern half of the U.S.
- On April 28, 2006, EPA published CAIR FIPs containing federal requirements similar to CAIR. These federal requirements were intended to apply only until replaced by an approved SIP.
- A number of petitioners brought legal challenges to CAIR in the D.C. Circuit. Among the parties challenging the rule was Minnesota Power, who argued that EPA overstated the state's emissions and therefore erred in including the State of Minnesota in the CAIR region for fine particle pollution. In the July 11, 2008, CAIR decision, the Court decided that EPA had failed to fully address alleged errors in its analysis for the State of Minnesota.
- On October 31, 2008, EPA sent a letter to Minnesota Power, indicating they agency's intent to stay the effectiveness of CAIR with respect to sources located in the State of Minnesota, in the case CAIR were to remain in effect.
- On December 23, 2008, the D.C. Circuit decided to remand, rather than vacate, the CAIR rule, thus leaving CAIR and the CAIR FIP in place while EPA develops a rule to address the concerns in the July 11, 2008 CAIR decision.
- Given that CAIR remains in effect after the December 23 action by the D.C. Circuit, EPA is moving forward to grant the Minnesota stay.
- EPA will take public comment on the proposed rule for 30 day following publication in the *Federal Register*.
- This action was originally signed in January 2009 by the previous Administrator. The new EPA leadership reviewed it as part of a regulatory review initiated by the White House.

## **HOW TO COMMENT**

- EPA will accept comment on the proposal for 30 days after publication in the Federal Register. Comments, identified by Docket ID No. EPA-HQ-OAR-2009-0021, may be submitted by one of the following methods:
  - [www.regulations.gov](http://www.regulations.gov): follow the on-line instructions for submitting comments.
  - E-mail: Comments may be sent by electronic mail (e-mail) to [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov).
  - Fax: Fax your comments to: 202-566-1741
  - Mail: Send your comments to: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW, Washington, DC, 20460.
  - Hand Delivery or Courier: Deliver your comments to: EPA Docket Center, 1301, Constitution Ave., NW, Room 3334, Washington, D.C. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

## **FOR MORE INFORMATION**

- To download a copy the proposed rule, go to [www.epa.gov/cair](http://www.epa.gov/cair)
- For more information, call Tim Smith of EPA's Office of Air Quality Planning and Standards at 919-541-4718 or email at [smith.tim@epa.gov](mailto:smith.tim@epa.gov).