

US EPA ARCHIVE DOCUMENT

## FACT SHEET

### Proposed Federal Implementation Plan for the Clean Air Interstate Rule and Proposed Response to Section 126 Petition from North Carolina

#### ACTION

- On August 1, 2005, the U.S. Environmental Protection Agency (EPA) proposed a federal implementation plan, or FIP, as a backstop to ensure that power plants affected by the Clean Air Interstate Rule (CAIR) reduce emissions on schedule.
- As part of this action, EPA also proposed to deny North Carolina's petition requesting that power plants in certain upwind states reduce their contribution to North Carolina's fine particle pollution. EPA is basing the proposed denial on issuance of the CAIR FIP: the Agency believes that emissions reductions required by the proposed FIP will satisfy North Carolina's petition.
- If EPA does not issue the FIP by the time it issues its final response to the North Carolina petition, the Agency would grant a portion of the petition that applies to fine particle pollution, according to the proposal.
- The proposed FIP, which establishes federal emissions cap and trade programs, would apply to the District of Columbia and all states subject to CAIR. The trading programs cover SO<sub>2</sub> emissions, annual NO<sub>x</sub> emissions, and ozone season NO<sub>x</sub> emissions.
- The proposed FIP would not limit states' flexibility in meeting their CAIR requirements. EPA would withdraw the federal plan for any state once that state's own plan for meeting CAIR requirements is in place.
- CAIR is EPA's program to ensure that Americans continue to breathe cleaner air through dramatically reducing and permanently capping emissions of sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) from coal-fired power plants in the eastern United States. CAIR offers steep and sustained reductions in air pollution as well as dramatic health benefits more than 25 times greater than the cost by 2015.
- When fully implemented, CAIR will reduce SO<sub>2</sub> emissions from power plants in 28 eastern states and the District of Columbia by more than 70 percent and NO<sub>x</sub> emissions by more than 60 percent from 2003 levels.
- This proposal also includes amendments to existing regulations to facilitate the implementation of CAIR.
- EPA will accept public comment for 60 days following publication this proposal in the *Federal Register*. The Agency also will hold two public hearings on the proposal.

### *The Federal Implementation Plan*

- When EPA issued the final CAIR in March 2005, it also issued national findings that states had failed to submit SIPs to address interstate transport by July 2000, as required by the Clean Air Act. This action triggered a two-year clock for EPA to issue a federal implementation plan to address the interstate transport. Today's proposal would address EPA's responsibility to issue FIPs for the states covered by CAIR.
- The proposed FIP would apply to the District of Columbia and the 28 states subject to CAIR. EPA also is proposing a FIP for Delaware and New Jersey for fine particle pollution (PM<sub>2.5</sub>), based on a current proposal to include these states in CAIR for PM<sub>2.5</sub>.
- The FIP would require power plants in affected states to participate in three separate federal cap and trade programs, which EPA is proposing as part of this action. The trading programs cover SO<sub>2</sub> emissions, annual NO<sub>x</sub> emissions, and ozone season NO<sub>x</sub> emissions. Participation in the proposed cap and trade programs would be mandatory for all sources covered by the FIP or by any final section 126 requirements in response to the North Carolina petition if the Agency were to grant the petition.
- Emissions cap and trade programs are a proven method for achieving highly cost-effective emission reductions while providing regulated sources with flexibility in adopting compliance strategies. The proposed federal cap and trade programs would be integrated with the EPA-administered CAIR state trading programs, which states may choose to adopt to meet their emission reduction obligations under CAIR.
- Neither the federal plan nor the 126 requirements (if EPA were to grant the North Carolina petition) would limit states' flexibility in meeting the requirements of CAIR. EPA would not implement the FIP emission reduction requirements (or section 126 controls, if the Agency were to grant North Carolina's petition), for more than one year after the September 2006 deadline for states to submit their CAIR implementation plans. This will give states adequate time to develop their plans. Also, EPA will withdraw the federal plan (or the section 126 controls) for a state once that state's plan for meeting CAIR requirements is in place.

### *Response to North Carolina Petition*

- The proposal responds to a March 2004 petition from North Carolina asking EPA to find that emissions from 13 states significantly contribute to North Carolina's inability to meet or maintain the fine particle (PM<sub>2.5</sub>) and/or ozone standards in certain areas. The petition, known as a section 126 petition, also asked EPA to require emission reductions from power plants in the 13 upwind states.
- For ozone, the Agency is proposing to deny North Carolina's petition, because extensive analyses conducted for CAIR do not show any upwind states contributing to North Carolina's ability to meet or maintain the 8-hour ozone standards. (As part of CAIR, EPA determined which upwind states significantly contribute to nonattainment and maintenance

problems in specific downwind states, including North Carolina.)

- EPA is proposing two options to address fine particle pollution. EPA's CAIR analyses show that emissions from 10 states are linked to PM<sub>2.5</sub> nonattainment problems in North Carolina. Those states are: Alabama, Georgia, Indiana, Kentucky, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and West Virginia. For these states, EPA is proposing:
  - (1) to deny North Carolina's petition, provided EPA issues the FIP addressing pollution transported from these states no later than March 15, 2006 (the due date for the final response to North Carolina's petition). The FIP would address North Carolina's section 126 petition by controlling emissions from power plants in upwind states that EPA identified as contributing to North Carolina's fine particle pollution problems; or
  - (2) to grant the petition if EPA does not issue the FIP on, or before, March 15, 2006.

At this time, EPA is planning to move forward with the first option.

- North Carolina's petition also sought emission controls on power plants in Michigan and Illinois. However, EPA's CAIR analyses show that these two states do not contribute to fine particle pollution attainment problems in North Carolina. As a result, EPA is proposing to deny the petition as it applies to these states.

#### *Amendments to Facilitate CAIR Implementation*

- Today's proposal also would make changes to existing regulations to facilitate the implementation of CAIR. The proposed changes include:
  - Providing states subject to CAIR with an option to submit abbreviated state implementation plans (SIPs). Under this option, states could save the time and resources needed to develop the complete trading program SIP, while still being able to make key decisions, such the methodology for allocating annual and/or ozone season NOx allowances to individual sources in the state.
  - Revisions to CAIR to address the interaction between the EPA-administered federal trading programs proposed today and the EPA-administered state trading programs issued March 15, 2005 as part of CAIR. States have the option to submit plans establishing such a trading program to meet the requirements of CAIR.
  - Revisions to CAIR to correct certain minor errors.
  - Minor revisions to the Acid Rain Program. These revisions will ensure that certain administrative appeals procedures that apply to EPA-administered state CAIR trading programs also will apply to the EPA-administered trading programs under the section 126 and FIP actions. The proposal also includes minor revisions to the Acid Rain Program that would apply to all affected units.

## **HOW TO COMMENT**

- EPA will hold public hearings on this proposal September 14, 2005, at EPA's offices in Research Triangle Park, N.C. and September 15, 2005, and EPA's offices in Washington, D.C. This proposed rule will be open for public comment for 60 days after it is published in the *Federal Register*. EPA intends to take final action on the full proposal by March 15, 2006.
- The text of this proposal and find further information related to today's proposal and the Clean Air Interstate Rule are available on EPA's website [www.epa.gov/cair](http://www.epa.gov/cair).
- EPA will accept comments 60 days, beginning when this proposal is published in the Federal Register. All comments should be identified by Docket ID No. OAR-2004-0076 and submitted by one of the following methods:
  - [Federal e-rulemaking portal](#);
  - [EDOCKET](#);
  - [E-mail](mailto:a-and-r-docket@epa.gov) (a-and-r-docket@epa.gov);
  - Facsimile (202) 566-1741;
  - Mail (Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460); or
  - Hand delivery (Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B102, 1301 Constitution Avenue, NW, Washington, DC).
- For more information, call Carla Oldham at EPA's Office of Air Quality Planning & Standards, 919-541-3347.

## **BACKGROUND ON THE NORTH CAROLINA PETITION**

- Section 126 of the Clean Air Act is designed to remedy interstate pollution transport. Section 126(b) authorizes states to petition EPA for a finding that major stationary sources or groups of sources in upwind states are contributing significantly to nonattainment problems in downwind states.
- If EPA makes such a finding, any existing affected sources must cease to operate within three months unless they comply with control requirements and compliance schedules that EPA establishes. The compliance date can be no later than three years from the date EPA makes the finding.
- The State of North Carolina, Environmental Defense, and EPA have entered into a consent decree laying out the following schedule for EPA to respond to North Carolina's March 2004 section 126 petition:
  - EPA must sign the proposal no later than August 1, 2005;
  - EPA must hold a public hearing on the proposal during the week of

- September 12, 2005 in North Carolina; and
- EPA must sign the final rule no later than March 15, 2006