

US EPA ARCHIVE DOCUMENT

**Reconsideration of Clean Air Interstate Rule:  
Supplemental Notice of Reconsideration**

**FACT SHEET**

**ACTION**

- On December 20, 2005, the U.S. Environmental Protection Agency (EPA) agreed to reconsider one specific aspect of its Clean Air Interstate Rule (CAIR).
- In this notice, EPA is granting reconsideration and seeking comment on the potential impact of a recent judicial opinion, New York v. EPA, 413 F.3d 3 (D.C. Cir. 2005). This decision vacated the pollution control project (PCP) exclusion in the New Source Review (NSR) regulations (the exclusion allowed for certain environmentally beneficial PCPs to be excluded from certain NSR requirements). EPA's analysis shows that the court decision does not impact the CAIR analyses. EPA is providing an opportunity for public comment on the issue and is not proposing any changes to CAIR at this time.
- In this action, EPA is not requesting comment on any other provisions of the final rule.
- If requested, EPA will hold a public hearing on this notice on January 17, 2005 in Washington, DC. EPA will accept public comments on the reconsideration until February 16, 2006.
- EPA issued the final CAIR on March 10, 2005. Following promulgation of the final rule, the EPA Administrator received eleven petitions for reconsideration.
- Petitions for reconsideration were filed by:
  1. State of North Carolina;
  2. FPL Group;
  3. Florida Association of Electric Utilities;
  4. Entergy Corporation;
  5. Massachusetts Department of Environmental Protection;
  6. Integrated Waste Services Association;
  7. Texas Commission on Environmental Quality;
  8. Northern Indiana Public Service Corporation;
  9. City of Amarillo, Texas, El Paso Electric Company, Occidental Permian Ltd, and Southwestern Public Service Company d/b/a/ Xcel Energy;
  10. Connecticut Business and Industry Association; and
  11. Minnesota Power, a division of ALLETE, Inc.(Note: The complete petitions are available in the docket for CAIR)

- Through Federal Register notices dated August 24, 2005 and December 2, 2005, EPA began the reconsideration processes on the following five specific issues in CAIR and requested comment on those issues:

August 24, 2005.

The definition of “electric generating unit” or “EGU” as it relates to solid waste incinerators (and particularly municipal waste incinerators.) EPA also proposed a revised definition and took comment on the proposal.

December 2, 2005.

1. allegations that inequities result from application of the sulfur dioxide (SO<sub>2</sub>) allocation methodology that States choosing to participate in the CAIR SO<sub>2</sub> trading program would use to allocate SO<sub>2</sub> allowances to sources;
2. EPA’s use of fuel adjustment factors (1.0 for coal, 0.6 for oil, and 0.4 for gas) in establishing state nitrogen oxides (NO<sub>x</sub>) budgets;
3. certain inputs to the fine particle (PM<sub>2.5</sub>) modeling used to determine whether Minnesota should be included in the CAIR region for PM<sub>2.5</sub>; and
4. EPA’s determination that Florida should be included in the CAIR region

- EPA expects to take final action on reconsideration of all issues under reconsideration by March 15, 2006. By that date, EPA would finalize the process of reconsideration by issuing a final rule or proposing a new approach. EPA also expects, by March 15, 2006, to issue decisions on all remaining issues raised in the petitions for reconsideration.

## BACKGROUND

- The final rule, “Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to NO<sub>x</sub> SIP Call” was published in the *Federal Register* on May 12, 2005.
- CAIR will achieve the largest reduction in air pollution in more than a decade. It requires 28 States and the District of Columbia to revise their state implementation plans to include control measures to reduce emissions of NO<sub>x</sub> and/or SO<sub>2</sub> that significantly contribute to unhealthy levels of PM<sub>2.5</sub> or 8-hour ozone in downwind states.
- Each State covered by CAIR may independently determine which emission sources to control and which control measures to adopt. CAIR includes model rules for multi-state cap and trade programs for power plants that states may choose to adopt to meet the required emissions reductions in a flexible and highly cost-effective manner.
- In CAIR, EPA determined that SO<sub>2</sub> and NO<sub>x</sub> emissions from 23 states and the District of Columbia contribute significantly to downwind states inability to attain or maintain the PM<sub>2.5</sub> national ambient air quality standard (NAAQS). Additionally, EPA determined that NO<sub>x</sub> emissions in 25 states and the District of Columbia

contribute significantly to downwind states inability to attain or maintain the 8-hour ozone NAAQS.

- The rule specifies emissions reductions requirements for SO<sub>2</sub> and NO<sub>x</sub>. The first phase of NO<sub>x</sub> reductions starts in 2009 (covering 2009-2014) and the first phase of SO<sub>2</sub> reductions starts in 2010 (covering 2010-2014). The second phase of both SO<sub>2</sub> and NO<sub>x</sub> reductions starts in 2015 (covering 2015 and thereafter).

#### **HOW TO COMMENT**

- All comments should be identified by Docket ID No. EPA-HQ-OAR-2003-0053 and submitted by one of the following methods:
  - Federal e-rulemaking portal ([www.regulations.gov](http://www.regulations.gov));
  - E-mail ([a-and-r-docket@epa.gov](mailto: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**

- Information related to the Clean Air Interstate Rule is available on EPA's website at [www.epa.gov/cair](http://www.epa.gov/cair) and in the rulemaking docket, Docket No. EPA-HQ-OAR-2003-0053.