

Environmental Groups Challenge Regional Haze Plans in Wake of CSAPR Vacatur

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In recent weeks, Sierra Club and other environmental organizations have filed petitions for review in four federal appellate courts seeking review of regional haze SIPs and FIPs in ten states that relied on CSAPR, which was found to violate the Clean Air Act in *EME Homer City Generation, L.P. v. EPA*. EPA had previously determined that the CSAPR trading program satisfies the BART requirements under the Regional Haze Rule. The environmental groups argued in their petitions for review that since CSAPR has been vacated, states can no longer rely on CSAPR to satisfy the requirements of the Regional Haze Rule.

The environmental groups have filed petitions for review challenging the regional haze SIPs and FIPs in the following states: Indiana, Kentucky, Michigan, Minnesota, Ohio, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. Although the lawsuits are currently pending in four federal appellate courts, the environmental groups have indicated that they believe the appropriate forum for litigation is the U.S. Court of Appeals for the D.C. Circuit and that they intend to file petitions for review of the regional haze FIPs and SIPs in that court as well.

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