

EPA Announces Clean Air Transport Rule

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EPA announced today that it has finalized the Clean Air Transport Rule. The Transport Rule, which is now formally known as “The Cross-State Air Pollution Rule” (CSAPR) is intended to replace the 2005 Clean Air Interstate Rule (CAIR), which the U.S. Court of Appeals for the D.C. Circuit ordered EPA to revise in 2008. The court allowed CAIR to remain in place temporarily while the EPA worked to finalize CSAPR. EPA will continue to implement CAIR through the 2011 compliance periods after which it will be replaced by CSAPR.

The final rule is intended to follow the so-called “Good Neighbor” mandate established under the Clean Air Act. This mandate essentially requires EPA and the states to limit interstate air pollution and to reduce the impact on one state from pollution emitted from sources outside that state’s borders. Under today’s final rulemaking, 27 states in the eastern U.S. will work with power plants located in those states to cut air pollution. Under CSAPR, the affected states are divided into two groups with respect to SO₂ emission reductions. Both groups must reduce their SO₂ emissions beginning in 2012. However, Group 1 states (Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and Wisconsin) must make significant additional reductions in SO₂ emissions by 2014. CSAPR retains the “state budget” concept introduced in the initial proposed Transport Rule whereby each of the affected states is allocated an emissions budget for NO_x and SO₂ that caps the annual emissions of those pollutants for that state. That state budget is then allocated among the various power plants within that state pursuant to a prescribed allocation methodology. CSAPR, however, deviates from the initial proposed Transport Rule by utilizing a new allowance allocation methodology based on a combination of historic heat input and a unit’s maximum historic emissions. It appears that CSAPR has generally retained EPA’s preferred trading approach in the proposed Transport Rule in that it allows limited interstate allowance trading among power plants within the same prescribed tier. The trading programs will be phased in between 2012 and 2014.

In a supplemental rulemaking, the EPA announced that it is also proposing to require sources in Iowa, Kansas, Michigan, Missouri, Oklahoma, and Wisconsin to reduce NO_x emissions during the summertime ozone season.

EPA announced that the final rule will cut hundreds of thousands of tons of sulfur dioxide (SO₂) and nitrogen oxide (NO_x) emissions. EPA predicted that the final rule, along with other state and EPA actions, will reduce SO₂ emissions by 73 percent and NO_x emissions by 54 percent from 2005 levels. EPA also stated in today’s announcement that the regulations will prevent up to 34,000 premature deaths, 15,000 nonfatal heart attacks, 19,000 cases of acute

bronchitis, 400,000 cases of aggravated asthma, and 1.8 million sick days a year beginning in 2014 – achieving up to \$280 billion in annual health benefits.

Many members of Congress have expressed dissatisfaction with the final rule (and other similar air-related regulations) on the grounds that they hamper economic growth and do not provide the economic or health benefits estimated by the EPA. Senator James Inhofe (Ranking Member of the Senate Committee on Environment and Public Works) commented on the release of CSAPR stating, “EPA’s finalized Transport Rule, announced today, is the latest major impediment to economic growth put forth by this Administration....This rule along with ‘Utility MACT’ could force the retirement of 30 to 100 gigawatts of coal-fired power plants, raise the price of electricity by as much as 23 percent, and cause 1.4 million job losses by 2020.”

The proposal is open for public review and comment for 45 days after publication in the Federal Register. More information on the regulations is available [here](#).

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