

Fact Sheet

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

Action

- On March 15, 2006 the U.S. Environmental Protection Agency (EPA) promulgated federal implementation plans, or FIPs, for power plants to ensure that the emissions reductions required by the Clean Air Interstate Rule (CAIR) are achieved on schedule. The CAIR requires states to reduce emissions of nitrogen oxides (NO_x) and sulfur dioxide (SO₂) that significantly contribute to fine particle (PM_{2.5}) and ground-level ozone pollution problems in downwind states.
- A FIP is implemented to achieve attainment of air quality standards when a state does not or is unable to develop an adequate plan. The CAIR FIP trading programs are integrated with the EPA-administered state CAIR trading programs so that sources in states governed by the federal or state programs can trade with one another under the emission caps. The FIPs do not limit states' flexibility in meeting their CAIR requirements.
- EPA also is denying a petition submitted by North Carolina under section 126 of the Clean Air Act because CAIR and the back-up CAIR FIP satisfy North Carolina's petition request. The state requested in March 2004 that EPA establish control requirements for power plants in certain upwind states that contribute North Carolina's nonattainment with EPA's air quality standards for PM_{2.5} and ozone.
- The CAIR FIPs rules establish three emissions cap and trade programs that apply to power plants located in the District of Columbia and all states subject to CAIR. The trading programs cover:
 1. annual SO₂ emissions,
 2. annual NO_x emissions, and
 3. ozone season NO_x emissions.Note: the annual SO₂ and NO_x programs address PM_{2.5} transport, while the ozone season NO_x program addresses ground-level ozone transport.
- EPA will withdraw a FIP for any state once that state's own state implementation plan, or SIP, for meeting the CAIR requirements is approved and in place. In no way should the FIPs for CAIR be viewed as a sign of any concern about states meeting the SIP responsibilities under CAIR.
- This action also finalizes minor amendments to the CAIR and the Acid Rain Program.

CAIR Background

- On March 10, 2005, EPA announced CAIR, a rule that will achieve that largest reduction in air pollution in more than a decade. CAIR regulates sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from 23 states and the District of Columbia that contribute to levels of fine particles (PM_{2.5}) in areas above the air quality standard in downwind states. In addition, NO_x emissions in 25 eastern states and the District of Columbia contribute to levels of ozone in areas above the air quality standard for 8-hour ozone in other downwind states.
- CAIR dramatically reduces and permanently caps emissions of sulfur dioxide (SO₂) and nitrogen oxides (NO_x) 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 SO₂ emissions from power plants in 28 eastern states and the District of Columbia by more than 70 percent and NO_x emissions by more than 60 percent from 2003 levels.
- The CAIR rule provides cleaner air while allowing for continued economic growth. By enabling states to address air pollutants from power plants in a cost-effective manner, this rule will protect public health and the environment without interfering with the steady flow of affordable energy for American consumers and businesses.

The Federal Implementation Plan

- When EPA issued the final CAIR in March 2005, EPA also issued a national finding that states had failed to submit SIPs to address interstate transport by July 2000, as is required by the Clean Air Act. This action triggered a two-year clock for EPA to issue FIPs to address interstate transport. Today's action satisfies EPA's responsibility to issue FIPs for the 28 states and the District of Columbia that are covered by CAIR.
- Separately, on March 15, 2006, EPA issued a final rule to include Delaware and New Jersey in CAIR for to control SO₂ and NO_x emissions because they contribute to PM_{2.5} non-attainment in other states. These states were already included in CAIR because their sources contributed to non-attainment of other states' 8-hour ozone air quality standard. The CAIR FIP establishes requirements for Delaware and New Jersey with respect to both ambient air quality standards.
- As the control strategy for the FIPs, EPA is adopting the model cap and trade programs that it provided in the CAIR as a control option for states, with minor changes to account for federal, rather than state, implementation. The FIPs require power plants in affected states to participate in one or more of three separate emissions cap and trade programs that cover:

1. annual SO₂ emissions,
 2. annual NO_x emissions, and
 3. ozone season NO_x emissions.
- Emission cap and trade programs are a proven method for achieving highly cost-effective emission reductions while providing regulated sources with flexibility in choosing compliance strategies.
 - The FIPs do not limit states' flexibility in meeting the requirements of CAIR. EPA will not record NO_x allocations or take any other steps to implement FIP requirements that would impact a state's ability to regulate their sources in a different manner until more than a year after the CAIR SIP submission deadline. This gives states adequate time to develop their plans. EPA will withdraw the FIP for a state once that state's plan for meeting CAIR requirements is in place.
 - The FIPs provide states with an option to submit abbreviated SIPs to meet CAIR. Under this option, states can save the time and resources needed to develop the complete trading program SIP, while still being able to make key decisions, such as the methodology for allocating annual and/or ozone season NO_x allowances.

Response to North Carolina Section 126 Petition

- The final rule responds to a March 2004 petition from North Carolina which asked EPA to address emissions from large electric generating units (power plants) in 13 states that they believed are significantly contributing to North Carolina's inability to meet the PM_{2.5} and/or ozone standards in certain areas. The petition, known as a section 126 petition, asks EPA to require emission reductions from power plants in the 13 states named in the petition.
- For ozone, the Agency is denying North Carolina's petition because analyses conducted for CAIR project that North Carolina will be in attainment by 2010, the baseline for determining a state's significant contribution. Therefore, EPA did not find that any upwind states significantly contribute to nonattainment problems in North Carolina. The states named in the petition for ozone are Georgia, Maryland, South Carolina, Tennessee and Virginia.
- For PM_{2.5}, EPA is also denying the petition. EPA's CAIR analyses show that emissions from 10 states named in the petition are linked to PM_{2.5} nonattainment problems in North Carolina. Those states are: Alabama, Georgia, Indiana, Kentucky, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia. EPA is denying the petition for power plants in these states because EPA is promulgating FIPs to address the interstate transport thus satisfying North Carolina's petition. EPA is also denying the petition for Michigan and Illinois because, in CAIR, EPA determined they do not significantly contribute to North Carolina PM_{2.5} pollution.

- 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 or maintenance problems in downwind states.

Revisions to CAIR SIP Model Trading Rules

- This rulemaking also revises CAIR SIP model trading rules in order to address the interaction between the EPA-administered CAIR FIP trading programs being promulgated today and the EPA-administered CAIR state trading programs that will be created by any state that elects to submit a SIP establishing such a trading program to meet the requirements of the CAIR. In addition, EPA is making revisions to the CAIR SIP rules to clarify certain provisions and to correct certain minor errors.
- EPA also is taking final action on petitioners' requests to reconsider the definition of an electric generating unit in the final CAIR model trading rules as it relates to solid waste incinerators (and particularly municipal waste incinerators). EPA is clarifying that these facilities are not considered electric generating units.

Revisions to Acid Rain Program

- This rulemaking action also makes revisions to the Acid Rain Program in order to make the administrative appeals procedures, which currently apply to final determinations by the Administrator under the EPA-administered CAIR state trading programs, also apply to the EPA-administered trading programs under the FIP action. In addition, we are making certain minor revisions to the Acid Rain Program that will apply to all affected units.

For More Information

For information on this rulemaking action, visit www.epa.gov/cair.