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# Federal Perspective on Air Quality Issues

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Bill Harnett USEPA

Regional Air Quality Conference

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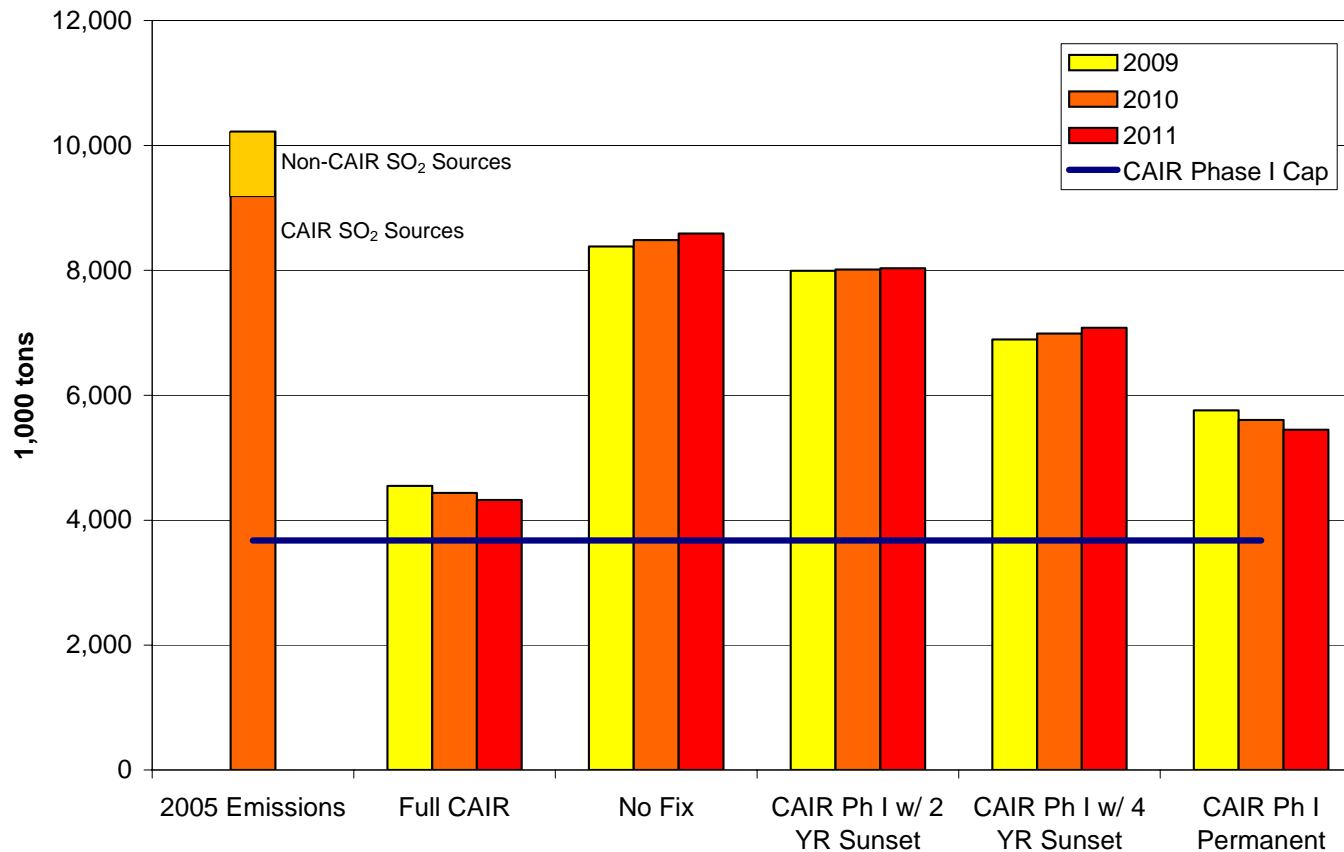
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# EPA's Direct Response to July 11, 2008 CAIR Court Decision

- Support short-term legislative fix.
  - File rehearing request of Court case filed September 24.
  - Prepare to reinstate NO<sub>x</sub> SIP Call's NO<sub>x</sub> Budget Trading Program (NBP).
  - Consider host of air program adjustments
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# SO<sub>2</sub> Emissions from the Power Sector in the Short-term (2009-2011)\*

Potential Annual SO<sub>2</sub> Emissions under Various Quick Fix Options in 2009-2011 for the CAIR Region\*



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# Where We Are

- Await Court's response to rehearing petition.
  - Await Congressional action.
  - Recognize health and environmental benefits of new rulemaking, whether in response to CAIR Court decision or new legislation, could take 5-7 years to be realized.
  - Remain committed to work with states to reduce air emissions and achieve health and environmental goals of CAA.
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# CAIR and SIPs

- 1997 Ozone Attainment SIPs
    - CAIR tightened controls and expanded geographically the NOx Budget Program
  - 1997 PM2.5 Attainment SIPs and Regional Haze SIPs
    - CAIR Phase I reductions deliver significant reductions in PM2.5 concentrations and visibility
  - Section 110(a)(2)(D)(i) FIPs
    - Requirement for States to address interstate impacts
  - National consistency issue for how we treat CAIR vs. non-CAIR States (e.g., only 2 of 16 Regional Haze submitted for non-CAIR States)
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# Status of Ozone, PM2.5 and Regional Haze SIPs (MRPO Region)

## ■ Ozone

- 6 SIPs with attainment demonstrations due in June 2007 – 2 SIPs submitted, Findings for “failure to submit” on 4 Areas in March 2008

## ■ PM2.5

- 17 SIPs with attainment demonstrations due in April 2008 – 13 SIPs have been submitted

## ■ Regional Haze

- 5 SIPs in due December 2007 – 0 SIPs have been submitted.
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# Pending Questions

- How will we deal with SIPs approvability issues?
  - How do we address FIPs for Ozone attainment SIPs findings (due 03/10)?
  - Do we proceed with findings of failure to submit for Regional Haze SIPs (due 2/07) and for PM attainment SIPs (due 4/08)?
  - How do we deal with FIPs for Section 110(a)2(d)(i) findings (due 2007)?
  - Many legal issues and risks with paths forward
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# PM2.5/Ozone SIP Options

- Act as normal on SIPs outside the CAIR region.
  - If SIP submitted, approve SIP strengthening measures
    - RFP
    - RACT/RACM
    - Conformity budgets
    - Other control measures
    - Approve NOx Budget programs
  - Attainment demonstrations?
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# What is next to get emission reductions in place?

- Legislation?
  - State actions to put require reductions?
  - Federal rule to regulate sources of interstate transport?
    - Linking States to nonattainment areas
      - New ozone (March 2011) and PM2.5 standards (September 2009)?
    - Rule to **address** interstate transport or to **reduce** interstate transport?
    - Opportunity of State certifications?
  - Multi-state Transport Assessment Process?
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# 1997 (0.08 ppm) 8-hr NAAQS

- FRs responding to South Coast vacatur (Phase 1 Rule)
    - Proposal to address subpart 1 areas and minimally correct phase 1 implementation rule: in OMB review; NPR on November 2008.
    - Proposal to address expiration of anti-backsliding for 1-hr NAAQS obligations for NSR and section 185 penalty fees; NPR in March 2009.
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# 1997 (0.08 ppm) 8-hr NAAQS (cont'd)

- Phase 2 rule litigation
    - Oral argument scheduled for Nov. 20, 2008.
    - Provision for taking credit for RFP reductions outside nonattainment areas that the court vacated and remanded to EPA:
      - Proposed rule published July 21, 2008.
      - Final rule scheduled to be published by December 2008.
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# 24-Hr PM<sub>2.5</sub> Designations

## Timeline – October-December 2008

### Milestone

### Approximate Date

★ Close of public comment period	October 2, 2008
Requested date for State & Tribal comments	October 20, 2008
Administrator Signature	on/before Dec. 18, 2008
Final Designations FR notice published	January 2009
States can submit complete, quality assured, certified 2008 data	By February 20, 2009
Supplemental Amendments FR Notice	April 2009 (no later than effective date)
Effective Date of Final Designations	April 2009 (90 days after FR publication)

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# Ozone Designations

- Draft designations guidance with OMB for informal review -- hope to be signed by end of October.
  - Consistent with designations guidance for 1997 ozone standard.
  - CBSA or CSA presumptive nonattainment boundary.
  - Area-specific analyses may support larger or smaller nonattainment boundaries.
  - Recommends 9 factors to consider, similar to PM2.5 designations guidance. (Condensed from 11 factors used in last ozone designations).
  - New ozone implementation rule to address how classification provisions of CAA will apply for designations under 2008 revised ozone standard. Proposal next spring.
  - Direct final rule published Oct 6<sup>th</sup> to amend Exceptional Events Rule to provide revised exceptional event data flagging and documentation schedule for ozone data that may be used for ozone designations.
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# Factors For Area-Specific Analyses

- Air quality data
  - Emissions data (location of sources & contribution to ozone concentrations)
  - Population density and degree of urbanization
  - Traffic and commuting patterns'
  - Growth rates and patterns
  - Meteorology (weather/transport)
  - Geography/topography
  - Jurisdictional boundaries
  - Level of control of emissions
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# Ozone Designations Schedule

<b>Milestone</b>	<b>Date</b>
Revised ozone NAAQS promulgated	March 12, 2008
State/Tribe designations recommendations due	No later than March 12, 2009
EPA notifies States/Tribes of intended modifications to recommendations	No later than November 12, 2009 (120 days before designations)
EPA publishes notice of recommendations and EPA's intended modifications, initiates 30-day public comment period	Mid-November 2009
End of 30-day public comment period	Mid-December 2009
States/Tribes submit additional information in response to EPA's intended modifications	No later than January 12, 2010
Final ozone designations	No later than March 12, 2010*

\*Schedule assumes EPA has sufficient information to issue designations in 2 years.

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# PSD/GHG Implications

- PSD program applies to pollutants regulated under any CAA authority with the exception section 112 or section 211(o)
  - PSD requires preconstruction review and permitting for new major emitting facilities and modifications (i.e., significant increases) at existing major emitting facilities
  - Major source thresholds for PSD program--
    - 100 tpy for categories listed in the CAA
    - 250 tpy for other categories
  - Significance levels up to 100 tpy for current pollutants.
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# PSD ANPR Discussion

- Applying these thresholds to GHGs would increase the number of PSD permits by *at least* an order of magnitude -- from 200-300 per year to thousands of PSD permits each year
  - For GHG, would potentially cover many small sources (e.g., large residential/commercial bldgs.) and many small modifications at traditional major sources.
  - Substantial expansion of PSD raises serious concerns (BACT, delay, etc.) and questions (e.g., whether any benefits could be achieved more efficiently through approaches other than case-by-case review)
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# PSD – ANPR Options

- ANPR takes comment on options to restrict the program to larger sources and/or to streamline compliance for GHG sources added to the program, such as:
    - Set higher major source thresholds for GHGs
    - Set higher significance levels for GHGs
    - Phase in the program slowly, starting with large sources
    - Reduce the number of additional small sources that need PSD permits through limitations on, or interpretations of, sources' "potential to emit"
    - Streamline the permitting of such sources through a range of approaches (presumptive BACT, general permits)
  - Legal theories presented for comment
    - Administrative Necessity & Absurd Results
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# Title V Permits/GHG

- Title V operating permits also affected by GHG
    - Title V consolidates air pollution control requirements into one permit; requires monitoring, reporting, certification, etc.
    - Required for new and existing sources above 100 tpy (and other sources as well)
    - If the 100-ton major source threshold were applied to GHGs, this would substantially increase the number of sources required to obtain Title V permits
    - Could be more than 500,000 permits required
      - many smaller sources would be required to obtain a permit for the first time
      - Initial workload would likely be overwhelming
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# Title V ANPR Options

- As with PSD, ANPR takes comment on a range of ways to avoid a large increase in the number of sources required to obtain Title V permits
    - Major source size
    - PTE limits
    - Similar legal theories to those for PSD
  - Also takes comment on ways to streamline compliance for sources that are covered.
    - General permits, phase in, etc.
    - Would the Title V permit fees structure need to be modified if GHGs were regulated?
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