

Requirements for an Emissions Trading Program that Could Satisfy Best Available Retrofit Technology Requirements Under EPA's Regional Haze Program

Fact Sheet

Action

- On July 20, 2005, the Environmental Protection Agency (EPA) proposed requirements for an emissions trading program as part of its Regional Haze Rule. These changes would provide states with a process to show that an emissions trading program may be used as an alternative to applying Best Available Retrofit Technology Requirements or BART.
- EPA finalized the BART facility-by-facility requirements on June 15, 2005. Today's proposal applies to an emissions trading program that states and tribes may use in place of facility-by-facility requirements to improve visibility in specially protected areas.
- As part of its agreement with Earthjustice for issuing the June 15, 2005 rule, EPA committed to finalize this trading rule by November 8, 2005.
- The BART requirements of the regional haze rule apply to facilities built between 1962 and 1977 that have the potential to emit more than 250 tons a year of visibility-impairing pollution. Those facilities fall into 26 categories, including utility and industrial boilers, and large industrial plants such as pulp mills, refineries and smelters. Many of these facilities have not previously been subject to federal pollution control requirements for these pollutants.

The changes would clarify that a state should consider visibility improvement at the same time it considers economic factors, when determining the emissions reductions achievable from BART. Previously, for trading programs, states were required to consider visibility improvement on a cumulative basis, only after considering economic factors on a source-by-source basis.

- This action also specifically addresses the sulfur dioxide "backstop" emissions trading program developed by the Western Regional Air Partnership (WRAP) and approved by EPA in 2003. The rule would allow certain western states to revise their regional haze implementation plans for submittal in late 2007, in order to ensure that the backstop emission's trading program developed by the WRAP is consistent with a recent decision of the D.C. Circuit.

EPA will take comment on this proposed rule for 45 days after publication in the *Federal Register*. EPA expects to take final action on this issue by November 8th, 2005.

Background

- Haze is caused when sunlight encounters very small pollution particles in the air. Some light is absorbed by particles. Other light is scattered away before it reaches an observer. More pollutants mean more absorption and scattering of light, which reduces the clarity and color of what we see. Some types of particles such as sulfates scatter more light, particularly during humid conditions.
- The same pollution that causes haze also poses serious health risks, especially for people with chronic respiratory diseases.
- To reduce haze, and to meet requirements of the Clean Air Act, EPA in April 1999 issued a regional haze rule aimed at protecting visibility in 156 federal Class 1 areas. The rule seeks to reduce the visibility impairment caused by many sources over a wide area. EPA's previous visibility regulation, issued in 1980, addressed only local visibility impairment from local sources.
- Under the 1999 regional haze rule, states are required to set periodic goals for improving visibility in the 156 natural areas. As they work to reach these goals, states must develop "implementation plans" that contain enforceable measures and strategies for reducing visibility-impairing pollution.
- EPA published the regional haze rule on July 1, 1999. On May 24, 2002, the D.C. Circuit vacated certain provisions of the regional haze rule related to best available retrofit technology (BART). The BART provisions at issue in that case were applicable on a source-by-source basis.
- On June 15, 2005, EPA promulgated revisions to the haze rule that respond to that case.
- In September 2000, the Western Regional Air Partnership (WRAP) submitted a plan to EPA containing recommendations for implementing the regional haze rule in the Western United States. Specifically, the plan contains a set of recommended regional emissions reduction milestones for sulfur dioxide, a key compound in the formation of fine particles and regional haze. The plan, also known as the Annex to the 1996 Report of the Grand Canyon Visibility Transport Commission (GCVTC), also included a description of an emissions trading program for nine Western States and eligible Indian Tribes within that geographic area. The trading program would act as a backstop to ensure that emission milestones would be met.
- EPA approved the WRAP Annex in May 2003, and codified it as amendments to the regional haze rule. Five western States submitted implementation plans under these provisions in 2003.

- The D.C. Circuit vacated EPA's approval of the WRAP Annex in a decision issued on February 18, 2005. In addition to invalidating the WRAP Annex, the decision also affects similar programs developed in the future.

For More Information

- To download a copy of today's proposed rule from EPA's Web site, go to www.epa.gov/visibility/actions.html#barttrading.
- Comments will be accepted for 45 days beginning when this proposal is published in the *Federal Register*. All comments should be identified by Docket ID No. OAR-2002-0076 and submitted by one of the following methods:
 - Federal e-remaking portal (<http://www.regulations.gov>);
 - EDOCKET (<http://www.epa.gov/edocket>);
 - E-mail (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, call Ms. Kathy Kaufman at 919-541-0102 or Mr. Todd Hawes at 919-541-5591.