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Appeals Court Reinstates Clean Air Interstate Rule

WASHINGTON, DC, December 24, 2008 (ENS) - In a decision applauded by environmentalists, the U.S. Court of Appeals for the D.C. Circuit Tuesday issued an order that leaves the Clean Air Interstate Rule in effect while the U.S. Environmental Protection Agency develops a new clean air program for power plants.

The court essentially reversed its previous ruling made this summer which vacated the rule and sent it back to the EPA for retooling.

In July, the appeals court said the EPA overstepped its authority by imposing the rule, citing "more than several fatal flaws" in the Clean Air Interstate Rule, or CAIR.

The U.S. Environmental Protection Agency, Environmental Defense Fund, and numerous states led by North Carolina asked the court to reconsider its July 11 opinion to vacate this clean air program.

Tuesday the three-judge panel said, "Here, we are convinced that, notwithstanding the relative flaws of CAIR, allowing CAIR to remain in effect until it is replaced by a rule consistent with our opinion would at least temporarily preserve the environmental values covered by CAIR.

Environmental groups said the court's latest decision to restore the rule benefits clean air and public health.

Vickie Patton, deputy general

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counsel at the Environmental Defense Fund called the decision, "a welcome gift for the millions of American's that face serious health threats from power plant pollution."

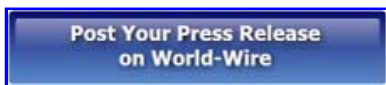


The largest fossil-fueled power station in Virginia, Dominion Virginia Power's Chesterfield facility, burns coal, oil and natural gas. (Photo courtesy Dominion Virginia Power)

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she said.

Judge Judith Rogers wrote a separate concurrence stating that CAIR is "so intertwined" with the nation's air quality management regulatory framework that "its vacatur would sacrifice clean benefits to public health and the environment while EPA fixes the rule."



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The timing of this decision is critical, said Patton. January 1, 2009 is the first important compliance deadline under CAIR, requiring substantial reductions in year-round emissions of nitrogen oxides, NOx, to protect human health from this pollutant.

The CAIR program was designed to reduce millions of tons of smog-forming and particulate-forming pollution from coal-fired power plants in 28 eastern states.

In its current form, CAIR would permanently cap emissions of sulfur dioxide, SO2, and NOx across 28 eastern states and the District of Columbia.

If fully implemented in 2015, the current CAIR rule would have reduced SO2 emissions in these states by over 70 percent and NOx emissions by over 60 percent from 2003 levels.

The EPA estimated the rule would prevent



17,000 deaths annually by 2015.

The pollution cuts required by the Clean Air Interstate Rule were to be implemented in two phases beginning on January 1, 2009 for NOx and 2010 for SO2, and a second phase in 2015 for both contaminants.

EPA estimated that NOx would be reduced two million tons annually by 2015, about 60 percent under today's levels.

The CAIR rule was designed to cut SO2 emissions by 5.4 million tons in 2015.

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