



# ***Facts About...***

## **Repeal COMAR 26.11.28 - Clean Air Interstate Rule Amend COMAR 26.11.01.01 – definition revision Amend COMAR 26.11.14.07 – text revision**

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9/17/2015

### **Purpose of New Regulation/Amendment**

The primary purpose of this action is to repeal the chapter COMAR 26.11.28 Clean Air Interstate Rule (CAIR) program. The following amendments are also being proposed as part of this action to remove references to the CAIR program:

1. Amend definition of COMAR 26.11.01.01B(24-1) “NO<sub>x</sub> Ozone Season Allowance”;
2. Amend COMAR 26.11.14.07C(1) by removing reference to COMAR 26.11.28; and
3. Amend COMAR 26.11.14.07D(1)(a) by removing the word “certified”.

### **Submission to EPA as Revision to Maryland's SIP (or 111(d) Plan, or Title V Program)**

These amendments will be submitted to the U.S. Environmental Protection Agency (EPA) as revisions to Maryland's State Implementation Plan (SIP).

### **Background**

On March 10, 2005, the EPA finalized CAIR, which required 28 eastern states to make reductions in sulfur dioxide (SO<sub>2</sub>) and nitrogen oxides (NO<sub>x</sub>) emissions that contribute to unhealthy levels of fine particle and ozone pollution in downwind states. In 2008, Maryland adopted regulations that incorporated the requirements of the federal CAIR program. Under CAIR, affected electric generating units (EGUs) were required to participate in a cap and trade program, which drove additional reductions to NO<sub>x</sub> and SO<sub>2</sub> emissions. Using a base year of 2003, CAIR was expected to result in a 45% reduction in SO<sub>2</sub> emissions by 2010, and a 53% reduction in NO<sub>x</sub> emissions by 2009.

On July 16, 2007, Maryland's Healthy Air Act (HAA) became effective. It was more stringent and effectively took the place of CAIR, though Maryland was still federally required to have the CAIR SIP. The HAA was more restrictive than CAIR and other corresponding federal standards insofar as it established specific NO<sub>x</sub>, SO<sub>2</sub>, and mercury limitations for the coal-fired EGUs that are subject to the HAA. Unlike CAIR, the HAA does not permit compliance through the surrender of allowances.

In 2010, the EPA began development of an updated cap and trade program directed at these same EGUs. The new program, the Cross State Air Pollution Rule (CSAPR) (also referred to as the Transport Rule (TR)), was developed to address the 1997 8-hour ozone standards (80 parts per billion (ppb)), the 1997 annual PM<sub>2.5</sub> standard (15 micrograms per cubic meter (µg/m<sup>3</sup>)) and the 2006 24-hour PM<sub>2.5</sub> standard (35 micrograms per cubic meter (µg/m<sup>3</sup>)). CSAPR was to become effective January 1, 2012. However, due to legal challenges filed against the program, the implementation of CSAPR was delayed three years. Finally, on December 3, 2014 (79 FR 71663), the EPA published the updated effective date of CSAPR as January 1, 2015, and the termination of the CAIR program. All standards established under CSAPR were retained, with only the effective date of implementation being delayed by three years.

As a result of CSAPR replacing CAIR, Maryland is proposing to repeal its CAIR program, along with removing reference to CAIR in other sections of COMAR. The sources which were subject to the CAIR program will now be covered under the federal regulations for CSAPR.

The final amendment, specifically the removal of “certified” from COMAR 26.11.14.07D(1)(a), is being completed at the request of the EPA to make clear that the CEM system must meet all of the requirements of 40 CFR 75, Subpart H, not just the certification requirements.

## **Sources Affected and Location**

This action applies to fuel burning equipment that meets the applicability provisions in 40 CFR §§96.104 and 96.304 and 40 CFR 97 Subparts AAAAA – CCCCC.

## **Requirements**

There are no requirements associated with this action. This action repeals the requirements of COMAR 26.11.28, removes references to an expired federal program (CAIR), and directs affected sources, and certain sources which can use NO<sub>x</sub> ozone season allowances as an alternative method to achieve compliance, to the current federal emission trading program located in 40 CFR 97 Subparts AAAAA – CCCCC. This action also modifies text in COMAR 26.11.14.07D(1)(a).

1. Repeal COMAR 26.11.28, Clean Air Interstate Rule (CAIR)  
This action does not change the sources affected by the federal cap and trade program, which was CAIR and is now CSAPR. These same fossil fuel fired EGUs are now directed to 40 CFR 97 Subparts AAAAA – CCCCC for information on CSAPR’s emission trading program.
2. Amend definition of COMAR 26.11.01.01B(24-1) “NO<sub>x</sub> Ozone Season Allowance”  
This action does not change the sources affected by the federal cap and trade program, which was CAIR and is now CSAPR. Under COMAR, certain facilities are permitted to use NO<sub>x</sub> ozone season allowances as an alternative method to achieve compliance. In the definition for “NO<sub>x</sub> Ozone Season Allowance”, there was specific reference to CAIR, and the federal program (40 CFR 96.302). This definition is being revised to redirect the affected sources from the CAIR to the CSAPR program, while continuing to allow certain sources to use NO<sub>x</sub> ozone season allowances as an alternative compliance method.
3. Amend COMAR 26.11.14.07C(1) by removing reference to COMAR 26.11.28  
This action does not change the sources affected by the federal cap and trade program, which was CAIR and is now CSAPR. Under COMAR, certain sources are allowed to use NO<sub>x</sub> ozone season allowances as an alternative method to achieve compliance. In COMAR 26.11.14.07C(1), there is specific reference to COMAR 26.11.28, which is being repealed as part of this action. This paragraph is being revised to remove reference to COMAR 26.11.28, while permitting the continuance practice of allowing certain sources to use NO<sub>x</sub> ozone season allowances as an alternative compliance method.
4. Amend COMAR 26.11.14.07D(1)(a) by removing “certified.” The CEMs are required to be certified, but also operated, quality assured, etc., in accordance with 40 CFR 75 Subpart H. COMAR 26.11.01.01.B(9) "Continuous emission monitor (CEM)" means a system of instruments installed, operated, and calibrated in accordance with the procedures in this

subtitle to continuously measure and record the emission rate or concentration of a substance in a gas stream.

### **Expected Emissions Reductions**

There are no expected emission reductions associated with these actions.

### **Economic Impact**

These actions will have no economic impact on the affected sources.

These actions will have no economic impact on other State agencies or local governments.

### **Economic Impact on Small Businesses**

These actions will have no economic impact on small businesses.

### **Is there an Equivalent Federal Standard to this Proposed Regulatory Action?**

These actions do not have an equivalent federal standard. The proposed actions are removing reference to an expired federal program (CAIR), and directing affected sources, and certain sources which can use NO<sub>x</sub> ozone season allowances as an alternative method to achieve compliance, to the current federal emission trading program located in 40 CFR 97 Subparts AAAAA – CCCCC.