

ALERT! *October 2008*

ALERT is a monthly update on transportation and air quality planning activities in the Delaware Valley.



CONFORMITY

U.S. EPA Appeals D.C. Court of Appeals Vacatur of the Clean Air Interstate Rule

On September 24, 2008, the U.S. Environmental Protection Agency (EPA) petitioned the U.S. District Court of Appeals for Washington D.C. to reconsider its decision in *North Carolina v EPA* to invalidate the Clean Air Interstate Rule (CAIR). The EPA argued that rehearing the case was appropriate because the issue of EPA's authority to institute the pollutant trading program, at the heart of the CAIR program, was not challenged by the plaintiffs. EPA also argued that the remedy for invalidating the CAIR was not fully presented at the trial. EPA maintains that the court ruling was made without the full examination of the record that EPA had relied upon in developing the rule.

While the legal battles over the CAIR continue, members of Congress are exploring legislative actions to save provisions of the CAIR. On September 11, 2008, Senate legislation S3469 "CAIR Reinstatement Act of 2008" was introduced to explicitly authorize the continuation of the CAIR program and authorize the pollutant trading programs established by the rule, regardless of the court decision to reconsider the case. Members of Congress from both parties hope to pass legislation implementing the near term requirements of the CAIR, before Congress recesses for the year, in the hopes of realizing the air quality benefits of the CAIR while the potentially lengthy legal battle is decided .

EPA used the CAIR to establish emissions budgets for SO₂ and NO_x for 28 states, including Pennsylvania and New Jersey, in the Eastern U.S. These budgets were used in developing State Implementation Plans (SIPs) to meet National Air Quality Standards for ozone and fine particle pollution in many of these states. The Courts decision to invalidate the CAIR has placed federal approval of a number of these SIPs in question.

The EPA maintains that the provisions of the CAIR will remain in effect until its appeals of this court decision have been exhausted.

For more information on this important court decision please visit:
<http://www.epa.gov/airmarkets/progsregs/cair/>



**SAVE
THE
DATE**

**Monday,
October 20th, 2008
Philadelphia Diesel
Difference
Working Group
10:00 am**

DVRPC Conference Center
8th Floor
6th and Race Streets
Philadelphia, PA

**Monday,
November 10th, 2008
Air Quality Partnership
Board Meeting
10:00 am**

DVRPC Conference Center
8th Floor
6th and Race Streets
Philadelphia, PA



[Air Quality Partnership](#)

Number of Air Quality Action Days Remains Consistent in 2008

The number of Air Quality Action Days, or days that were forecast to violate the National Ambient Air Quality Standard (NAAQS), for the 2008 ozone season was very similar, in number, to the summer of 2007. There have been 21 Code Orange Action Days and four Code Red Action Days for ozone this summer (May 1 – September 30). There were 23 Code Orange Action Days during the same period last summer. Four Action Days have been called for particle pollution in 2008, while there were six Code Orange Action Days for particle pollution in 2007. The Action Days for particle pollution all coincided with days when ozone was forecast to exceed the federal health based air quality standards.

Air Quality Action Days are called based on forecasted levels of ozone and particle pollution. These forecasts are provided by Penn State University through a grant from the Pennsylvania Department of Environmental Protection and contributions from the states of New Jersey and Delaware. On the day before air quality is expected to exceed the NAAQS, the Air Quality Partnership will email advisories to the media and members of the Partnership, alerting them about forecasted poor air quality for the next day. These advisories come with a list of actions that the public can take to help reduce emissions everyday, but especially on days when air quality is expected to be poor.

When looking at the number of Action Days for 2008, it is important to note that new ozone standards were in effect for 2008. These new standards lowered the concentration at which ozone levels were considered to exceed the NAAQS from 85 parts per billion (ppb) to 75 ppb (Code Orange). The Code Red level dropped from 105 ppb to 96 ppb. With this new standard, the number of Air Quality Action Days was expected to almost double between 2007 and 2008. Based on the old standard the number of Action Days would have been less in 2008 than in 2007.

Pollutant concentrations are closely related to weather and interactions of complex climatic conditions. Generally, days that are very hot with plenty of direct sunlight and little wind are conducive to the formation ground level ozone and elevated levels of particle pollution. Dry winds from the southwest can also impact our region's air quality by transporting pollutants from the Midwest and the Washington–Baltimore metro area. All of these factors must be taken into account in order to accurately gauge changes in air quality, but in general, long term monitoring trends point to improvements in air quality in the DVRPC region.

To view the archived air quality forecast calendars, please visit:
www.airqualitypartnership.org/forecast.htm

ALERT! is a DVRPC publication.



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