

# CLEAR SKIES ACT OF 2003

## Major Changes Made in Chairman's Mark

- **Cap and trade:** S.485 establishes a cap-and-trade program for Sulfur dioxide, Nitrogen Oxides and Mercury. The caps are imposed in two phases with specific timetables.
  - **Changes:** Keep all targets and timetables with the exception of mercury phase 1 – which is revised upward from 26 tons to 34 tons. *This is consistent with the Administration's current most conservative (lowest number) estimate of co-benefits. The Administration originally set the cap at what was then considered the correct co-benefits number. The Administration revised their most conservative co-benefits estimate to 34 tons after improvements in the model were made, inclusion of newer information, and corrections.*
- **Allowance System:** S. 485
  - keeps the framework of the existing Acid Rain Program to allocate allowances for SO<sub>2</sub> or NO<sub>x</sub>, and mercury.
  - Does not provide allowances for future new units (after 2004).
  - **Changes:** Keep Acid Rain framework. Create a 7 percent pool for new units for SO<sub>2</sub>, 5 percent pool for new units for NO<sub>x</sub>, and 5 percent pool for new units for mercury. *This will lessen the barrier to entry facing new generating units, encouraging newer, cleaner plants to come on-line.*
  - Adjust the NO<sub>x</sub> formula to include an emissions factor. *This ensures that the emissions reductions requirements are distributed proportionally.*
- **Auctions:** S.485 sets up a graduated auction system whereby all plants are eventually forced to buy their allowances.
  - **Changes:** Eliminate the auction system. *This eliminates a hidden tax on electricity consumers, disproportionately harming the poor.*
- **Co-generators (produces heat and steam) and Opt-in:** Co-generators meeting certain thresholds were included in the program.
  - **Changes:** Allow co-generators and other units to opt-in to the program. Allowances created for these opt-in units would comprise a separate pool of allowances, but would be tradable with utility allowances. Co-generators would be defined consistent with the FERC definition. *The opt-in will result in greater overall pollution reductions and increase program flexibility.*
- **Grid Security and Reliability Provisions:** S.485 contains no grid security provisions.
  - **Changes:** Allows Secretary of Energy to grant one-year extensions if electricity reliability or affordability is imperiled and petition meets specific criteria. Additionally, allows the Secretary to grant petitions allowing borrowing of credits from future years upon petition meeting certain criteria to ensure reliability. Additionally, allows the President to grant waivers, allowing borrowing of credits from future years if national electricity reliability is imperiled. *This ensures that*

*the requirements of this bill will not be responsible for outages and brownouts of the nature experienced in the last few years.*

- **Nitrogen Oxides Zones:** S.485 establishes two zones in the country, with more stringent emission reductions in the East (in zone 1). The rationale was that these states roughly mirror the “NOx SIP Call states” subject to NOx requirements going into effect next year. In the 2003 introduction, Oklahoma and Kansas, which were not “NOx SIP Call states,” were moved from zone 1 into the West, zone 2. But their allowances did not follow them into zone 2. Some other states that were not “NOx SIP Call states” are still in zone 1, as introduced. *The following changes make the bill more consistent with treatment under the NOx SIP Call.*
  - **Changes:** Move the ½ of Missouri that was not subject to the NOx SIP Call into the West, zone 2. Move its allowances with it.
  - Move Minnesota in the West, zone 2. Move its allowances with it.
  - Move Oklahoma and Kansas allowances into the West, zone 2.
  
- **Hazardous air pollutant regulations:** S.485, since it caps mercury emissions, eliminates the requirement for utilities to comply with strict mercury regulations now under development.
  - **Changes:** Keep the provision eliminating the strict mercury regulations since mercury is capped under Clear Skies.
  - Ensure that EPA goes through the normal regulatory process if it determines other hazardous air pollutants should be regulated. *This preserves the ability of EPA to regulate HAPs through initial regulations and also through the residual risk program.*
  
- **Section 126 petitions:** S.485 prohibits EPA from acting on petitions filed by states alleging that upwind states are contributing to their non-attainment. EPA may not act on these petitions until 2009, at which time they must act on all petitions filed by 2007.
  - **Changes:** The 2009 date is moved to 2011. *This makes the provision consistent with attainment deadlines under the clean air act.*
  
- **Early Reduction Credits:** S. 485 has no incentives for early action.
  - **Changes:** Allows Early Reduction Credits with installation of technology on a discounted basis. *The result is that pollution reductions are earlier and greater overall, resulting in greater health and environmental benefits.*
  - Enable units that reduce emissions from existing technology during the non-ozone season to gain credits for their voluntary action. *The result is that pollution reductions are earlier and greater overall, resulting in greater health and environmental benefits.*
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- **Re-opener study:** S.485 requires EPA to study and report to Congress by 2009 whether the 2018 phase 2 caps should be adjusted.
  - **Change:** Re-opener eliminated. *The environmental community expressed concern that this could be used to weaken the clean air act, although this was not its intent. The provision was eliminated to address their concerns.*