



CRS Issue Statement on the Clean Air Act and Air Quality Standards

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Broad questions regarding the effectiveness of economic versus regulatory approaches to controlling air pollution, the role of federal versus state governments in controlling emissions, and the respective role of existing EPA authority versus new legislation are the underlying issues as the 111th Congress considers amendments to the Clean Air Act and conducts oversight of EPA regulatory actions. Specific issues include what role the Clean Air Act will play in the prospective regulation of greenhouse gas emissions; how to control emissions of a wide range of pollutants from electric power plants, many of which operate without state-of-the-art pollution controls; and whether existing standards for ambient air quality need strengthening.

The clean air debate overlaps to a large extent the debate regarding control of greenhouse gases (GHGs). Many of the bills introduced to cap GHG emissions would amend the Clean Air Act. The leading approach—a national cap on emissions, with a trading system for emission allowances—builds on the experience of the Clean Air Act’s acid precipitation program. As it considers greenhouse gas legislation, Congress will need to decide not only whether to enact greenhouse gas limits, but, if so, whether legislation will be based on a cap-and-trade system, carbon taxes, emission standards for specific sectors, or some combination of the above, and the degree to which federal controls will preempt state regulations, among many other issues.

In addition to Congress, EPA faces many decisions regarding GHGs, as the agency responds to petitions for a new air quality standard to address ambient GHGs and for action on GHG emissions from power plants, ships, aircraft, agricultural sources, cars, and trucks. The degree to which Congress might preempt EPA decisions is an important issue.

Although climate change is expected to take the lion’s share of Congressional interest in clean air issues, attention may also be paid to the regulation of conventional and toxic pollutants from electric power plants. Many older power plants operate with few controls. When the Clean Air Act was enacted in 1970, it was assumed that imposing controls on new plants and plants undergoing modifications would eventually lead to controls at all plants; but today, four decades later, hundreds of power plants are still operating with minimal pollution control equipment. In 2005, EPA promulgated cap-and-trade programs for power plant emissions, but the U.S. Court of Appeals for the D.C. Circuit vacated these regulations in 2008, in two separate, unanimous decisions. Without new regulations of some sort, most Eastern states face a huge gap in their emission control programs. Thus, EPA is at work crafting replacement regulations; Congress may be asked to consider legislation addressing power plant emissions, as well. The costs and benefits of various levels of control, the availability of control technology, and legal issues related to the vacated standards are among the issues that Congress and EPA face.

Over the next 18 months, EPA also faces statutory and judicial deadlines to complete reviews of five of the six existing National Ambient Air Quality Standards. Early indications are that most of these standards will be strengthened, leading to a new round of tighter emission controls on many air pollution sources. The health and environmental impacts as well as the economic impacts of such a regulatory strengthening may lead to Congressional oversight of EPA’s decisions. Congress may also wish to reexamine the process of setting such standards, which has been controversial in recent years.

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