

Department of Legislative Services

Maryland General Assembly

2004 Session

FISCAL AND POLICY NOTE

House Bill 648

(Delegate Hubbard)

Rules and Executive Nominations

Environment – Air Pollution – Mercury

This bill encourages the U.S. Environmental Protection Agency (EPA) to comply with the federal Clean Air Act (CAA) and to require coal-fired power plants to utilize Maximum Available Control Technology (MACT).

Fiscal Summary

State Effect: The bill would not materially affect State operations or finances.

Local Effect: The bill would not materially affect local operations or finances.

Small Business Effect: None.

Analysis

Current Law: CAA forms the basis for the national air pollution control effort. Basic elements of CAA include national ambient air quality standards for major air pollutants, hazardous air pollutants standards, state attainment plans, motor vehicle emissions standards, stationary source emissions standards and permits, acid rain control measures, stratospheric ozone protection, and enforcement provisions. Section 111 of CAA requires EPA to establish standards of performance for new stationary sources. Section 112 of CAA requires EPA to establish emission standards for each category or subcategory of major sources and area sources of specified hazardous air pollutants, including mercury compounds.

Background: According to the Maryland Department of the Environment (MDE), EPA was under a court order to issue its mercury MACT rule by December 15, 2003; EPA met that deadline. The proposed rule consists of two alternative approaches.

EPA's preferred approach, which uses Section 111 of CAA as its legal basis, rescinds its December 2000 regulatory finding that Section 112 standards are appropriate and necessary for emissions of hazardous air pollutants from electric utilities; instead, the proposal calls for a cap-and-trade program under Section 111. Under the cap-and-trade proposal, mercury emissions would be limited to 34 tons per year (tpy) by 2010 and 15 tpy by 2018.

EPA's second approach (the MACT approach), which uses Section 112 of CAA as its legal basis, calls for emission rates equivalent to emissions of 34 tpy by 2007, which, according to MDE, is a 29% reduction in mercury emissions nationwide from coal-fired utilities (from 48 tpy to 34 tpy).

The overall reduction under the MACT approach is less in the long run than would be achieved under the Section 111 approach, although the MACT approach would reach the 34 tpy level a few years earlier. EPA is currently accepting comments on both proposals and plans to finalize a rule in early 2005.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of the Environment, U.S. Environmental Protection Agency, Department of Legislative Services

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