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ESSENTIAL CHANGES TO THE "CLEAR SKIES ACT OF 2003"

Generators for Clean Air (GCA) support the framework of the Administration's "Clear Skies Act of 2003." However, it is essential that certain changes be made to the bill that will enhance its environmental and economic advantages. The recommendations below are listed in order of their importance.

1. Allowance Auction Should Be Based On The Acid Rain Auction

The Clear Skies Act establishes an increasing auction for allowances of SO₂, NO_x and mercury. The auction of allowances in the Clear Skies Act should be eliminated because --

- *The purchase of allowances with the proceeds deposited in the U.S. Treasury amounts to a new tax on energy.*
- *The auction increases compliance costs unnecessarily. Using EPA estimates for allowance prices, GCA estimates the cost of allowance purchases to be \$3 billion during the first ten years of the program, \$12 billion over the first twenty years, and \$138 billion over the life of the program. This expenditure adds to the already substantial capital and O&M costs to comply with the Clear Skies emission caps.*
- *The \$138 billion expenditure for allowances produces no environmental benefit and will be borne largely by coal-fired generation.*
- *The auction is not needed for a workable market-based emissions reduction program. In fact, the auction has the opposite effect of a market-based program in that an auction increases compliance costs.*
- *This problem is not cured by a graduated auction that starts low and increases over time.*

In its place, GCA recommends an auction of allowances, similar in size and approach to the existing acid rain program established by the 1990 Clean Air Act Amendments.

2. Further Changes Should Be Made To CAA Sections 110 And 126

The Clear Skies Act of 2003 proposes changes to new source review, regional haze and mercury requirements that provide some degree of regulatory certainty. However, additional changes to the Clean Air Act (CAA) sections 110 and 126 also are necessary to provide sufficient regulatory certainty:

- *EPA should provide credit in non-attainment areas for all reductions required by Clear Skies (not just "reductions required to occur by the attainment date").*
- *EPA should be required to consider cost-effective reductions and resulting air quality benefits from other source categories before requiring further reductions from sources covered by Clear Skies.*
- *The 2012 safe harbor (no reductions greater than Clear Skies) should be extended to 2015.*

3. Formula For Allocating NO_x Allowances Penalizes Coal-Fired Generation

Clear Skies allocates NO_x allowances to each affected unit on the basis of heat input that should be, but is not, adjusted for different types of fuel. Using the Clear Skies unadjusted heat input for allowance allocation is not equitable because gas-fired units receive NO_x allowances that are disproportionately greater than their NO_x emissions. This inequity provides a windfall of allowances to gas-fired units worth over \$2.1 billion (based on EPA projected allowance prices). Therefore, GCA strongly recommends that the adjustment factors from the table below be used to ensure an equitable allocation of NO_x allowances to all affected units. These factors should be multiplied by the "baseline heat input," as defined in Clear Skies.

<u>Clear Skies Zone 1</u>	<u>NO_x Baseline Adjustment Factors</u>
• Coal-fired (all years)	1.0
• Oil- and gas-fired (2008 to 2017)	0.55
• Oil- and gas-fired (2018 and later)	0.8

<u>Clear Skies Zone 2</u>	
• Coal-fired (all years)	1.0
• Oil- and gas-fired (all years)	0.4

4. Credit Should Be Allowed For Early Reductions Of NO_x And Mercury

Early emission reductions (reductions that are achieved prior to compliance deadlines) are environmentally and economically beneficial. However, the Clear Skies Act does not allow any credit for early mercury reductions. For NO_x, credit is allowed only for early NO_x reductions during the five-month ozone season in SIP call states. Clear Skies should provide credit for NO_x reductions achieved after January 1, 2005 and before 2008 and for reductions of mercury achieved after January 1, 2005 and before 2010. Credit for such reductions accelerates the environmental benefits of the Clear Skies program, while maximizing the cost-effectiveness and efficiency of each compliance planning. In addition, credit for early mercury reductions provides an effective way to address the uncertainties associated with mercury co-benefit reductions achievable by 2010 and questions about the adjustment factors for allocating mercury allowances (below).

5. Formula For Allocating Mercury Allowances May Not Be Sound

Under the Clear Skies Act, mercury allowances are allocated to electric generating units on the basis of heat input that is adjusted for three different coal types. The adjustment factors are 1.0 for bituminous coal, 1.25 for sub-bituminous coal and 3.0 for lignite. GCA recommends that:

- *Further analysis should be conducted to determine whether the adjustment factors in the Clear Skies Act are equitable.*
- *Western bituminous coal should be evaluated to determine whether it should be categorized as sub-bituminous coal or treated as a fourth category of coal for purposes of allocating allowances.*
- *Credit for early mercury reductions (as discussed in the preceding section) should be encouraged to help address some of the concerns about allowance allocations among coal types.*

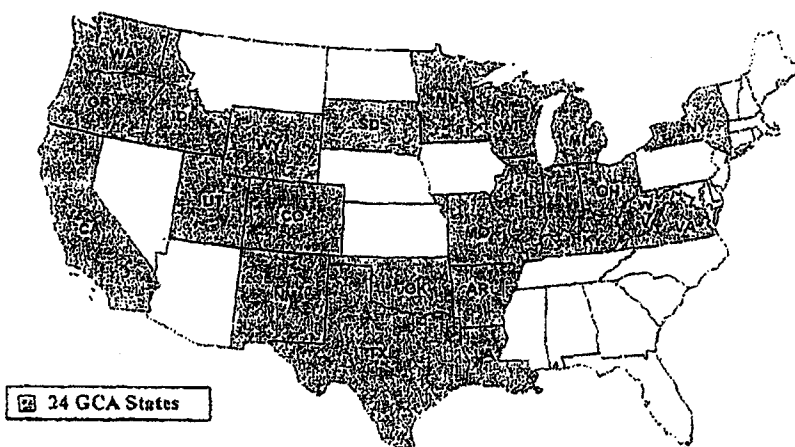
6. Allowances for Early SO₂ Controls Should Not Count Against The Cap

The Clear Skies Act of 2003 provides 250,000 SO₂ allowances to be distributed over a three-year period (2010 - 2012) to units burning eastern bituminous coal that install SO₂ control technology by 2008. In general, GCA supports the awarding of incentive allowances that encourage early reductions. However, changes should be made to the Clear Skies program for incentive allowances:

- *Incentive allowances should not be taken from (count against) the national SO₂ cap. This avoids penalizing units that do not participate in the early scrubbing program.*
- *Early installation of SO₂ control technology should not be limited exclusively to units burning eastern bituminous coal. Any unit that installs SO₂ controls early should benefit from the program.*
- *The method for allocating incentive allowances should be changed to enable companies to project with greater certainty the total number of incentive allowances they are likely to receive. Instead of complex bidding system proposed in Clear Skies, the program should provide that any unit installing a qualifying SO₂ control technology would receive a proportional share of the incentive allowances for reductions achieved below an SO₂ emission rate of 0.6 lb/mm.Btu.*

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Generators for Clean Air



Changes Needed to Clear Skies Act

- Eliminate auction
- Greater certainty under CAA Sections 110 and 126
- Equitable allocation of NO_x allowances
- Credit for early reductions of NO_x and Hg
- Sound methodology for allocating Hg allowances
- Credit for early scrubbing

Generators for Clean Air

- Ameren
- American Electric Power
- Cinergy
- DTE Energy
- PacifiCorp
- TransAlta
- Wisconsin Energy
- Xcel Energy

GCA Profile

- Eight Companies
- 107,000 MW generating capacity in U.S.
 - 70,000 MW coal
 - 24,000 MW gas
 - 8,500 MW nuclear
 - 4,500 MW renewables
- Operations in 24 states
- Over 37 million people in service territories