

2013年12月20日【経済学入門宿題】

以下の論説と参考資料を読んで次の問に答えなさい。

論説: Eastern States Press Midwest to Improve Air, By CORAL
DAVENPORT

参考資料: Supreme Court seems receptive to some EPA arguments in
cross-state case *By Jeremy P. Jacobs*

1. Connecticut 州の知事の Dannel P. Malloy をはじめとする、Eastern coast の州知事たちの主張とは何か述べなさい。
2. Supreme court (最高裁判所) で E.P.A と Midwest の電力会社と15州の代表は、何を論点にして争うのか述べなさい。
3. Eastern coast と Midwest の州が合意に達することはなぜ困難なのか。
4. この問題をどのように解決したらいいのか論じなさい。

Eastern States Press Midwest to Improve Air

By CORAL DAVENPORT

New York Times, Published: December 9, 2013

WASHINGTON — In a battle that pits the East Coast against the Midwest over the winds that carry dirty air from coal plants, the governors of eight Northeastern states plan to petition the [Environmental Protection Agency](#) on Monday to force tighter air pollution regulations on nine Rust Belt and Appalachian states.



A cooling tower at the Big Sandy coal plant near Louisa, Ky.

The East Coast states, including New York and Connecticut, have for more than 15 years been subject to stricter air pollution requirements than many other parts of the country. Their governors have long criticized the Appalachian and Rust Belt states, including Ohio, Kentucky and Michigan, for their more lenient rules on pollution from coal-fired power plants, factories and tailpipes — allowing those economies to profit from cheap energy while their belched soot and smog are carried on the prevailing winds that blow across the United States.

All the governors on the petition are Democrats. Gov. Chris Christie of New Jersey, a Republican and a potential presidential candidate in 2016, has not signed it.

The petition comes the day before the Supreme Court is to hear arguments to determine the fate of a related E.P.A. regulation known as the “good neighbor” rule. The regulation, officially called the [Cross-State Air Pollution Rule](#), would force states with coal

pollution that wafts across state lines to rein in soot and smog, either by installing costly pollution control technology or by shutting the power plants.

Even if the regulation is upheld, the Eastern governors are seeking stronger constraints on pollution from the Midwest and Rust Belt states.

The Obama administration issued the “good neighbor” rule, which would apply chiefly to power plants in 27 states east of Nebraska, half of the country, in 2011, but the United States Court of Appeals for the District of Columbia Circuit [struck it down](#), ruling that the E.P.A. had not followed the [Clean Air Act](#) when it calculated how to assign responsibility for cross-state air pollution. The rule is part of President Obama’s growing effort to use E.P.A. regulations to crack down on coal pollution.

In the case before the Supreme Court, the E.P.A. argues that the cross-state air rule, which it is required to issue under the Clean Air Act of 1990, is necessary to protect the health and environment of downwind states. The utilities and 15 states on the other side argue that the rule, as written by the Obama administration E.P.A., gives the agency too much regulatory authority and places an unfair economic burden on the states.

The Supreme Court is allowing 90 minutes to listen to arguments, rather than the traditional 60 minutes, signaling that the justices have a particularly keen interest in the case.

Like the petition from the Northeastern governors, the court case reflects the growing anger of East Coast officials against the Appalachian states that mine coal and the Rust Belt states that burn it to fuel their power plants and factories. Coal emissions are the chief cause of global warming and are linked to many health risks, including asthma and lung disease.

Gov. [Dannel P. Malloy](#) of Connecticut, who is leading the effort by East Coast governors to crack down on out-of-state pollution, called it a “front-burner issue” for his administration.

“I care about this because it’s put Connecticut at an economic disadvantage,” Mr. Malloy said in an interview. “We’re paying a lot of money to remove these compounds from the air. That money is reflected in higher energy costs. We’re more than willing to pay that, but the states we’re petitioning should have to follow the same rules.”

Mr. Malloy said that more than half the pollution in Connecticut was from outside the state and that it was lowering the life expectancy of Connecticut residents with heart disease or asthma. “They’re getting away with murder,” Mr. Malloy said of the Rust Belt and Appalachia. “Only it’s in our state, not theirs.”

Judging by history, environmental advocates said the governors’ petition had a good chance of success. In 2000, for example, the E.P.A. granted petitions from Connecticut, Massachusetts, New York and Pennsylvania to require 12 states, including Ohio and Indiana, to control nitrogen emissions from nearly 400 large coal- and gas-fired power plants.

In the last three years, Republicans and the coal industry have campaigned aggressively against the E.P.A. regulations as they have accused Mr. Obama of waging a “war on coal.”

Across the Midwest, many lawmakers see the regulations as a serious economic threat. Representative Fred Upton, the Michigan Republican who is chairman of the House Energy and Commerce Committee, has said that the cross-state air rule will force families to face “the threat of higher power bills, less reliability and job losses.”

Murray Energy Corporation, an Ohio-based coal company, is among the parties suing the E.P.A. in the Supreme Court. Gary Broadbent, a spokesman for the company, called the cross-state air rule “absolutely irrational, exorbitantly expensive,” and said it “would kill thousands of jobs, with no environmental benefit whatsoever.”

The Northeast has long had some of the nation’s dirtiest air. In the 1970s and 1980s, East Coast pollution was produced largely by dense cities and busy highways, particularly Interstate 95. A 1990 clean-air law placed tight regional restrictions on pollution from ozone, a primary contributor to smog, on the New England states as well as on New York, New Jersey, Pennsylvania, Delaware, Maryland and the metropolitan area of Washington.

But East Coast governors say that after a decade of cleaning up their air — by, for example, putting “scrubbers” on smokestacks and requiring vehicle emissions tests, which are not mandatory in many other parts of the country — they have squeezed all the pollution they can out of their economies. While Northeastern air is often still so polluted that it violates federal law, the governors say that is because of a problem they

cannot control: the wind pattern across the continental United States that typically blows from west to east.

At the same time, Midwestern states enjoy the benefits of fresh air blown in from the Mountain West. E.P.A. data cited in briefs for the Supreme Court case shows that in many parts of Eastern states, half or more of the smog and toxic air pollution originates from out of state. The briefs say, for example, that 93 percent of the ozone pollution in New Haven, Conn., originates from out of state.

The soot, smog and toxic chemicals like sulfur dioxide and nitrogen oxide that spew from smokestacks and tailpipes are linked to severe health risks. The E.P.A. estimates that the Cross-State Air Pollution Rule would prevent up to 34,000 premature deaths, 15,000 nonfatal heart attacks, 19,000 cases of acute bronchitis, 400,000 cases of aggravated asthma and 1.8 million sick days a year.

The E.P.A. also estimates that the rule would cost businesses \$800 million annually because of the expense of installing smokestack scrubber technology and shutting the dirtiest coal plants. That burden would be borne disproportionately by the Rust Belt states, which would have to modify their coal plants. Ohio, for example, gets 78 percent of its electricity from burning coal. Coal is responsible for 83 percent of the electricity in Indiana and 93 percent of the electricity in Kentucky.

Coal industry advocates say that adding new regulations to those states would not make a difference to air quality on the East Coast.

“It’s been very convenient for Northeastern states to blame their ozone problem on Midwestern power plants, but they’re a very small part of the problem,” said Jeffrey Holmstead, an assistant administrator for the E.P.A. during the administration of George W. Bush who now lobbies on behalf of coal companies. “It mostly comes from all those vehicles and businesses along the Eastern Seaboard.”

【参考資料】

Supreme Court seems receptive to some EPA arguments in cross-state case

Midwest Energy News

Posted on [12/11/2013](#)

By Jeremy P. Jacobs

U.S. EPA pressed the Supreme Court Tuesday to uphold its effort to curb air pollution that drifts from one state to another.

At issue is the 2011 [Cross-State Air Pollution Rule](#), or CSAPR, a regulatory regime for 28 Eastern and Midwest states tossed out last year by a federal appeals court after challenges from industry and some states.

EPA maintains it reasonably interpreted the phrase “contribute significantly” in the Clean Air Act’s “good neighbor” provision, which gives the federal government authority to regulate cross-state emissions. The term is vague, the agency says, and may take into account several factors — including cost and feasibility — in decisions on which states must stem emissions and by how much.

Deputy Solicitor General Malcolm Stewart compared EPA’s situation to that of a basketball coach whose team lost 101-100. Asked after the game which shot “significantly” contributed to the loss, Stewart said, the coach could point to any attempt — including a midgame layup or a last-second half-court heave.

Similarly, he said, EPA may choose which states and which power plants “significantly” contribute to neighboring states’ pollution.

Stewart said there are “various reasons to think EPA reasonably construed that term.”

Justice Elena Kagan appeared to agree, taking issue with industry’s argument that EPA may not consider cost. She asked whether Congress gave any intention in the “good neighbor” provision that the regulations “should occur in a fundamentally silly way.”

“No one,” Stewart answered, “has identified a concrete alternative” to considering cost.

Air pollution originating in the Midwest has long plagued Eastern states. EPA has sought to address the issue since 1998. The statute allows EPA to regulate a state’s

pollutants that “contribute significantly” to violations of air standards in its neighbors for ozone-forming contaminants sulfur dioxide and nitrogen oxide and fine particles, or soot.

In 2005, the George W. Bush administration issued the Clean Air Interstate Rule, or CAIR. But public health groups challenged the program, and the U.S. Court of Appeals for the District of Columbia Circuit threw it out, holding that it didn’t do enough to protect public health.

Responding to that ruling, EPA in July 2011 finalized CSAPR. The program would take major steps to reduce nitrogen oxide and sulfur dioxide emissions by requiring the installation of pollution controls.

EPA estimates the rule would prevent 34,000 premature deaths per year and yield up to \$280 billion in annual health benefits.

Industry and several states quickly challenged the program, largely arguing that EPA had overstepped authority granted by the Clean Air Act and criticizing the costs associated with the pollution reductions.

The D.C. Circuit agreed and tossed EPA’s program in August 2012. In a 2-1 ruling and opinion from conservative Judge Brett Kavanaugh, the court held that CSAPR could conceivably require a downwind state to reduce its emissions by a greater amount than its “significant contribution” to its neighbor’s pollution (*Greenwire*, Aug. 21, 2012).

Peter Keisler of Sidley Austin LLP, representing industry groups, argued that the intent of the “good neighbor” provision focuses on the “effects” of a state’s emissions on its neighbor’s pollution levels.

CSAPR’s reliance on cost, he said, would mean “states making only a slight contribution” to neighboring pollution would be required to make large reductions because EPA determines it is more feasible — based on cost — than another contributor.

Cost, Keisler said, “is the entire driver” of EPA’s program.

But Keisler may face an uphill battle in winning a majority of the court. With Justice Samuel Alito recusing himself, the court’s liberal four justices appeared sympathetic to EPA’s arguments, and there appeared to be some division among the four conservatives.

However, if the court split 4-4, the D.C. Circuit opinion would be left in place and EPA would have to start over.

The focus in Tuesday's arguments was Justice Anthony Kennedy, the court's usual swing vote, and he appeared receptive to at least some of EPA's points.

He took issue with Keisler's definition of "significant" and seemed to be open to EPA considering feasibility.

"Can't you say that the contribution is more significant than the other?" he asked.

Chief Justice Roberts also indicated that he thought Stewart's basketball analogy made sense.

But the conservative justices took issue with EPA on other points.

In particular, they criticized EPA for skipping to federal implementation plans, or FIPs, instead of letting states devise their own plans to comply with the standards. Moreover, EPA jumped to FIPs before it had told states what emissions limits they needed to meet.

There was "no possible way for states to know" what emissions limits they were supposed to meet, Roberts said.

"That's crucial," Justice Antonin Scalia added. The states "don't know what their target is."

EPA, Scalia added, "has hidden the ball."

But Stewart countered that the same concept applies in reverse because downwind states must try to ascertain how much out-of-state emissions are affecting their in-state levels without knowing exactly how much is coming into their borders.

Scalia and Roberts' hypothetical, he said, is the "flip side of what downwind states have to do all of the time."