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### EPA's Power Sapper

The Cross-State Air Pollution Rule is an economy killer.

On July 7, the Environmental Protection Agency adopted strict new standards on power-plant emissions that cross state lines — the Cross-State Air Pollution Rule (CSAPR). The rule has been the focus of multiple White House meetings, hastily called legislative hearings, and last-ditch letters from congressmen, unions, industry, and the states — all pleading with EPA to consider the jobs that will be lost because of this single rule. And it is only the latest installment in dizzying series of new EPA rules with multi-billion-dollar compliance costs and dubious or entirely speculative environmental benefits.

In Texas, CSAPR could eliminate the use of lignite coal that now fuels critical base-load electricity generation. According to the National Electric Reliability Council (NERC), the new EPA rules could so abruptly suppress coal-fired generators that basic electric reliability in the U.S. could suffer a loss of up to 100 gigawatts (GW) by 2014 — 10 percent of the nation's total electric capacity.

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With compliance beginning January 2012, the new air-pollution rule leaves many coal-fired power plants with no alternative but to reduce output or shutter entirely. Congress provided almost a decade to implement the acid-rain rules of the 1990s. EPA's national program to reduce nitrogen oxides allowed almost five years before initial compliance. But the industry will have only a few months to comply with the first phase of this new rule.

Although Texas has some of the lowest emission rates in the country and

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has massively reduced emissions of the EPA's criteria pollutants, the state remains a target for the agency because of the size and vigor of our economy and population. Texas also generates 11 percent of its electricity from native lignite coal, which has higher sulfur content than most other coals. Here EPA has devised a specious methodology to require that Texas reduces SO2 levels by 46 percent within two years — an impossible task.

On June 30, Bryan Shaw, chairman of the Texas Commission on Environmental Quality, testified before the U.S. Senate Environment and Public Works Committee that the rule “represents another case where EPA has inadequately rationalized the need for a complex regulatory scheme to solve a nonexistent problem.” The rule reveals EPA's wanton disregard for the real-world consequences of unachievable environmental mandates. For the magnitude of costs this rule would impose, EPA's technical errors are appalling, arising either from incompetence or an activist agenda to kill coal now, whatever the socio-economic costs.

For example, EPA uses obsolete emissions data from 2005 to project emission impacts from Texas. The analysis assumes the existence of 19,000 tons of nitrogen oxide (NOx) emissions from Texas that have been eliminated by state regulation since 2005.

EPA's avowed intent is to prohibit interstate transport of power-plant emissions of sulfur dioxide (SO2) and nitrogen oxide, as these emissions hinder attainment of the National Ambient Air Quality Standards (NAAQS) for ozone and fine particulate matter (PM 2.5) in downwind states. EPA's purpose in including Texas is to reduce particulate-matter pollution in St. Louis by imposing stringent limits on SO2 emissions from Texas power plants. St. Louis, however, officially satisfies the federal air-quality particulate-matter standard in question, as does Texas.

EPA acknowledges that it has no technical basis for regulating Texas emissions of SO2 in this transport rule but decided to “err on the side of regulation.” If Texas is not regulated under a new air-pollution rule, EPA conjectures, the investor-owned electric utilities might decide to use more of the less expensive but higher-sulfur lignite coal: “If . . . price effects took place and if the rule is finalized as proposed [without Texas], sources in states not covered by the proposed rule might choose to use higher-sulfur coals. Increased use of such coals could increase SO2 emissions in those states.”

The Clean Air Act gives the EPA no authority to regulate current hazards to human health based on speculative scenarios. EPA's rationale for pulling Texas into the scheme also overlooks the almost prohibitive legal constraints on using more lignite. EPA's hazy precautionary analysis is its justification for destroying the lignite-mining industry in Texas — jettisoning 11 percent of the state's electric generation, destroying more than 2,500 jobs directly and some 10,000 more indirectly in the lignite-mining industry, and forfeiting \$2.4 billion in annual expenditures by the lignite-coal industry — the tax base for many Texas communities. The International Brotherhood of Electrical Workers (IBEW) told EPA that the new rule could destroy the jobs of 1,500 IBEW members working at six power plants in Texas.



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