

CROSS STATE AIR POLLUTION RULE

WHAT IS IT?

The U.S. Environmental Protection Agency's Cross-State Air Pollution Rule, approved in July of 2011, aims to reduce power plant emissions that cross state lines and contribute to ozone and fine particle pollution in the eastern United States. The first phase of the rule will take effect on January 1, 2012, and it requires reduction of power plant SO₂ emissions by 73 percent from 2005 levels and NO_x emissions by 54 percent.

BACKGROUND

The original version of the rule was the Bush Administration's Clean Air Interstate Rule (CAIR), which was approved in 2005. The rule was largely supported by the utility industry, states and the environmental community but it was overturned in court because the mechanism for unlimited trading of permits was not authorized under the applicable Clean Air Act provision.

On remand, EPA proposed a new program, the Clean Air Transport Rule (CATR), which is formally called the Cross-State Air Pollution Rule. The rule requires the states to meet more stringent emissions reductions than CAIR and is largely supported by environmental groups but opposed by utility groups.

Although the rule was only approved in July of 2011, EPA wants the rule to be effective in 2012. Normally, states are responsible for having State Implementation Plans (SIP) to meet requirements, and if the EPA thinks the plan does not adequately address the requirements, the EPA is required to give the state time to revise the plan (usually measured in years). In order to implement the Cross-State Rule quickly, EPA is imposing a Federal Implementation Plan (FIP) for each of the states. States may develop their own SIP, but the federal plan will take effect until the state acts to replace it. Expediting the timeline for compliance deprives states of reasonable time to make revisions or implement their own plans. Such action unnecessarily ignores the established legal process under the model of cooperative federalism set forth in the Clean Air Act.

Utilities are being required to plan for standards in 2012 with only six months' notice of the details of the final rule. As a result, the industry only recently discovered specifically what rule EPA was implementing, much less what the final requirements would be. As it stands the industry will have to comply by the beginning of 2012, making it virtually impossible for the industry to fashion coherent plans for making the long-term, capital-intensive investments necessary to ensure that power supplies remain reliable.



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WHO IS AFFECTED?

The Cross-State Air Pollution Rule will apply to virtually the entire fleet of fossil fuel power plants east of the Mississippi River and some on the western side. The North American Reliability Corporation's report figures that even the most modest version of the rule could threaten 7 gigawatts (GW) with retirement. To put this in perspective, 7 GW provides power to roughly 7 million American households. A report by the Brattle Group found that the number could go as high as 55 GW if the most expensive pollution control equipment—"scrubbers" to remove sulfur dioxide and selective catalytic reduction equipment (SCRs) to remove nitrogen oxides—are required for power plants.

The cost of investing in scrubbers and SCR units could run up to \$120 billion by 2015. Even EPA's extremely conservative cost estimate indicates that the rule's price could be \$2.4 billion annually, with the majority being borne by consumers each year.

Households in the affected region will not only face higher electricity bills, but also reduced reliability in the form of brownouts resulting from the restricted power supply. This effect can ripple through the economy hindering investment and economic development for years to come.

WHY IS THIS UNNECESSARY?

The Cross-State Air Pollution Rule seeks to reduce power plant SO₂ emissions by 73 percent from 2005 levels and NO_x emissions by 54 percent. This is an ambitious, dangerous and unnecessary pursuit that ignores the steady progress made through technological improvements and existing regulations.

Ambient levels and overall emissions of both SO₂ and NO_x have dramatically declined over the past few decades and will continue to do so into the future without the imposition of tighter restrictions. From 1980 to 2008, SO₂ ambient levels dropped 71 percent and overall emissions dropped 56 percent nationwide. During the same time period, NO_x ambient levels dropped 46 percent and overall emissions dropped 40 percent. With these levels already at historic lows, it is unclear even from an environmental perspective what is to be gained by forcibly reshaping the electric utility industry in exchange for marginal emissions reductions.

TAKE ACTION

- Introduce ALEC model legislation that addresses the Cross-State Air Pollution Rule:

Resolution opposing EPA's Regulatory Train Wreck

State Regulatory Responsibility Act

Regional Air Quality Interstate Compact

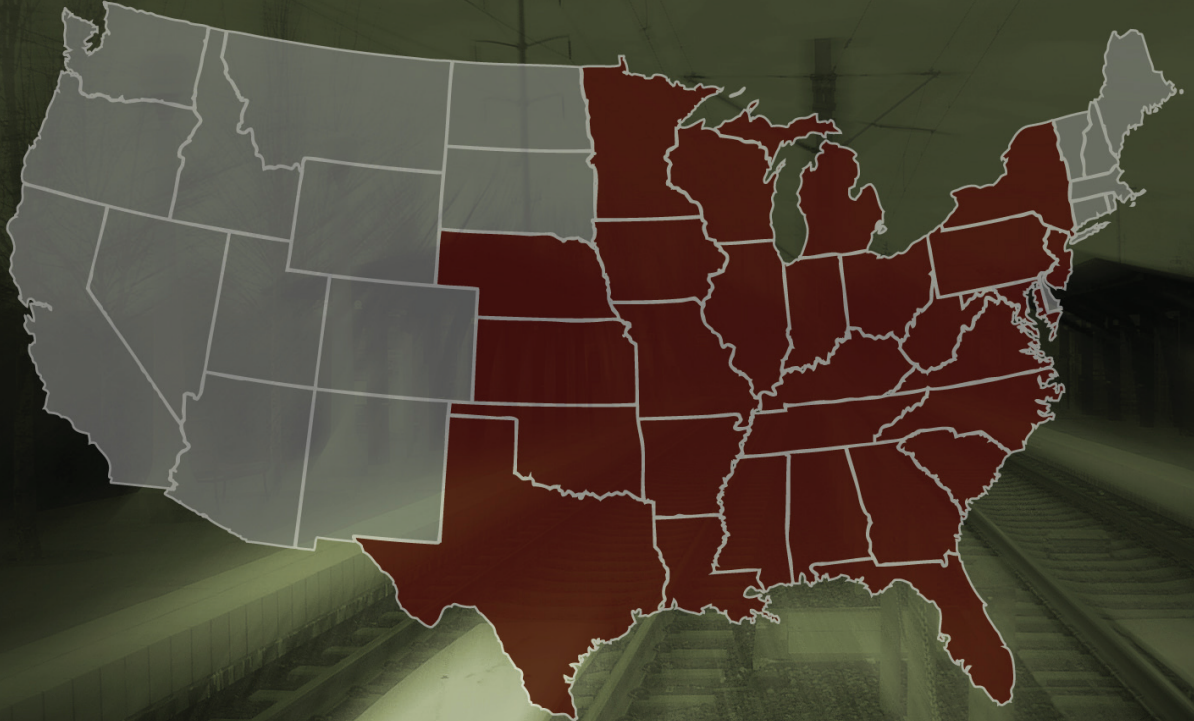
- Write focused, joint letters to members of Congress

- Write an op-ed or pursue other press opportunities highlighting the impact of this regulation.

For more information about the EPA's Cross State Air Pollution Rule, contact Todd Wynn, Director of ALEC's Energy, Environment and Agriculture Task Force, at 202.742.8542 or twynn@alec.org

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"Passage of this regulation could affect electricity prices and reliability for 27 states and at least 7 million American households."



"Costs of upgrading power plants could run up to \$120 billion by 2015."

"Even the EPA's conservative estimates indicates the rule could cost \$2.4 billion annually of which the majority will be borne by consumers."