



Clean Power Plan



The Issue

In early February of 2016, the U.S. Supreme Court granted a stay of the Environmental Protection Agency's (EPA) Clean Power Plan (CPP), freezing the rule's implementation until final review by the courts. In response to petitions from more than two dozen states and many industry groups, this was the Supreme Court's first stay of an administrative rule reversing the D.C. Circuit's earlier denial. Full judicial review on the merits has begun before the U.S. Court of Appeals for the D.C. Circuit. Oral arguments are to be held on September 27.

The CPP, linchpin in the Obama Administration's global warming fight, is the most sweeping regulation in EPA's history. The rule carries a \$7.2 billion annual price tag. This is a conservative estimate, as total costs could double that figure. The rule has evoked the ire of constitutional scholars who view it as an insult to the fundamental constitutional provision of separation of powers; the rule far exceeds the legal authority that Congress delegated to the EPA through the Clean Air Act. In the CPP, the EPA asserts the authority to federalize and overhaul the country's electric power system, long a prerogative of state authority.

Texas currently generates 11% of America's electricity—more than any other state. Under the CPP, over half of Texas' coal-fired power plants would be forced to close, destroying the competitive electric market by making carbon content—not price, reliability, or safety—the first priority for dispatching electric generation to the grid. These are high stakes for an infinitesimal carbon payoff.

According to the EPA's own calculations, the CPP's goal to cut carbon dioxide (CO₂) emissions from electric generation by 32% would result in a mere 0.018 degree Celsius reduction in the rate of warming predicted by the Intergovernmental Panel on Climate Change (IPCC)—an immeasurable change. The rule would impose on Texas one-fifth of the total national obligation to reduce CO₂, a steeply disproportionate burden compared to other states. The national aggregate of CO₂ emissions that the EPA's rule intends to reduce by 2030 is emitted by China in less than two weeks.

The CPP's CO₂ standards would force fuel switching from coal to natural gas on a vast scale and assume a 150% increase in generation from renewable sources that cannot provide reliable energy. The EPA's rule conveniently ignores the fact that Texas, at 14,000 megawatts (MW) of installed electric capacity, is already America's largest renewable energy generator. The CPP would force the state to increase its installed renewable capacity by 200%, an additional amount of wind and solar generation that is more than any other nation produces at present. The carbon cuts necessary to meet the final goals of the rule in 2030 would limit even natural gas fired generating plants and force a massive expansion of renewables.

The CPP's heavy-handed regulations will hike energy prices in Texas and across the nation. Balanced Energy Texas, a coalition of energy providers, projects that the cost of power and natural gas would increase by an estimated \$284 billion annually by 2020, raising electricity and gas bills by more than \$1,000 a year—this represents a 50% increase for the average Texan. Since energy is pivotal to all manufacturing and production, prices of essentially all U.S. products will follow suit. Low-income families and fixed-income seniors will be impacted first and hurt the most.

The Facts

- To date, the U.S. Congress has never expressly authorized the direct regulation of carbon dioxide.
- The EPA projects that the CPP rule will force the early closure of over 16,500 MW of coal-fired generation by 2020—roughly 15% of Texas' total 110 gigawatts of electric power.

- Texas has joined 28 other states in a suit challenging the constitutionality of the CPP.
- The CPP will cost at least \$7.2 billion annually to curb 32% of CO₂ emissions in exchange for a 0.018 degree Celsius change global warming.

Recommendations

- Texas should not expend any state resources in an effort to comply with the EPA's CPP until full judicial review on the merits by the Supreme Court.
- Texas should learn from the grim lessons of European countries who aggressively rushed to renewable energy as a way to displace fossil-fueled electric generation.

Resources

[“Texas Savors Court’s Clean Power Plan Ruling”](#) by Mark Lisher, *Watchdog.org* (Feb. 2016).

[Red Tape Rising 2016: Obama Regs Top \\$100 Billion Annually](#) by James L. Gattuso and Diane Katz, Heritage Foundation (May 2016).

[The Many Problems of the EPA’s Clean Power Plan and Climate Regulations: A Primer](#) by Nicolas Loris, Heritage Foundation (July 2015).

[The Facts About the Clean Power Plan](#) by Kathleen Hartnett White, Texas Public Policy Foundation (Jan. 2016).

[EPA as Overlord of U.S. Electric Power](#) by Kathleen Hartnett White, Texas Public Policy Foundation (Oct. 2014).

EPA’s Final 111(d) Rule (a.k.a. the “Clean Power Plan”) – Impact on Energy Council States by Mike Nasi, Jackson Waler L.L.P.

[EPA’s Proposed 111\(d\) Rule for Existing Power Plants: Legal and Cost Issues](#), Testimony of Laurence H. Tribe to the U.S. House Committee on Energy and Commerce, Subcommittee on Energy and Power (March 2015).

