



Written by [Bob Adelman](#) on July 2, 2013

## Supreme Court Expected to Allow Severe Rules on Coal-fired Plants

With the decision by the Supreme Court [to consider reversing](#) a lower court's ruling that the EPA exceeded its authority in issuing a "cross-state" pollution rule last year, environmentalists are delighted. The lower court's decision was "confusing," according to Janice Nolen, assistant vice president of the American Lung Association, adding that "we are very pleased that they [the court] may clarify this."

If the lower court's decision is overruled, the EPA's new air regulations [would require](#) a decrease in sulfur dioxide emissions from coal-fired power plants by 73 percent from 2005 levels, along with a 54-percent decrease in nitrogen oxides. The new regulations ignore the fact that those levels have already decreased by 71 percent since 1980 and that overall emissions have been cut in half in that period. But it appears that the environmentalists running the EPA really don't care.

The agency has based its air-quality decisions on the so-called "[six-cities study](#)" (where 8,111 inhabitants were surveyed in six small towns about the impact of pollution on their health) and the [American Cancer Society \(ACS\) study](#), purporting to show that high levels of pollution lead to health problems. The validity of these studies has been brought repeatedly into question. Richard Gordon, writing for the Cato Institute, said:

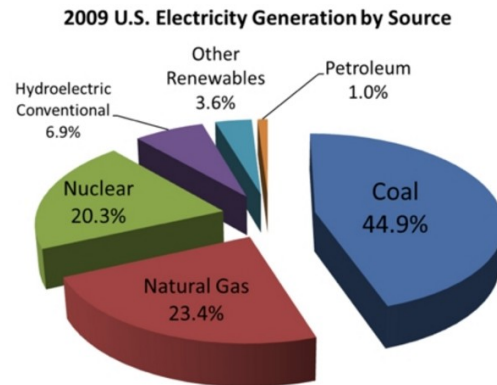
The EPA has used these studies to rationalize [its] rule-makings since at least 1997:

the small size of most of the municipalities used in the six-city study ... are too few to ... produce meaningful estimates of impacts....

The ACS study involved respondents selected and interviewed by ACS volunteers. Neither the volunteers nor the respondents were randomly selected; the volunteers sought out those close to them. The survey was further compromised because it was designed to explore general health issues and was turned into a pollution impact study by marrying the survey data with EPA emissions data.

Other criticisms of these studies included the fact that people spend 89 percent of their time indoors and consequently exterior pollution levels "tell little about the level and composition of actual human exposure," according to Gordon. In addition, Gordon notes that "reliance on a limited number of fixed-location pollution monitors to measure actual population exposure ignores the spatial variation of pollution within a region."

Perhaps the fatal flaw is the underlying assumption by the EPA that "reductions in exposure are always assumed to have positive health effects [and] so further pollution reduction is always required," as Gordon put it. Taking EPA behavior to its logical end, this means that the agency will continue requiring emission reductions by industries until there is no air pollution whatsoever, whether the reductions save lives or destroy the industries altogether, or not.





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What the EPA is doing is exercising power repeatedly [granted to it by Congress](#) since its passage of the Clean Air Act in 1963. Amendments in 1967, 1970, 1977, and especially in 1990 have given it power to “protect the public” from airborne contaminants, which include acid rain, ozone depletion, and toxic air pollution. At the same time, the EPA was empowered to set up a permitting program for power plants, along with being given increased enforcement powers.

To say that the new EPA regulations are part of an “[Obama agenda](#)” to impoverish America at least partially misplaces the blame, because of the long-term complicity of Congress; however, it’s certainly true that the latest damaging EPA rules are a creation of the Obama administration.

If the Supreme Court turns back the lower court ruling, the impact on America and Americans will be devastating, to say the least. First, forced implementation of the rules will shut down [at least 200 coal-fired power plants](#), as implementation of the rules will simply be too costly. (This could very well lead to rolling blackouts or brownouts and will almost definitely lead to significantly higher energy prices, as energy providers attempt to discourage energy usage via raising prices.) Second, new plants will be forced to rely less on coal and more on natural gas and the vagaries of wind, solar, and geothermal power to provide needed electricity. All of this will increase the cost of energy to end-users, impacting lower-income citizens the most, along with goods producers who will find their production costs rising, making them less competitive in world markets. Such implementation will further reduce tax revenues at the federal, state, and local levels, exacerbating concerns over the continually rising deficits.

To make things worse, and to confirm conspiratorialists’ views that all this is a deliberate attempt to impoverish America, the EPA is giving those coal-fired plants just six months to comply with the about-to-be-approved rule. As Ed Hiserodt [noted](#) in *The New American* magazine:

In a nutshell, the EPA passed new emission regulations that had to be complied with by utility companies within six months. In the past, utilities were given years to comment on the workability of the rules, plan the implementation of new rules, and adjust their budgets for the adoption of the regulations, because adding air scrubbers or other major implements to a coal-fired power plant is not as easy as adding a new deck to one’s house.

Obviously, the new regulations were designed to lead to the closure of certain utilities, mainly coal-fired power plants.

The American Legislative Exchange Council estimated that installing mandated cooling towers would affect 1,200 coal-fired plants with costs estimated to be in excess of \$64 billion. Designating coal ash as a “hazardous waste,” which would have to be stored according to EPA rules, would add \$20 billion annually to operating costs. And when other pollutants, such as mercury and acid-producing gases are included, the costs go up astronomically, approaching a third of a trillion dollars for those plants to get into compliance.

If the Supreme Court rules against the lower court’s position and allows the EPA to enforce its congressionally approved “mandates,” the costs will be borne by every living soul in the country who uses electricity. That’s the cost of “going green.”

*Image provided by [Daniel Cardenas](#) at [en.wikipedia](#)*

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