

Resolution of the Board of Directors to Support EPA to Reconsider the Inclusion of Texas in the Cross-State Air Pollution Rule

The U.S. Environmental Protection Agency (EPA) finalized the Cross-State Air Pollution Rule (CSAPR) on July 6, 2011. CSAPR requires 27 states to reduce power plant emissions that contribute to ozone and/or fine particle pollution (PM_{2.5}) in other states. GHP requests that the EPA agree to reconsider and stay the portion of CSAPR that includes Texas in the PM_{2.5} program.

The EPA did not include Texas in the CSAPR PM_{2.5} proposed rule and, therefore, failed to provide notice for the statewide annual SO₂ emissions budget in the final rule. The lack of notice denied Texans the ability to analyze and comment on the assumptions, reasonableness, feasibility and the economic impacts of the final CSAPR PM_{2.5} program.

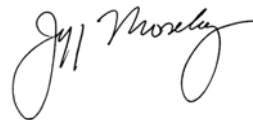
Despite improper notice, CSAPR requires impacted utilities to reduce emissions by January 1, 2012. The short compliance time frame is far from enough time to plan, capitalize, permit and construct changes needed to meet the CSAPR requirements. This further taxes electric generating capacity in Texas, a system which is already operating on the brink of rolling blackouts due to extended periods of extremely high temperatures.

Finally, the basis for including Texas in CSAPR remains unclear. CSAPR points to a single nonattainment PM_{2.5} monitor on the edge of an industrial complex in Madison County, Illinois. Local monitoring studies point to a strong local influence as the elevated PM_{2.5} source. Additionally, the EPA's own monitoring data from 2007 – 2010 demonstrates the monitor is now in compliance with the 1997 PM_{2.5} standard. 76 Fed.Reg. 29652 (May 23, 2011).

For the reasons discussed above, the Greater Houston Partnership strongly urges EPA to reconsider the inclusion of Texas in CSAPR's PM_{2.5} program.



Larry Kellner, Chairman



Jeff Moseley, President and CEO



Tony Chase, Secretary

BACKGROUND MEMORANDUM

DATE: August 31, 2011

TO: Greater Houston Partnership Board of Directors

FROM: David Dickson, Chairman, Energy and Environment Advisory Committee

SUBJECT: Resolution of the Board of Directors to Support EPA to Reconsider the Inclusion of Texas in the Cross-State Air Pollution Rule

RECOMMENDATION

The U.S. Environmental Protection Agency (EPA) finalized the Cross-State Air Pollution Rule (CSAPR) on July 6, 2011. CSAPR requires 27 states to reduce power plant emissions that contribute to ozone and/or fine particle pollution (PM_{2.5}) in other states. GHP requests that the EPA agree to reconsider and stay the portion of CSAPR that includes Texas in the PM_{2.5} program.

The EPA did not include Texas in the CSAPR PM_{2.5} proposed rule and, therefore, failed to provide notice for the statewide annual SO₂ emissions budget in the final rule. The lack of notice denied Texans the ability to analyze and comment on the assumptions, reasonableness, feasibility and the economic impacts of the final CSAPR PM_{2.5} program.

Despite improper notice, CSAPR requires impacted utilities to reduce emissions by January 1, 2012. The short compliance time frame is far from enough time to plan, capitalize, permit and construct changes needed to meet the CSAPR requirements. This further taxes electric generating capacity in Texas, a system which is already operating on the brink of rolling blackouts due to extended periods of extremely high temperatures.

Finally, the basis for including Texas in CSAPR remains unclear. CSAPR points to a single nonattainment PM_{2.5} monitor on the edge of an industrial complex in Madison County, Illinois. Local monitoring studies point to a strong local influence as the elevated PM_{2.5} source. Additionally, the EPA's own monitoring data from 2007 – 2010 demonstrates the monitor is now in compliance with the 1997 PM_{2.5} standard. 76 Fed.Reg. 29652 (May 23, 2011).

For the reasons discussed above, the Greater Houston Partnership strongly urges EPA to reconsider the inclusion of Texas in CSAPR's PM_{2.5} program.

BACKGROUND

Finalized July 6, 2011, CSAPR requires 27 states in the eastern half of the United States to reduce power plant emissions that cross state lines and contribute to ground-level ozone and fine particle pollution in other states. The rule replaces the EPA's 2005 Clean Air Interstate Rule (CAIR). A December 2008 court decision found flaws in CAIR, but kept CAIR requirements in place temporarily while directing the EPA to issue a replacement rule.

The final CSAPR requires Texas power generators to make reductions in SO₂ and NO_x, precursors for fine particle pollution, beginning January 1, 2012. The facilities are also required to make additional reductions in ozone-season NO_x by May 1, 2012.

Texas was not included in the August 2010 proposed CSAPR for fine particulates. The EPA reported that Texas facilities did not contribute to nonattainment or significantly interfere with the maintenance of EPA's 2006 fine particle pollution standard. Additionally, the EPA proposal did not include an emissions budget for Texas or allowance allocations.

In the proposal, the EPA only requested comment on whether Texas should be included in the final transport rule for fine particulate matter.

Texas and Texas market participants could not have anticipated the EPA's final rule would include the state and mandate annual emission reductions. The lack of notice denied Texans the ability to analyze and comment on the assumptions, reasonableness, feasibility and the economic impacts of the final CSAPR PM_{2.5} program. Reconsideration of the rule would allow additional time to fully comment on the proposal.

Finally, the basis for including Texas in CSAPR remains unclear. The CSAPR preamble to the final rule includes Texas in CSAPR based upon the nonattainment status of a single PM_{2.5} monitor on the edge of an industrial complex in Madison County, Illinois. Madison County is located across the river from St. Louis, Missouri and is a part of the St. Louis region that straddles the two states. This industrial complex includes a steel mill and other industrial facilities. Local monitoring studies prepared by the State of Missouri point to the steel mill as an isolated and local source of the elevated PM_{2.5} source. Significantly, the CSAPR rule used monitoring data from 2003 – 2007 to predict PM_{2.5} nonattainment for Madison County in 2012, even though EPA's own monitoring data from 2007 – 2010 demonstrate that this Madison County monitor is now in compliance with the 1997 PM_{2.5} standard. *Approval and Promulgation of Air Quality Implementation Plans, Illinois, Missouri, Saint Louis Nonattainment Area; Determination of Attainment of the 1997 Annual Fine Particulate Standard*, 76 Fed. Reg. 29652 (May 23, 2011).

ACTION NEEDED

GHP requests a stay and reconsideration of the CSAPR PM_{2.5} program as it applies to Texas.

IMPLEMENTATION

To implement this recommendation, GHP would communicate its support of this resolution to the EPA.

RESOURCES REQUIRED

This recommendation can be implemented with available GHP staff within current operating budget resources.