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## EPA Eases Clean Air Rule on Power Plants

Utilities, Businesses Hail Action; New York Plans to Challenge Move in Court

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The Bush administration yesterday approved a major rollback of clean air enforcement rules for the nation's oldest and dirtiest power plants in a move hailed by industry leaders but bitterly criticized by environmentalists and some lawmakers.

For the first time, thousands of aging coal-fired power plants, oil refineries and factories will be able to upgrade their facilities -- and extend their operational lives -- without having to install costly anti-pollution equipment previously required under the Clean Air Act.

Industry leaders have pressed the Clinton and Bush administrations for a major relaxation of the enforcement rules, known as New Source Review. Yesterday they scored one of their biggest regulatory victories in memory, one likely to save utilities and others hundreds of millions -- if not billions -- of dollars.

The new rule, signed by Acting Environmental Protection Agency Administrator Marianne L. Horinko, would apply to about 17,000 plants and facilities, including about 540 older coal-fired plants that produce half the country's electricity and have the worst record of air pollution.

Groups ranging from the Edison Electric Institute to the National Association of Manufacturers (NAM) and the American Petroleum Institute praised the new rule, saying it would enhance the affordability, reliability and safety of the nation's electric supply and keep up high levels of oil and gasoline production.

"Today's regulations will lift a major cloud of uncertainty, boosting our efforts to provide affordable reliable electric service and cleaner air," said Thomas R. Kuhn, president of Edison Electric Institute, the major advocacy arm of the utility industry.

Jeffrey Marks, an air quality specialist with the NAM, said the rule change was "desperately needed" to keep power plants safe and reliable "in the wake of the biggest blackout in U.S. history."

But critics said the new regulation was a political sop to President Bush's industry allies and that it would undermine one of the few effective tools available to government officials to crack down on industrial polluters.

The New Source Review enforcement program generated dozens of state and federal lawsuits against 51 power plants during the Clinton administration and forced some to agree to install costly pollution-control equipment. Environmental and public health groups have argued that the administration could reduce health-harming sulfur dioxide and nitrogen oxide by millions of tons by 2020 -- and avert tens of thousands of cases of premature death and respiratory illness -- by strictly enforcing the existing law.

"The administration is once again doing the bidding of the coal and energy industries, at the expense of public health and the environment," said Angela Ledford, director of the environmental alliance Clear

the Air.

New York Attorney General Eliot Spitzer said he will challenge the new rule in court. New York is one of 14 northeastern and midwestern states that have challenged a separate rule change that would ease clean air enforcement action in other industrial sectors.

The Clean Air Act requires new plants and utilities to install the best available pollution-control technology. However, plants and refineries built before 1970 are exempt from having to install modern "scrubbers" unless they undertake extensive and costly improvements that boost power production and pollution. Industry officials have long complained that the distinction between "routine maintenance" and more substantial improvements is too vague.

Under the new rule, older plants could avoid installing pollution-control equipment when they replace items such as a turbine or boiler, provided the cost does not exceed 20 percent of the replacement value of the entire unit. The plant would have to replace the equipment with an identical unit or the "functional equivalent," and the plant still must comply with the overall pollution permit limits and other state and federal programs for pollutants.

EPA officials disputed claims that the new rule would lead to more pollution, noting that 1990 amendments to the Clean Air Act and other rules scheduled to take effect next year will result in a continued improvement in air quality. Jeffrey R. Holmstead, the EPA assistant administrator for air quality, said, "I can say categorically that air quality in every part of the country will continue to improve."

Horinko said yesterday she did not confer with Utah Gov. Mike Leavitt (R) before approving the rule change. Leavitt is President Bush's nominee to succeed Christine Todd Whitman as EPA administrator.

"This is my watch," Horinko said. "I wouldn't sign this rule if it were not the right thing to do. It will increase fairness, reliability and consistency, and it will not affect emissions."

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