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## Regulators Urge Easing U.S. Rules on Air Pollution

By KATHARINE Q. SEELYE

**W**ASHINGTON, Jan. 7 — Top federal regulators have recommended informally that the White House relax one of the nation's most contentious air pollution regulations, a provision that requires power plants to upgrade pollution control equipment when they upgrade their operations.

Such a move has long been pushed by energy and industry groups — many of whom have been big supporters of President Bush — who say that current rules impose billions of dollars in extra costs that unfairly block utilities from modernizing to make plants more energy efficient.

Environmental groups have been equally vehement in their support of the current regulations, saying that any relaxation would amount to the biggest rollback of the Clean Air Act since its passage 30 years ago. In addition, the attorneys general from some states in the Northeast, which often bear the brunt of pollution from industrial plants in the Midwest, plan to gather here on Tuesday to protest any changes in the regulations.

While no final recommendations have been formally sent to the White House, officials said that the tentative results of discussions between the Energy Department and the Environmental Protection Agency had been given to the Council on Environmental Quality at the White House. "We have submitted a suggested set of reforms," one official said. "We're pretty far along."

The White House sought a review of the pollution rules in the spring as part of the Bush administration's energy policy. An August deadline was set and missed as internal negotiations intensified, and then the Sept. 11 terrorist attacks shifted the administration's priorities.

Administration officials said the White House was caught between pressure from industry, represented by powerful friends of the administration — including Mark Racicot, whom Mr. Bush recently named chairman of the Republican National Committee — and a concern that a pro-industry decision would revive perceptions by critics that Mr. Bush was a captive of energy interests.

"The White House is getting a lot of pressure from industry," said an administration official, "especially power companies, to make changes along the lines of what Energy is pushing."

"But they are seeing groups in Congress getting ready to go after their proposal," the official said, "and at this point they're taking a deep breath about whether to go ahead or not."

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The rules in question cover reviews of pollution controls that occur when plants expand. Critics say that industries have been avoiding these so-called new-source-review requirements to upgrade their pollution controls by dismissing major investments as routine maintenance. Lawsuits are pending against 51 power plants for violations of those rules.

In interagency talks, officials have been considering how to define routine maintenance and at what point new-source-review requirements for more pollution controls should kick in. One idea, for example, proposes that once a power plant spends 5 percent of the worth of its plant, or a refinery spends 8 percent, new controls should be required.

Officials said that Christie Whitman, the administrator of the Environmental Protection Agency, has been calling for more stringent requirements than those favored by Energy Secretary Spencer Abraham, as well as by Vice President Dick Cheney and the utility industry. Mrs. Whitman has also sought to link the changes in the new-source-review rules with legislation to reduce emissions of three major pollutants from power plants, officials said.

Spokesmen for the environmental agency and the White House said that no decisions had been reached and that the option of linking changes with legislation was still a possibility.

Joe Martyak, a spokesman for the environmental agency, said, "We are talking about that concept, but there are no specific numbers." For example, Mr. Martyak said, there is a debate over whether the worth of a plant should be based on replacement value or original cost. "The concept is there," he said, "but how to slice and dice it has not been determined."

Scott McClellan, a White House spokesman, said, "We have not received a final report from E.P.A." Any timing on a decision would be speculative, Mr. McClellan said.

Eliot L. Spitzer, the attorney general of New York, said of the recommendations, "This is a cave to the oil and gas industry, and the effect will be a disaster for the environment and the health of those who live in the Northeast, and it will be a boon only to the very narrow interests of the energy industry."

Richard Blumenthal, attorney general of Connecticut, said: "We will sue the administration if it fails to uphold the Clean Air Act, depending on what they do and how they do it. Congress has mandated that these power plants stop polluting the air, and the administration can't simply disregard those legal provisions."

But Scott H. Segal, a lobbyist with Bracewell & Patterson, a Washington law firm representing power companies, said that such criticism was unfounded, and easy for Eastern politicians to make about industries in other states. He said new source review was only one aspect of the rules governing air quality.

"All of these facilities are subject to stringent controls in their air permits," Mr. Segal said. "Nothing related to new-source-review clarification will change those limits."

Of the industry critics, Mr. Segal added: "They don't like old coal-fired plants and

they don't like brand new ones, either. And that's wholly irresponsible to the extent that coal is responsible for well over 50 percent of the electric generating capacity in the United States."

Among those pushing the industry's cause are Haley Barbour, the former chairman of the Republican National Committee, and Mr. Racicot, the new chairman, who was a lobbyist at Bracewell & Patterson and said he intended to keep his clients while in his new post. Mr. Racicot has said that he met with Mr. Cheney and Andrew Lundquist, Mr. Cheney's energy director, about new source review.

Mr. Segal said the industries were handicapped by not being able to project with certainty what their costs for pollution controls would be or how much they could expand. But he said he did not favor setting a specific figure at which pollution controls would be required.

Other debates center on how to measure a plant's future pollution, whether by trends in actual emissions or potential total emissions. Now, a refinery can base its normal level of pollution on the last two years; one proposal would allow it to base the level on any year in the previous 10.

Bill Becker, who represents state and local air program administrators, said the administration's openness to discussing changes in the new source review program would have a negative effect in itself on utilities that were in settlement negotiations.

"What is being contemplated are a series of changes that would allow facilities around the country to make significant changes to their operations and increase their pollution level substantially without installing modern pollution controls," said Mr. Becker, who is executive director of the Association of Local Air Pollution Control Officials.

He said his group, which is not unanimously against the new proposals, believed that the Clean Air Act could be improved and had made recommendations to do so. But, he said, "the kind of changes being contemplated now are so different from the kind of recommendations that had been under serious consideration as recently as five or six months ago that it makes our support for these very difficult."