

Environmental Integrity Project
A Rockefeller Family Fund Project

NEW SOURCE REVIEW: MYTHS VS. FACTS

MYTH: EPA's interpretation of Clean Air Act New Source Review requirements makes it hard for power companies to expand capacity and meet the demand for electricity.

FACT: Expansion of capacity has been rapid, outstripping demand to the point where some projects are being delayed or postponed. In 1999 and 2000, EPA brought lawsuits against nine power companies for violating NSR requirements. Since then, the U.S. has seen a record expansion of power driven by deregulation, according to the Department of Energy:

“The deregulation of the generation of electricity was followed by a great increase in plans to construct new power plants, as the demand for electricity increased. During the past several years, there have been significant increases in new plant capacity additions, *with 2001 being a record year for new capacity additions.* (Emphasis added). With the demand expected to be considerably less than the amount of initially proposed new capacity construction over the next several years, many of these plans are gradually being delayed or canceled.”¹

Nearly 48,000 megawatts of new electricity generation capacity (nameplate) came on line in 2001, about ¾ from non-utility providers. This increase in capacity supports the position of the State and Territorial Air Pollution Program Administrators, expressed in a letter to EPA on July 27 last year, that New Source Review has not interfered with efficiency improvements:

“[T]he information we have received from state and local permitting agencies throughout the nation indicates that the current NSR process does not prevent sources from expanding their capacity or improving efficiency... *We base our comments on the hundreds of years of combined experience that we share as state and local permitting authorities.*” (Emphasis added).

MYTH: Utilities are afraid to make routine repairs to their boilers because of confusion that this will trigger enforcement actions.

FACT: NSR requires old, grandfathered power plants to install modern pollution control technologies only when utility boilers 1) undergo a major modification that 2) are expected to increase their emissions above a certain threshold. Companies that make physical changes to their plant without increasing emissions aren't subject to NSR at all. Routine repairs are allowed by EPA, even if they increase emissions; the enforcement actions filed by the Agency and the Justice Department seek only to require major modifications that occur once or twice in the lifetime of a plant to comply with permit and pollution control requirements. One of the examples cited in the EPA's case against TVA, for example, involved cutting a 25 foot hole in the boiler wall, constructing a mono-rail and trolley system to transport the old components out of the boiler, and shutting down the unit for many months to complete this work.

The Justice Department concluded in January that EPA's definition of routine repair was reasonable under current law, and consistent with past practice. On May 21st, the Justice

¹ Department of Energy: Energy Information Association:
<http://www.eia.doe.gov/cneaf/electricity/page/capacity/capacity.html>

Department will argue the government's case against TVA, and a victory will result in the reduction of hundreds of thousands of tons of pollution. Raising specious arguments about routine maintenance just before this argument is an attempt by power companies to undermine confidence in the government's case.

MYTH: Complying with New Source Review will cost the ratepayers a lot of money.

FACT: A December 2000 study by the Department of Energy for Congress found that even if all coal fired power plants larger than 25 megawatts were required to install best available controls for NOX and SOX by 2010, the price impact would be minimal. That is a much more aggressive assumption than the actual settlements announced to date, which generally control a smaller fraction of coal-fired capacity and extend compliance dates until 2012. The report noted that,

“The impact on electricity prices is expected to be quite small...because the costs of adding emissions controls generally do not increase the operating costs of the plants setting the market price for power, the average price of electricity is not expected to increase by much.”²

MYTH: New Source Review does not have much impact on air pollution.

FACT: Sulfur dioxide and nitrogen oxides form fine particles that lead to lung disease and premature mortality, according to studies by the American Cancer Society, the Harvard School of Public Health, and the Health Effects Institute. A recent study by Abt Associates – one of EPA's own consultants – found that particulate matter generated by just the eight companies sued by the Justice Department were responsible for an estimated 5,900 premature deaths per year, using very conservative assumptions. Power plants release two thirds of the sulfur dioxide emitted in the U.S. from all sources, and a substantial fraction of NOX.

New Source Review is currently the primary tool available to EPA and the states to require that old, coal-fired plants, many built more than 40 years ago, install modern pollution controls when they are modified or expanded. According to the State and Territorial Air Pollution Program Administrators,

“[T]he NSR requirements under the Clean Air Act are an essential tool, critical to state and local air pollution control agencies' ability to attain and maintain the health and welfare standards mandated in the Act...NSR has resulted in millions of tons of reductions of nitrogen oxides and sulfur dioxides that would not otherwise have occurred.”

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² Analysis of Strategies for Reducing Multiple Emissions from Power Plants: Sulfur Dioxide, Nitrogen Oxides, and Carbon Dioxide.
<http://www.eia.doe.gov/oiaf/servicerpt/powerplants/chapter5.html>