

# Bush administration moves to gut Clean Air standards

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The Bush administration is preparing far-reaching changes in environmental policy governing air pollution. In line with the interests of the energy industry, the administration is seeking to eliminate or modify certain provisions of the Clean Air Act that regulate old electrical plants. The changes have encountered significant opposition from within the government, particularly from those sections responsible for environmental regulation.

The centerpiece of Bush's proposals is his so-called "Clear Skies" initiative, which was first announced publicly in February, at the same time as he put forward his new policy on greenhouse gases and global warming. These proposals were presented as great steps forward in environmental policy. Bush declared that his "Clear Skies" program—which governs emissions of mercury, nitrogen oxide and sulfur dioxide—would reduce pollution faster than current legislation.

In reality, however, the administration's environmental policy has consistently expressed the interests of big business, and in particular the giant energy companies that have been principal backers of the Republican Party. What has become clear over the past several months is that the "Clear Skies" initiative is basically an attempt to undermine a policy begun by the Clinton administration of forcing old coal-fired energy plants to pay fines and install pollution-reducing equipment.

Changes under the Clinton administration related to certain provisions of the Clean Air Act, which was passed by Congress in 1977. The act set regulations on pollutants, but contained a critical exemption for old coal plants. In a grandfather clause, it allowed these plants to continue polluting at then-current levels, but stipulated that they could not carry out substantial renovations that would extend their productive capacity. If such renovations were nevertheless carried out, this would trigger the government to implement a "New Source Review" (NSR) in order to determine whether the installation of pollution controls should be required for further operation of the plant. The idea was to accommodate the interests of the energy industry in maintaining its old, heavily polluting plants while at the same time seeking to ensure that any new energy producing capacity would be less polluting.

Over the next couple decades—that is, during the Reagan, Bush and much of the Clinton administrations—the provision regarding new source review was largely ignored, with hundreds of energy companies carrying out substantial reconstruction without any environmental protections being added and without government approval.

In 1999, the Environmental Protection Agency (EPA) and the Justice Department moved to enforce NSR more strictly. The Clinton administration brought 51 lawsuits against nine mainly Midwestern

and Southern corporations, including several of the largest energy producers in the country: Southern Company (serving southeastern states from Georgia to Mississippi); Cinergy (Ohio); Virginia Electric Power Company American Electric Power (Ohio); and the government's own Tennessee Valley Authority.

Clinton's decision to file these lawsuits reflected in part the interests of businesses in the eastern states, particularly in urban centers where pollution is most severe. Many cities face federal restrictions on smog and ozone levels, which are caused partially by pollution coming from old energy plants in the Midwest. The NSR lawsuits had the support, for example, of George Pataki, the Republican governor of New York, who recently wrote to Vice President Dick Cheney that the administration's changes "must not have the practical effect of weakening the air quality protections provided by the existing NSR provisions."

On the other hand, the biggest of the energy companies, which are also some of the most polluting, have generously supported the Republican Party and have close ties with the administration. These include the Southern Company and American Electric Power, which each gave hundreds of thousands to the Republican Party during the 2000 elections.

Thomas R. Kuhn, the president of Edison Electric Institute, the utilities' trade association that represents many of these companies, attended college with Bush and helped raise funds for Bush's presidential bid. Kuhn has worked closely with the administration in developing its policy on enforcement of pollution standards. Marc Racicot, chairman of the Republican National Committee, is a former lobbyist for many of these companies and the former chairman, Harley Barbour, is a current lobbyist. Reflecting these interests, Bush pledged during his campaign to increase coal production, courting the coal industry based in the Southeast and Midwest.

Cheney's energy task force, which was basically an energy company think tank organized by the government to formulate energy policy, ordered a 90-day interagency review of the Clinton administration's policy soon after Bush was installed in office. Under normal conditions, the EPA would carry out such a review, since the agency is responsible for environmental matters. Instead, Cheney ordered the EPA to conduct the review "in consultation with" the energy department, which is more closely tied to the energy industry.

The result of this review is the "Clear Skies" initiative. The essential component of this proposal is an elimination of mandatory pollution caps for individual plants in favor of industry-wide levels that allow for companies to buy and sell emissions credits. This will allow the old coal plants run by the giant energy companies to continue operating at current pollution levels, because they can simply buy

credits from other companies.

Moreover, no improvements in pollution levels would be required of any companies for at least 10 years. This is because the credit system operates across time as well—that is, companies that pollute above levels in one year can compensate by polluting below levels the next. The end effect is that companies can continue to pollute at high levels for several years under the assumption that they will make up for it before the end of a decade (or in some cases, 15 years). Of course there is no guarantee that in 10 years the government won't find a way to extend the moratorium on repercussions further still.

Even if the caps are strictly adhered to, Bush's proposals will decrease pollution levels less than if current legislation is actually enforced. This is supported by a study completed in December 2000 by the Energy Information Administration, a branch of the Energy Department. The White House has claimed that under its proposals, sulfur dioxide emissions would be reduced from 11 million to 3 million tons per year by 2018, and nitrogen oxide pollution would fall from 5 million to 1.7 million tons. The Energy Department study found that if the Clean Air Act is enforced, sulfur dioxide pollution will fall to 1.9 million tons and nitrogen oxide to 1.62 million tons per year by 2020.

Technically speaking, a Congressional act would be required to eliminate NSR, since it is part of the Clean Air Act. If Congress passes "Clear Skies," the administration is asking it to abolish NSR as it applies to power plants, while leaving it in place for refineries and paper mills. However, the administration is hoping that by passing the "Clear Skies" proposal it can ignore NSR whether or not Congress actually eliminates it. EPA chief Christine Whitman said last month, "If the numbers are what the president proposed ... [and] we are actually getting, as I indicated, better reductions than under the current regulatory process ... then new source review would become redundant."

Bush's environmental policy has generated opposition from within the government, in particular from officials in the EPA, which is responsible for enforcing the laws that the administration is undermining. Since Bush came to the White House, he has lined up solidly with business *against* the sections of the government responsible for regulating these businesses.

A series of internal documents were released in February and March that record these divisions. In debates that transpired in January, officials from the general counsel's office of the EPA opposed ideas being discussed in the Department of Energy and the Office of Air and Radiation. These ideas would eventually be consolidated in the "Clear Skies" proposal.

The general counsel's office argued that amendments to NSR such as the 10-year cap were violations of the Clean Air Act itself. Moreover, the EPA argued that vague criteria that had been suggested for evaluating emissions levels had "no relationship with air quality and are hard to justify from a legal perspective." The documents stated that the report being prepared by the administration regarding air quality "contains only comments by industry and ignores the comments of all other stakeholders."

These divisions culminated toward the end of February in the resignation of Eric Schaeffer, the EPA's director of the office of regulatory enforcement, the top enforcement position in the agency. Schaeffer was appointed to the EPA by Bush's father 12 years ago and can hardly be considered an opponent of big business or a staunch environmentalist. Nevertheless, in his resignation letter to Whitman he declared, "We are fighting a White House that seems determined to

weaken the rules we are trying to enforce." He said that the administration was treating the power industry as a "client" in formulating new enforcement policies.

Schaeffer complained that companies facing federal lawsuits are no longer willing to settle cases brought against them by the EPA, counting on the prospect that future legislation and the goodwill of the Bush administration will improve their position. "We have filed no new lawsuits against utility companies since this administration took office. We obviously cannot settle cases with defendants who think we are still rewriting the law," he wrote.

Cinergy Corp., an energy company based in Cincinnati, Ohio, had agreed to a settlement with the government that would require the company to install new equipment and reduce emissions 35 percent by 2013. But the company halted negotiations when Bush came to office, with the hope that new government policies would undermine the EPA's case. This is exactly what has happened.

The new environmental policy has also come under attack by various members of the Democratic Party. Senate Judiciary Committee Chairman Patrick Leahy said that "special interests have been allowed to put their thumb" in the plan. Independent Senator James Jeffords is proposing legislation that will require more stringent limits on pollutants.

The severity of the conflict within the government underscores the extent to which the Bush administration has abandoned even the limited environmental regulations that have been implemented over the past several decades, adopting instead all the recommendations of industry lobbyists.

This is bound to have direct environmental and human health consequences, for like global warming, pollution of emissions governed by "Clear Skies" is a very real problem. Coal remains the number one source of electricity production (54 percent of total production). This is despite the fact that coal plants, and especially the older ones, are heavily polluting and inefficient. Of pollution caused in the production of electricity, coal-fired power plants are responsible for 96 percent of sulfur dioxide emissions, 93 percent of nitrogen oxide and 99 percent of mercury. Nitrogen oxide causes smog, and electrical power plants are second only to the combustion of gasoline in automobiles as a source of these emissions.

Millions of Americans live in regions—especially urban centers—that fail to meet health standards for pollution levels. Jane Kochersperger of the Clean Air Task Force, an environmental group, estimates that there are about 30,000 premature deaths per year due to emissions released from old coal-fired power plants alone.

Polluted air causes a narrowing of the blood vessels, which can contribute to the risk of heart attack and stroke. Long-term exposure to pollution also increases the threat of lung cancer and asthma, a serious health threat especially for poor regions of the country's major cities. Pollution from coal plants is also a main cause of acid rain and is one of the largest sources of carbon dioxide emissions, which cause global warming.



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