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## Administration Adopts Rule on Antipollution Exemption

By KATHARINE Q. SEELYE

**W**ASHINGTON, Aug. 27 — The Bush administration relaxed its clean air rules today to allow thousands of industrial plants to make upgrades without installing pollution controls, arguing that other regulations were in place to reduce emissions.

Utilities, which sought the new rule, said it would allow them to make improvements that would ensure the reliability of the power supply, a prominent issue after the Aug. 14 power failure that led to the biggest blackout in the nation's history.

In one of its most far-reaching environmental actions, the Bush administration signed a rule that will allow thousands of power plants, refineries, pulp and paper mills, chemical plants and other industrial facilities to make extensive upgrades that increase pollutants without having to install new antipollution devices. The rule, for which industries have lobbied the administration for two years, could save them billions of dollars. The Natural Resources Defense Council estimates that more than 17,000 plants will be affected.

Administration officials said the new rule would clarify an otherwise subjective standard and allow plants to modernize more easily, leading to greater efficiency and potentially lower consumer costs.

They said it would not increase pollution because other rules were in place to control emissions. By several indicators, the emissions of a number of pollutants have, in fact, declined over the last several years. In the view of industry and the administration, the rule in question, "new source review," has been relatively incidental to that downward trend.

Marianne Horinko, the acting administrator of the Environmental Protection Agency, said that "existing authorities under the Clean Air Act, including the acid rain amendments of 1990, already control emissions from these facilities and will do so in the future."

Critics, including several state officials, took fierce exception to this rationale, insisting that the new rule would allow increased emissions and vowing to fight it in court.

"I have no idea what in the world they mean," said Winston H. Hickox, secretary of the California Environmental Protection Agency. "Of course there are other regulations that are specific to equipment and other things, but this is a broad, general approach that made a lot of sense: when you make a modification, you have to bring the plant up to best available technology."

Mr. Hickox added: "It's not to say that the business community has gleefully accepted this, but they have gone along with it and recognized that it's a tool to help us meet the air quality standards. What they're doing today is a relaxation, and we're not going to allow that kind of backsliding in California."

Attorney General Thomas F. Reilly of Massachusetts, which is also going to court to stop the rule, said: "The Bush administration is giving the green light to major industrial plant operators to spew millions of tons more in air pollution without being held accountable."

A recent report by the General Accounting Office, the investigative arm of Congress, said the E.P.A. had relied on anecdotal evidence to build a case for the new rule.

Jeffrey Holmstead, the E.P.A. administrator for air programs, said today, "We wish we had better data, but we're confident this rule will not have an emissions impact."

The rule allows industrial plants to avoid installing pollution-control devices when they replace equipment, even if the upgrade increases pollution, as long as the cost of the replacement is less than 20 percent of the cost of essential production equipment.

Industry welcomed the new rule.

Thomas R. Kuhn, president of the Edison Electric Institute, a trade group for utilities, said the rule set a common-sense standard that would "lift a major cloud of uncertainty, boosting our efforts to provide affordable, reliable electric service and cleaner air."

Mr. Kuhn said the rule would encourage plants to make efficiency improvements without fear that they would trigger the requirement for new pollution controls. These upgrades, he said, would allow generators to produce electricity using less fuel, resulting in lower emissions.

But critics said the new rule could allow more emissions because it could jeopardize several lawsuits that the Justice Department began under the Clinton administration and is continuing under the Bush administration.

The Justice Department contends that 51 power plants are in violation of the Clean Air Act because they made significant upgrades and increased their pollution without installing pollution controls. Under the new rule, those plants would not be in violation of the act and could make their improvements without new pollution controls.

The department has obtained settlements from 5 of the 12 companies that operate the 51 plants. This month, it won a major case against Ohio Edison, a unit of FirstEnergy, with a federal judge ruling that the plant upgraded seven coal-fired power plants illegally because it did not install pollution equipment.

Ms. Horinko said the suits would continue to "wend their way through the courts." She said it was unlikely that the administration would bring new suits under the old rule, but she said, "We'll vigorously enforce this new rule."

Critics have also contended that the administration was rushing the rule through now so that President Bush's nominee for E.P.A. administrator, Gov. Michael O. Leavitt of Utah, would not be accountable for it, assuming he is confirmed by the Senate next month.

Frank O'Donnell, of the Clean Air Trust, described Ms. Horinko as a caretaker who was taking "the bullet" for the administration and for Governor Leavitt.

But Ms. Horinko said she would not have signed the rule if it were not the right thing to do.

"It increases fairness, predictability, clarity and reliability," she said. "And it doesn't affect the substantive safeguards of the Clean Air Act."

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