

THE ADVANCED CLEAN AIR COMPLIANCE COURSE

New Source Review

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Legislation

- Senate Legislation – Jeffords Bill (S. 556)
- 4 Pollutant Bill: Reductions from current levels
 - SO₂: 75%
 - NO_x: 75%
 - CO₂: Return to 1990 levels
 - Mercury: 90%
- Reductions required by 2007

Legislation

- Clear Skies Initiative (Bush Administration)
 - Announced 2/14/2002
 - Set of “Principles”
- 3 Pollutants – reductions from current levels
 - SO₂: 73%
 - NO_x: 67%
 - Mercury: 69%
- Interim cap in 2010; full reductions by 2018

Clear Skies Initiative

- Emission caps – account for geographic differences
 - Western Regional Air Partnership (WRAP)
- Market-based approach – base on success of Acid Rain program
- Exemption from NSR/regional haze programs

Clear Skies Initiative

- Battle over degree of reductions and timetable
- Impact on coal?
 - EPA predicts benefit
 - Mercury caps: switch to gas?
- Reevaluate long-term caps by 2010
 - Undermine certainty
- NO LEGISLATION DRAFTED TO DATE

Legislation

- Dueling proposals
 - CO2 is key sticking point (coal interests)
 - Agreement on need for allowance system
 - Deadlines for reductions
- Politics?
 - Sen. Smith reelection issue
 - Democratic vulnerability
 - Budget battles

Congress and NSR Reform

- 5/15/2002 Letter to Gov. Whitman
 - Refer to 5/2001 Bush-directed 90-day review
 - Urge completion of reform
 - Specific reference to RMRR at utilities
 - Bipartisan
- Labor unions/rural electricity co-ops joining
 - Aimed at vulnerable Democrats
- 4/2000 PIRG report shows recent ↑ in emissions from power plants

Enforcement - Impact

- Ongoing cases against utilities and refineries
 - Same issues as in reform battles
- Some settlements
 - Usually in cases where more than just NSR issues
- Courts in 4th Circuit, Ohio and Indiana will hear cases this year
 - Impact of decisions on reform?

Department of Justice

- Completed review of NSR enforcement cases
 - Limited to pending cases
- Conclusion: “reasonable basis in law and fact” to pursue the cases
 - Positions taken by EPA in enforcement cases is not a departure from previous interpretations
- Specifically declined to address broader policy issues (should EPA be bringing the cases)

Strategic Planning

- Reliance on discussions or agreements with state permitting agency?
 - Yes
 - No
- Documentation of analyses – applicability, netting, etc.
 - Yes
 - No

Strategic Planning

- Watch all fronts, but until something emerges in final form, play by the rules (EPA's "current" interpretations)
 - Region VII Database
 - <http://www.epa.gov/region7/programs/artd/air/nsr/nsrpg.htm>
- Even with federal legislation/rulemaking, watch state rules