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DANIEL WEBSTER

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## Clearing the air on President Bush's new clean air plan

**WHETHER YOU SUPPORT** President Bush's new air pollution reforms depends on one thing: whether you believe firms should be encouraged or discouraged from modernizing their plants — including reducing air emissions. But to read some news accounts on the President's proposed changes, you'd think it's all about gutting pollution controls and overturning the Clean Air Act.

"EPA proposes easing rules on air pollution for industry" and "EPA plans rollback of Clean Air Act" are just two typical examples of recent news headlines. But the President's plan, most of which would finalize initiatives proposed by former President Clinton, would strengthen clean air requirements by motivating industry to install cleaner technologies.

The program at issue, called New Source Review, was enacted in 1977 to reduce air pollutants from newly built or reconstructed industrial facilities. It requires electric utilities, refiners, paper mills and other manufacturers to go through an exhaustive permitting process and install sweeping pollution controls for new plants and those undergoing major alterations.

The harsh requirements were never intended for existing plants unless they make a "major modification," defined in the rule as any change resulting in a "significant" emissions increase. Routine maintenance and repairs do not

broad applications of the rule. The EPA under President Clinton filed dozens of lawsuits against industrial plants for what officials claimed were direct violations, even though in many instances the changes appeared to be routine maintenance or repair.

Other "offenses" were for changes that actually improved energy efficiency and reduced air emissions. For example, EPA in 2000 determined that the utility company Detroit Edison violated regulations by replacing two worn-out steam turbines with state-of-the-art models. The new design was projected to increase the turbines' efficiency by 4.5 percent each by using less coal to produce the same amount of fuel. Yet under the EPA's interpretation of the rule, these were major modifications and fell under the severe permit regulations.

Thanks to arbitrary interpretations, along with decades of confusion over definitions, New Source Review has become a perverse, counterproductive program that discourages industry from increasing capacity, making efficiency improvements and even improving safety. According to a new report released by the EPA, companies are unclear about what activities fall under NSR and, worse, delay or avoid making standard repairs or replacing worn-out equipment with cleaner-burning technology for fear of falling prey to the restrictions.

Industry is not alone in supporting badly needed reforms. The National Governor's Association, the National Conference of Black Mayors, and the state environmental commissioners are just some of the groups backing these changes. Even former EPA Administrator Carol Browner pledged shortly after taking office to "examine ways to simplify and streamline the New Source Review process . . . [and] to reduce chances of legal challenge."

In fact — and what most news accounts fail to mention — most of President Bush's plan was proposed by the Clinton administration and has already undergone extensive technical review and public comment. The President is merely finalizing those proposals. They include:

- Plant-wide emission limits: Plants would follow facility-wide emissions limits, rather than separate controls for each source of emission. This would enable plants to upgrade facilities without facing the severe permit requirements, as long as the plant did not increase overall air emissions.

- Exemptions for clean technologies: Plants that have previously installed clean-burning technologies that meet federal standards, and do not increase allowable emissions, would not trigger NSR for a period of 10 to 15 years.

- Using "actual" emissions: Emission increases would be measured using records on actual emissions, rather than by merely estimating a plant's "potential to emit," the current method. The latter unfairly assumes maximum operation — that is, the unlikely scenario that a plant operates 24 hours a day, 365 days a year.

In addition to these badly needed, common-sense changes, President Bush would define "routine maintenance, repair and replacement" in terms of a cost threshold, though details are forthcoming. Unlike the other provisions issued in 1996, this proposal will go through scientific review and be open to the public for comment.

In a nutshell, these changes give industry the encouragement it needs to improve the capacity and efficiency of plants, and to make conditions safer for workers. As long as industry doesn't increase emissions, it won't be subjected to a debilitating, bureaucratic permit process. That means more reliable and affordable sources of energy for consumers, safer conditions for facility workers and cleaner air for all of us.

— Dana Joel Gattuso is an adjunct scholar with the Competitive Enterprise Institute and author of the report, "Why the New Source Review Program Needs Reform: A Primer on NSR," published by The Heritage Foundation.