To establish a national uniform multiple air pollutant regulatory program for the electric power generation sector

IN THE HOUSE OF REPRESENTATIVES or
THE SENATE OF THE UNITED STATES

A BILL

To establish a national uniform multiple air pollutant regulatory program for the electric power generation sector

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

(a) SHORT TITLE – This Act may be cited as the Integrated Air Quality Planning Act.

(b) TABLE OF CONTENTS –

Section 1. Short Title; Table of Contents
Section 2. Findings and Purpose
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Section 5. Implementation: Sulfur Dioxide (SO₂) Program Revisions
Section 6. Implementation: Nitrogen Oxides (NOₓ) and Mercury Allowance Trading Programs
Section 7. Implementation: Carbon Dioxide (CO₂) Allowance Trading Program
Section 8. New Source Review Program Revisions

SECTION 2. FINDINGS AND PURPOSE

(a) FINDINGS – Congress finds that –

(1) fossil fuel-fired power plants, consisting of plants fueled by coal, fuel oil, and natural gas, produce nearly two-thirds of the electricity generated in the United States;

(2) fossil-fuel fired power plants account for approximately two-thirds of the total SO₂ emissions, one-third of total NOₓ emissions, one-third of total CO₂ emissions and are a leading source of anthropogenic mercury emissions in the U.S.;

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Obtained and made public by the Natural Resources Defense Council, May 2002
(3) many generating units have been exempt from emissions limitations applicable to new units based on the expectation that over time these units would be retired or updated with new pollution control equipment. However, many of these units continue to operate and emit at relatively high rates;

(4) pollution from existing power plants can be reduced effectively through adoption of modern technologies and practices;

(5) the electricity industry is being restructured with the objective of providing lower electricity rates and higher quality services to consumers;

(6) the full benefits of competition will not be realized if environmental impact costs are not uniformly internalized;

(7) the ability of power plant owners to effectively plan for the future is impeded by the uncertainties surrounding future environmental regulatory requirements that are imposed inefficiently on a piecemeal basis.

(b) PURPOSES – The purposes of this Act are –

(1) to protect and preserve the environment and safeguard health by ensuring that substantial emissions reductions are achieved at fossil fuel-fired generating facilities;

(2) to greatly reduce the quantities of mercury, CO₂, SO₂, and NOₓ entering the environment from the combustion of fossil fuels;

(3) to internalize the cost of protecting the values of public health, air, land and water quality in the context of a competitive market in electricity;

(4) to assure fair competition among participants in the market in electric power that will result from fully restructuring the electric industry;

(5) to provide a period of environmental regulatory stability for owners/operators of electric generating facilities for improved management of existing assets and new capital investments;

(6) to achieve emissions reductions from electric generating facilities in a cost-effective manner.

SECTION 3. DEFINITIONS


(2) Administrator – “Administrator” means the Administrator of the U.S. Environmental Protection Agency.

(3) Affected unit, for the purpose of the tonnage caps in Section 4 and the emission reduction program provisions under Sections 5, 6 and 7, shall have the following meaning –

(a) With respect to SO₂, the term “affected unit” has the same meaning as in Section 402 of the Clean Air Act.
(b) With respect to mercury, the term “affected unit” means a coal-fired electric generating facility with a nameplate capacity greater than 25 megawatts that uses a combustion device primarily to generate electricity for sale, and with respect to NO\textsubscript{X} and CO\textsubscript{2}, the term “affected unit” means a fossil fuel-fired electric generating facility with a nameplate capacity greater than 25 megawatts that uses a combustion device primarily to generate electricity for sale, including any unit that –

(i) co-generates steam and electricity if it supplies more than one-third of its potential capacity and more than 25 megawatts of electrical output to the electric power grid;

(ii) serves a closed district heating and cooling system that, on an aggregate basis, supplies more than one-third of its potential capacity and more than 25 megawatts of electrical output to the electric grid.

(4) Allowance – The term “allowance” means an authorization allocated by the Administrator under this Act to authorize emissions during or after a specified calendar year, as follows –

(a) NO\textsubscript{X} allowance shall mean an authorization to emit one ton of NO\textsubscript{X};

(b) SO\textsubscript{2} allowance is defined at paragraph 5(b) of this Act;

(c) CO\textsubscript{2} allowance shall mean an authorization to emit one ton of CO\textsubscript{2};

(c) Mercury allowance shall mean an authorization to emit one pound of mercury.

(5) Eligible electric power generating unit - The term “eligible electric power generating unit” means incremental increases in generation (in megawatt hours) relative to 1990 levels produced by nuclear generating units, and generation produced by renewable energy sources, as defined herein.

(6) Greenhouse gas – The term “greenhouse gas” or “GHG” means (a) carbon dioxide, (b) methane, (c) nitrous oxide, (d) hydrofluorocarbons, (e) perfluorocarbons and (f) sulfur hexafluoride.

(7) New unit – For the purpose of the allocation provisions under Sections 6 and 7, the term “new unit” means an affected unit that has not operated for a sufficient period of time following commencement of operation to receive allocations under the following provisions of this Act –

(a) paragraph 6(c)(1) for the NO\textsubscript{X} and mercury provisions, and

(b) paragraph 7(c)(1) for the CO\textsubscript{2} provisions.

(8) Renewable energy or renewable energy sources – The term “renewable energy” or “renewable energy sources” means electricity generated from wind, organic waste (excluding incinerated municipal solid waste), biomass (including anaerobic digestion from farm systems and landfill gas recovery), hydroelectric, geothermal, solar thermal, photovoltaic, fuel cells and other sources, all as designated by rule by the Administrator.
(9) Sequestration – The term “sequestration” means the action of sequestering carbon, either through enhancing natural sinks (e.g., afforestation), or by capturing the CO₂ emitted from fossil fuel based energy systems and storing it in geologic formations or the deep ocean, or converting it to benign solid materials through biological or chemical processes.

SECTION 4. NATIONAL POLLUTANT TONNAGE CAPS

A new Title XII is added to the Clean Air Act entitled “National Pollutant Caps for the Electric Generating Sector” comprised of the following provisions –

(a) NITROGEN OXIDES (NOₓ)

(1) Annual Tonnage Cap – Effective January 1, 2008, the annual tonnage cap for emissions of nitrogen oxides from affected units in the continental U.S. shall be 2.11 million tons.

(b) SULFUR DIOXIDE (SO₂)

(1) Annual Tonnage Cap – Effective January 1, 2008, the annual tonnage cap for emissions of sulfur dioxide from affected units in the continental U.S. shall be 4.45 million tons.

(c) CARBON DIOXIDE (CO₂)

(1) Annual Tonnage Cap –

(A) From January 1, 2008 until December 31, 2011, the annual tonnage cap for emissions of CO₂ from affected units in the U.S. shall be the amount of emissions emitted from electric generating facilities in calendar year 2000, as determined by the Administrator.

(B) On and after January 1, 2012, the annual tonnage cap for emissions of CO₂ from affected units shall be 1.925 billion tons.

(d) MERCURY

(1) Annual Tonnage Cap –

(A) For calendar years 2008-2011 (inclusive), the annual tonnage cap for emissions of mercury from coal-fired generating units in the continental U.S. shall equal a 50 percent reduction from baseline mercury emission levels, as determined by the Administrator.

(B) For calendar year 2012, and each year thereafter, the annual tonnage cap for mercury shall equal a 70 to 90 percent reduction from baseline mercury emission levels, the exact percentage reduction to be determined by the Administrator by January 1, 2004 based on the best scientific data available at the time.

(e) REVIEW OF POLLUTANT CAPS

(1) The pollutant tonnage caps established under paragraphs 4(a), 4(b), 4(c) and 4(d) shall remain in effect until [insert date 15 years from date of enactment].

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Obtained and made public by the Natural Resources Defense Council, May 2002
(2) Not later than [insert date thirteen years from date of enactment] the Administrator shall determine, based on air quality and cost considerations, whether one or more of the national pollutant caps should be revised.

(3) If, based on the assessment conducted in accordance with paragraph 4(e)(2), it is determined by the Administrator that no revisions to any of the pollutant caps are warranted, a notice of this determination, and the supporting rationale, shall be published in the Federal Register.

(4) If, based on the assessment conducted in accordance with paragraph 4(e)(2), it is determined by the Administrator that revisions to one or more of the national pollutant caps are warranted, a proposed rulemaking reflecting such revisions shall be published in the Federal Register no later than [insert date thirteen years and 6 months from date of enactment]. A final rulemaking shall be promulgated no later than [insert date fourteen years from date of enactment] and the revisions to the pollutant cap(s) shall become effective no later than [insert date fifteen years from date of enactment].

(5) Determinations made under this paragraph by the Administrator shall remain in effect for another 15-year period, wherein the review cycle established under this paragraph shall be repeated (i.e., EPA will determine if the caps need to be adjusted again by December 31, 2027; if not, the determination shall be noticed in the Federal Register; if so, a proposed rule shall be published by June 30, 2028; etc.).

(6) Notwithstanding the national pollutant caps established pursuant to this section, emissions from individual sources may be ordered reduced by federal or state authorities to address local air quality problems.

SECTION 5. IMPLEMENTATION: SULFUR DIOXIDE REDUCTION PROGRAM REVISIONS

(a) REGULATIONS – Not later than January 1, 2004, the Administrator shall promulgate revisions to its regulations implementing Title IV of the Clean Air Act as deemed necessary to implement the provisions of this section.

Section 402 of the Clean Air Act is amended by striking paragraph (3) thereof and inserting the following –

(b) ALLOWANCE – the term 'allowance' means an authorization, allocated to an affected unit by the Administrator under this title, to emit, during or after a specified calendar year –

(1) in the case of allowances allocated for calendar years 1995 through 2007, one ton of sulfur dioxide; and

(2) in the case of allowances allocated for calendar year 2008, and each year thereafter, an amount of SO₂ determined by the Administrator and set forth in the regulations promulgated pursuant to paragraph 5(a) that is consistent with the new national sulfur dioxide tonnage cap established under paragraph 4(b)(1).

SECTION 6. IMPLEMENTATION: NITROGEN OXIDES AND MERCURY ALLOWANCE TRADING PROGRAMS
The Clean Air Act is amended by striking Section 407. A new Title XIII is added to the Clean Air Act, entitled “Nitrogen Oxides and Mercury Allowance Reduction Program for the Electric Utility Sector” comprised of the following provisions—

(a) REGULATIONS – Not later than January 1, 2004, the Administrator shall promulgate regulations establishing an allowance trading program for NOx and an allowance trading program for mercury for affected units in the continental U.S. Such regulations shall establish the allowance system prescribed under this section, including, but not limited to, the allocation, issuance recording, tracking, transfer and use of allowances, and the public availability of all such information that is not confidential. These regulations shall also establish the requirements governing affected unit compliance with allowance limits, the monitoring and reporting of emissions and the provisions for excess emission penalties.

(b) NEW UNIT RESERVES – The Administrator shall establish through rulemaking a reserve of NOx and of mercury allowances set aside for use by new affected units.

   (1) The Administrator in consultation with the Department of Energy shall determine the size of the new unit reserves based upon projections of generation output for new affected units—

      (A) not later than June 30, 2004, the new unit reserves for 2008 through 2012;

      (B) not later than June 30, every five years thereafter, the new unit reserves for the next five-year control period.

(c) NOx AND MERCURY BUDGETS AND ALLOWANCE ALLOCATIONS

   (1) Distribution to affected units

      (A) NOx allowances shall be distributed to affected units—

          (i) not later than December 31, 2004, for calendar year 2008;

          (ii) by December 31 of each calendar year after 2004, for the year that begins 36 months thereafter.

      (B) Subject to paragraph 6(b), the Administrator shall distribute NOx allowances to affected units on a generation output basis in accordance with the following formula—

      \[
      1.5 \text{ lbs NOx/megawatt hour} \times \text{affected unit’s highest calendar year net electricity generation (in megawatt hours during the most recent three-year period, on a rolling annual basis), divided by 2000 lbs/ton.}
      \]

      (C) Subject to paragraph 6(b), the Administrator shall distribute mercury allowances to affected units on a generation output basis in accordance with the following formula—

      \[
      [0.0000227 \text{ lbs mercury/megawatt hour} \times \text{affected unit’s highest calendar year net electricity generation (in megawatt hours during the most recent 3 year period, on a rolling annual basis).}]
      \]
If total allocations based on this formula exceed or fall short of the applicable caps specified in Section 4 minus the new unit reserves for that year, allocations to affected units will be adjusted on a pro rata basis to equal the applicable caps specified in Section 4.

(D) An allowance shall not be considered a property right. Notwithstanding any other provision of law, the Administrator may terminate or limit an allowance.

(E) A distribution of allowances by the Administrator under paragraph 6(c)(1) shall not be subject to judicial review.

(2) Distribution to new affected units –

(A) The Administrator shall promulgate regulations that establish a methodology for distributing allowances to new affected units.

(B) The number of allowances available to a new unit shall be based on actual generation output times the permitted emission rate.

(d) NOX AND MERCURY ALLOWANCE TRANSFER SYSTEM

(1) Use of Allowances – The regulations promulgated pursuant to this section shall –

(A) prohibit the use (but not the transfer in accordance with paragraph 6(d)) of any allowance before the calendar year for which the allowance is allocated;

(B) provide that unused allowances may be carried forward and added to allowances allocated for subsequent years;

(C) provide that such allowances may be transferred by the person to whom allocated or to any other person. Any person to whom such allowances have been transferred may use the allowances in the control period for which the allowances were allocated or in a subsequent control period to demonstrate compliance with paragraph (6)(e)(i) or may transfer such allowances to any other person for such purposes.

(2) Certification of Transfer – A transfer of an allowance shall not be effective until a written certification of the transfer, authorized by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(3) Permit Requirements – An allowance allocation or transfer shall, upon recording by the Administrator, be considered a part of each unit’s operating permit requirements, without a requirement for any further permit review or revision.

(e) COMPLIANCE AND ENFORCEMENT –

(1) Compliance With Allowance Limits – For each calendar year beginning after December 31, 2007, the operator of each affected unit shall surrender to the Administrator a number of allowances for NOx equal to the total tons of NOx emitted by that unit during the calendar year, and a number of allowances for mercury equal to the total pounds of mercury emitted by that unit during the calendar year.
(2) Monitoring System – The Administrator shall promulgate regulations requiring the accurate monitoring of the quantities of NOx and mercury that are emitted at each affected unit.

(3) Reporting –

(A) In general – Not less than quarterly, the owner or operator of an affected unit shall submit NOx and mercury monitoring reports to the Administrator.

(B) Authorization – Each report required under paragraph 6(e)(3)(A) shall be authorized by a responsible official of the affected unit, who shall certify the accuracy of the report.

(C) Public Reporting – The Administrator shall make available to the public, through one or more published reports and one or more forms of electronic media, unit-specific emission data for each affected unit for NOx and mercury.

(4) Excess Emissions – The owner or operator of any affected unit that emits NOx or mercury in excess of the allowances the owner or operator holds for use for the unit for the calendar year shall be liable for the payment of an excess emissions penalty, and shall be liable to offset the excess emissions by an equal amount in the following calendar year or such other period as the Administrator shall prescribe. The excess emissions penalty for NOx shall be calculated on the basis of the number of tons emitted in excess of the total number of allowances held, multiplied by $5,000, indexed by inflation under rules promulgated by the Administrator. The excess emissions penalty for mercury shall be calculated on the basis of the number of pounds emitted in excess of the total number of allowances held, multiplied by $10,000, indexed by inflation under rules promulgated by the Administrator.

SECTION 7. IMPLEMENTATION: CO2 ALLOWANCE TRADING SYSTEM

A new Title XIV is added to the Clean Air Act entitled “Greenhouse Gas Reduction Program for the Electric Utility Sector” comprised of the following provisions –

(a) REGULATIONS – Not later than January 1, 2004, the Administrator shall promulgate regulations establishing a CO2 allowance trading program for affected units and eligible electric power generating units operating in the U.S. Such regulations shall establish the allowance system prescribed under this section, including, but not limited to, the allocation, generation, issuance recording, tracking, transfer and use of CO2 allowances, and the public availability of all such information that is not confidential. These regulations shall also establish the requirements governing affected unit compliance with allowance limits, the monitoring and reporting of emissions and the provisions for excess emission penalties. In addition, the regulations adopted by the Administrator under this section shall establish standards, guidelines and procedures governing the creation, certification and use of additional allowances requested under the flexibility mechanism provisions of paragraph 7(d) of this Act.

(b) NEW UNIT RESERVE – The Administrator shall establish through rulemaking a reserve of CO2 allowances set aside for use by new affected units.

(1) The Administrator in consultation with the Department of Energy shall determine the size of the new unit reserve based upon projections of generation output for new affected units –

(A) not later than June 30, 2004, the new unit reserve for 2008 through 2012;
(B) not later than June 30, every five years thereafter, the new unit reserve for the next five-year control period.

c) CO₂ BUDGETS AND ALLOWANCE ALLOCATION

(1) Distribution of CO₂ allowances

(A) CO₂ allowances shall be distributed –

(i) not later than December 31, 2004, for calendar year 2008;

(ii) by December 31 of each calendar year after 2004, for the year that begins 36 months thereafter.

(B) The Administrator shall distribute CO₂ allowances to affected units and eligible electric power generating units in proportion to each such unit’s share of the total electric power generation attributable to the generation of affected units and eligible electric power generating units. The distribution shall not exceed the CO₂ tonnage budget established in paragraph (4)(c) minus the new unit reserve established under paragraph (7)(b).

Alternative allocation option:

(B) The Administrator shall distribute CO₂ allowances to affected units and non-fossil fired generating units serving the grid, including accepted energy efficiency projects that reduce electricity demand from the grid. CO₂ allowances shall be distributed in proportion to each unit’s or projects’ share of the total electric power generation and, in the case of energy efficiency projects, accepted energy efficiency projects’ contribution to reductions in electricity demand. The distribution shall not exceed the CO₂ tonnage budget established in paragraph (4)(c) minus the new unit reserve established under paragraph (7)(b).

For this section, the term “accepted energy efficiency project” means any end use energy efficiency projects as defined by the Independent Review Board as referenced in subsection (d) of this section.

(C) In determining a unit’s share of total electric power generation, the Administrator shall consider the unit’s highest utilization level, in megawatt hours, during the most recent three-year period, on a rolling annual basis.

(D) A CO₂ allowance shall not be considered a property right. Notwithstanding any other provision of law, the Administrator may terminate or limit a CO₂ allowance.

(E) A distribution of CO₂ allowances by the Administrator under paragraph 7(c)(1) shall not be subject to judicial review.

(2) Distribution to new affected units –
(A) The Administrator shall promulgate regulations that establish a methodology for distributing CO₂ allowances to new affected units.

(B) The amount of CO₂ allowances available to a new unit shall be based on actual generation output times the permitted emission rate.

(d) COMPLIANCE FLEXIBILITY MECHANISMS

(1) Independent Review Board – An Independent Review Board shall be established to assist EPA’s implementation of the flexibility mechanisms provided for under this section. Requirements related to the creation, composition, duties, responsibilities and other aspects of the Independent Review Board shall be included in the regulations developed by the Administrator under paragraph (7)(a).

(A) The Board shall be comprised of 11 members – one representative of EPA (who shall also serve as chairperson of the Board), one representative from the Department of Energy, three representatives from state government, three representatives from the electric generating sector and three representatives from the environmental community. The Review Board shall report to the Administrator, who shall provide staff and other resources to the Board as necessary. The Administrator will respond promptly to requests for support.

(B) The Board shall promulgate guidelines for certifying the additional allowances. The guidelines shall be promulgated by (i) January 1, 2003 for allowances generated pursuant to paragraph C(i) below, and (ii) January 1, 2005 for allowances generated pursuant to paragraph C(ii). The Board shall be responsible for periodically updating these guidelines as appropriate.

PLACEHOLDER: PENDING THE OUTCOME OF ANALYSIS OF THE ECONOMIC IMPACTS OF THE UNCONSTRAINED CREATION OF OFF-SITE AND OFF-SECTOR ALLOWANCES, CEG WILL DETERMINE WHETHER THERE SHOULD BE LANGUAGE PLACING CONTRAINTS IN THIS SECTION.

(C) The Board shall be responsible for certifying additional allowances requested, pursuant to the following –

(i) For actions completed on or after January 1, 1990 and prior to January 1, 2008, allowances for early action, limited to 10 percent of the tonnage cap of 1.925 billion tons established in Section 4, will be granted for the following types of projects –

(a) domestic and international projects that effectively sequester carbon;

(b) projects reported under Section 1605 of the Energy Policy Act of 1992;

(c) domestic and international projects that reduce greenhouse gas emissions.
(ii) For actions completed on or after January 1, 2008, allowances will be granted for the following types of projects –

(a) domestic and international projects that effectively sequester carbon;

(b) CO₂ reductions from greenhouse gas sources not meeting the definition of an affected unit.

(iii) For CO₂ reductions achieved from investments in new renewable energy projects and for investments in energy efficiency projects, allowances will be granted according to the following guidelines –

(a) Between January 1, 2002 and December 31, 2007, one allowance shall be granted to applicants for every $15 invested in a certified new renewable energy project or efficiency project.

(b) Between January 1, 2007 and December 31, 2014, one allowance shall be granted to applicants for every $25 invested in a certified new renewable energy project or energy efficiency project.

(c) No CO₂ allowances will be granted for investments made in renewable energy projects or energy efficiency projects after December 31, 2014.

(2) The Issuance and Use of Allowances

(A) The Administrator shall make available allowances to projects that receive certification by the Independent Review Board. The allowance shall be in addition to the tonnage budget set forth in paragraph 4(c).

(B) The regulations promulgated pursuant to paragraph 7(a) shall allow sources to purchase and use CO₂ allowances that are traded under other domestic or internationally recognized CO₂ reduction program and to use these allowances as a compliance option for the domestic program created by this Act.

(e) CO₂ ALLOWANCE TRANSFER

(1) Use of CO₂ Allowances – The regulations promulgated pursuant to this section shall –

(A) prohibit the use (but not the transfer in accordance with paragraph 7(e)(2)) of any CO₂ allowance allocated by the Administrator before the calendar year for which the CO₂ allowance is allocated;

(B) provide that unused CO₂ allowances allocated by the Administrator may be carried forward and added to CO₂ allowances allocated for subsequent years;

(C) provide that such allowances may be transferred by the person to whom allocated or by any other person. Any person to whom such allowances have been transferred may use the allowances in the control period for which the allowances were allocated or in a subsequent control period to demonstrate compliance with paragraph (7)(f)(2), or may transfer such allowances to any other person for such purposes;
(D) provide that allowances originally allocated and transferred pursuant to this section may be transferred into any other market-based CO₂ emissions trading program approved by the President and implemented pursuant to regulations developed by the Administrator or other federal agency.

(2) Certification of Transfer – A transfer of a CO₂ allowance shall not be effective until a written certification of the transfer, authorized by a responsible official of the person making the transfer, is received and recorded by the Administrator.

(3) Permit Requirements – A CO₂ allowance allocation or transfer to an affected unit shall, upon recording by the Administrator, be considered a part of each affected unit’s operating permit requirements, without a requirement for any further permit review or revision.

(f) COMPLIANCE AND ENFORCEMENT –

(1) Compliance with the CO₂ cap can be achieved as follows –

(A) From 2008 through 2014 inclusive, compliance may be demonstrated through the use of CO₂ allowances distributed under paragraph 7(c) or 7(d).

(B) After 2014, compliance may be demonstrated through the use of CO₂ allowances distributed under paragraph 7(c), or any internationally recognized flexibility mechanisms in place at the time.

(2) Compliance With Allowance Limits – For each calendar year beginning after December 31, 2007, the operator of each affected unit shall surrender to the Administrator a number of allowances for CO₂ equal to the total tons of CO₂ emitted by that unit during the calendar year.

(3) Monitoring System – The Administrator shall promulgate regulations requiring the accurate monitoring of the quantity of CO₂ that is emitted at each affected unit.

(4) Reporting –

(A) In general – Not less than quarterly, the owner or operator of an affected unit shall submit a report on CO₂ emissions from the unit.

(B) Authorization – Each report required under paragraph (A) shall be authorized by a responsible official of the generating unit, who shall certify the accuracy of the report.

(C) Public Reporting – The Administrator shall make available to the public, through one or more published reports and one or more forms of electronic media, CO₂ emissions data for each affected unit.

(5) Excess Emissions – The owner or operator of any affected unit that emits CO₂ in excess of the allowances the owner or operator holds for use for the unit for the calendar year shall be liable for the payment of an excess emissions penalty, and shall be liable to offset the excess emissions by an equal amount in the following calendar year or such other period as the Administrator shall prescribe. The excess emissions penalty shall be calculated on the basis of the number of tons emitted in excess of
the total number of allowances held, multiplied by $100, indexed by inflation under rules promulgated by the Administrator.

SECTION 8. NEW SOURCE REVIEW PROGRAM REVISIONS

Section 165 of the Clean Air Act is amended by the following –

The Administrator shall promulgate revisions to its New Source Review (NSR) regulations, including its Prevention of Significant Deterioration (PSD) requirements.

(a) The regulations shall revise the NSR/PSD applicability criteria for affected units under either Section 4(a) or (b) such that –

(1) Physical changes or changes in the method of operation at affected units shall not be subject to the NSR/PSD regulations and are not subject to EPA approval if –

(A) the project does not meet the definition of the term “reconstruction” as defined in 40 CFR 60.15, or

(B) the project does not result in an increase of the affected unit’s emission rate on a lbs/megawatt hour basis.

(2) Projects that do not meet the criteria set forth in paragraph 8(a)(1) shall be subject to the existing NSR/PSD applicability provisions and general requirements.

(b) The regulations shall continue to apply NSR/PSD to proposed new units, with the following changes –

(1) New sources locating in non-attainment areas shall not be required to obtain emission offsets.

(2) The definition of “Lowest Achievable Emission Rate (LAER)” technology shall be revised to allow costs to be considered in the determination of what constitutes LAER, such that new sources will not be required to install LAER technology if the cost exceeds a threshold amount (in dollars per ton) to be determined by the Administrator. This LAER cost threshold amount may not be less than twice the amount of the BACT cost guideline.

SECTION 9. SAVINGS PROVISIONS

Except as specifically provided herein, nothing in this section –

(1) affects the permitting, monitoring and enforcement obligations of the Administrator under the Clean Air Act (42 U.S.C. 7401 et seq.) and the remedies provided thereunder;

(2) affects the requirements and liabilities of an affected facility under the Clean Air Act;

(3) requires a change in, affects, or limits any state law regulating electric utility rates or charges, including prudence review under state law; or

(4) precludes a state or political subdivision of a state from adopting and enforcing any requirement for the control or abatement of air pollution, except that a state or political...
subdivision may not adopt or enforce any emission standard or limitation that is less stringent than the requirements imposed under the Clean Air Act.
Jean and Margot

It may have not been clear, but the NSR information that we distributed is a background piece that should accompany the same "permitting" recommendation that was used at last week's meeting.

Lorie

I have not seen anything except the background nsr piece I was just provided for review: nsr back 4-16.wpd

Are related pieces with the recommendations available? Thanks.

Jean
From: Vemet, Jean
Sent: Tuesday, March 13, 2001 4:41 PM
To: 'Austin.Perez@sba.gov%internet'
Subject: RE: RE: Nat'l Energy Plan

Importance: High

Austin,

I made a couple of clarifying/expanding changes, and will send this forward to Margot Anderson (Acting Dir, Office of Policy) for consideration.

Jean

0313 power plant impacts-rev.d...

---Original Message---
From: Austin.Perez@sba.gov%internet [mailto:Austin.Perez@sba.gov]
Sent: Tuesday, March 13, 2001 3:53 PM
To: Vemet, Jean
Cc: Linwood.Rayford@sba.gov%internet
Subject: RE: RE: Nat'l Energy Plan
Importance: High

<< File: 0313 power plant impacts.doc >>

Does this work?

---Original Message---
From: Vemet, Jean [mailto:Jean.Vemet@hq.doe.gov]
Sent: Tuesday, March 13, 2001 10:25 AM
To: 'Austin.Perez@sba.gov%internet'
Subject: RE: Nat'l Energy Plan

Per our conversation this AM. Preliminary goals and the template for options.


Tracking: Recipient 'Austin.Perez@sba.gov%internet'
Read: Read: 3/13/2001 4:47 PM
From: Vernet, Jean
Sent: Monday, February 12, 2001 5:13 PM
To: Anderson, Margot; Conti, John
Subject: EEI 2/14 meeting w/S-1i

Margot,

Attached is 2-pager [ ]

Let me know what else you might need.

Jean

EEI-feb14-01.wpd

---Original Message---
From: Carter, Douglas
Sent: Monday, February 12, 2001 5:06 PM
To: Rudins, George; Kripowicz, Robert
Cc: Vernet, Jean
Subject: EEI meeting w/S1, fyi

Paul Bailey and 6 utility CEOs are scheduled to meet w/ S-1 at 2pm Wednesday, for 30 min. They will explain to Abraham their 4-Pollutant strategy for coal-fired power plants. This is part of an EEI outreach effort to talk w/ several congressmen and EPA on a legislative approach to improve regulatory certainty for coal power generation. I understand Paul spoke today w/ Joe Kelliher (S1) to provide an overview of the meeting agenda.

Doug Carter (FE-26)
US DOE
Washington, DC 20585
202-586-9684

[This email uses 100% recycled electrons.]

Tracking:

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<tr>
<td>Conti, John</td>
<td>Delivered: 2/12/2001 5:14 PM</td>
<td>Read: 2/12/2001 5:15 PM</td>
</tr>
<tr>
<td>Carter, Douglas</td>
<td>Delivered: 2/12/2001 5:13 PM</td>
<td>Read: 2/12/2001 5:18 PM</td>
</tr>
</tbody>
</table>

Obtained and made public by the Natural Resources Defense Council, May 2002
From my initial inquiry this morning of Quinn Shea (EEI):

- half-dozen utility CEO's coming to DC the 13th and 14th
- scheduled to meet with Abraham, Whitman, Murkowski, Smith, Tauzin
- one topic: national energy plan and the importance of including a multi-pollutant control strategy for the power industry

I should have more info later today.

Obtained and made public by the Natural Resources Defense Council, May 2002
Jean,

Thought you saw this, but I wanted to distribute to the rest of the electricity team. I think it is relevant for this summer.

[File attachment: epa2001_1341.pdf]

John J. Conti  
Acting Director,  
Office of Economic, Electricity,  
and Natural Gas Analysis  
(202) 586-4767
Jean -

This is on a fast track. I assume you have it, but if not, you have it now.

I think EPA left out a couple of points.

Doug

-----Original Message-----
From: Kripowicz, Robert
Sent: Tuesday, April 17, 2001 7:23 AM
To: Carter, Douglas
Subject: FW: EPA materials

Please review the new source review attachment.
Thanks.

-----Original Message-----
From: Kelliher, Joseph
Sent: Monday, April 16, 2001 7:19 PM
To: Anderson, Margot; Kripowicz, Robert
Subject: EPA materials

Please circulate. We will need to turn around quickly.

-----Original Message-----
From: Schmidt.Lorie@epamail.epa.gov
[mailto:Schmidt.Lorie@epamail.epa.gov]
Sent: Monday, April 16, 2001 7:14 PM
To: Kelliher, Joseph
Cc: Symons.Jeremy@epamail.epa.gov; Moss.Jacob@epamail.epa.gov; Gibson.Tom@epamail.epa.gov; Spencer.Susan@epamail.epa.gov
Subject: For Review

For review by USDA and DOE, here is the piece on RFG and boutique fuels:
(See attached file: boutique 4 16 01.wpd)

For review by DOE, here's the additional background piece on NSR:
(See attached file: nsr back 4-16.wpd)
We need to generate policy options for a national energy strategy. Attached please find a template. We will discuss at today's staff.

--- Original Message ---

From: Anderson, Margot
Sent: Monday, March 05, 2001 4:56 PM
To: Conti, John; Haspei, Abe; Zimmerman, MaryBeth; Lockwood, Andrea; Breed, Patricia; Breed, William; KYDES, ANDY; Whatley, Michael; Carter, Douglas; Braitsch, Jay; Meichert, Elena; Cook, Trevor; jkstler@bpa.gov
Cc: Kelliher, Joseph
Subject: template

template for policy ideas.doc

All,

Comments, please.

Margot
Certainly. Do we have any more info?

---Original Message---
From: Anderson, Margot
Sent: Friday, April 20, 2001 8:35 AM
To: Vemet, Jean
Subject: RE: NSR

Can you attend the meeting in Joe's office at 10:00?

---Original Message---
From: Vemet, Jean
Sent: Friday, April 20, 2001 7:05 AM
To: Anderson, Margot
Subject: RE: NSR
Importance: High

I'm here.

---Original Message---
From: Anderson, Margot
Sent: Thursday, April 19, 2001 5:37 PM
To: Vemet, Jean
Subject: FW: NSR
Importance: High

Jean,

You going to be around in the morning?

Margot

---Original Message---
From: Kelliher, Joseph
Sent: Thursday, April 19, 2001 5:35 PM
To: Anderson, Margot
Subject: NSR
Importance: High

Who is our smartest NSR person? Can you and that person (and it may well be you, be frank and admit it if that is the case) be in my office at 10 tomorrow for a conference call with our brothers at EPA on NSR? Let me know. They just called about this. Thanks.
Sure.

--- Original Message ---
From: Conti, John
Sent: Friday, April 20, 2001 8:36 AM
To: Vemet, Jean
Subject: Garry Garret @ Oglethorpe Power Corp

Jean,

A former colleague from the NERC RAS called and wanted to talk about environmental regs effecting new power plants. I was hoping you could give him a call. Garry can be reached at 770-270-7245.

John J. Conti
Acting Director,
Office of Economic, Electricity,
and Natural Gas Analysis
(202) 586-4767
From: Kelliher, Joseph
Sent: Tuesday, April 17, 2001 1:01 PM
To: Vernet, Jean
Subject: RE: comments/revisions to EPA NSR background document

Importance: High

Jean, [Redacted]

---Original Message---
From: Vernet, Jean
Sent: Tuesday, April 17, 2001 10:57 AM
To: Kelliher, Joseph
Cc: Anderson, Margot; Conti, John; Carter, Douglas
Subject: comments/revisions to EPA NSR background document
Importance: High

Joe,

Attached is a redline/strikeout version of the edited piece. The version attempts to address some of the significant omissions in the piece EPA sent over, the biggest of which are:

[Redacted]

The piece provided refers to the latest versions of NEP sections and recommendations I have not seen.

Jean

Jean E. Vernet
Office of Policy, PO-21
U.S. Department of Energy
202.586.4755
fax 202.586.5391

<< File: nsr back 4-16rev redline.wpd >>
From: Austin.Perez@sba.gov%internet [Austin.Perez@sba.gov]
Sent: Tuesday, March 13, 2001 3:53 PM
To: Vernet, Jean
Cc: Linwood.Rayford@sba.gov%internet
Subject: RE: RE: Nat'l Energy Plan

Importance: High

Does this work?

---Original Message---
From: Vernet, Jean [mailto:Jean.Vernet@hq.doe.gov]
Sent: Tuesday, March 13, 2001 10:25 AM
To: 'Austin.Perez@sba.gov%internet'
Subject: RE: Nat'l Energy Plan

Per our conversation this AM. Preliminary goals and the template for options.

<< File: NEP Policy Issues.doc >>  << File: template for policy ideas.doc >>

Obtained and made public by the Natural Resources Defense Council, May 2002