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## A level field on pollution at power plants

THE BUSH ADMINISTRATION is considering major changes in longstanding rules that require new power plants to be cleaner than old ones. Environmentalists and many in Congress are crying foul, saying that the Clean Air Act's New Source Review program is the cornerstone of meaningful environmental regulation. But these critics are wrong on their own terms.

The New Source Review retards environmental progress and wastes resources. To assure sustainable environmental progress, NSR should be replaced with effective and efficient policies.

The requirement for New Source Review under the Clean Air Act dates back to the 1970s. The lawyers and engineers who wrote the law thought they could secure environmental progress by imposing tougher emission standards on new power plants (and certain other emission sources) than on existing ones. The theory was that emissions would fall as old plants were retired and replaced by new ones. But experience over the past 25 years has shown that this approach is both excessively costly and environmentally counterproductive.

The reason is that it motivates companies to keep old (and dirty) plants operating, and to hold back investments in new (and cleaner) power generation technologies.

Not only does the New Source Review deter investment in newer, cleaner technologies, it also discourages companies from keeping power plants maintained. Plant owners contemplating maintenance activities must weigh the possible loss of considerable regulatory advantage if the work crosses a murky line between upkeep and new investment. Protracted legal wrangling is inevitable over whether maintenance activities have crossed a threshold sufficient to justify forcing an old plant to meet new plant standards. The deferral of maintenance compromises the reliability of electricity generation plants, and thereby increases the risk of outages.

Research has demonstrated that the New Source Review process drives up costs tremendously (not just for the electricity companies, but for their customers and shareholders, that is, for all of us) and has resulted in worse environmental quality than would have occurred if firms had not faced this disincentive to invest in new, cleaner technologies.

NSR is reminiscent of the misguided 1970s effort to regulate differentially the price of old and new oil, which likewise created perverse incentives and spawned innumerable lawsuits.

That unworkable policy was replaced. It is time to take similar action with New Source Review.

The solution is a level playing field, where all electricity generators have the same environmental requirements, whether plants are old or new. The best approach is to cap total pollution and use an emissions trading system to assure that any emission increases at one plant are balanced by offsetting reductions at another. No matter how emissions are initially allocated across plants, the owners of existing plants and those who wish to build new ones will then face the correct incentives with respect to retirement decisions, investment decisions, and decisions regarding the use of alternative fuels and technologies to reduce pollution.

Of course, power generators and environmentalists may have different views regarding which pollutants should be capped and at what levels. As we seek to craft policies to replace the New Source Review, it will be important to weigh carefully the arguments presented by both sides regarding the environmental advantages and costs of alternative targets.

To date, the evidence suggests that it is both feasible and desirable to set caps that would substantially reduce emissions of nitrogen oxides, mercury, and sulfur dioxide from their current levels.

As caps for the relevant pollutants are put in place by Congress, the New Source Review should be phased out. In the meantime, explicit New Source Review thresholds — such as spending more than 3 to 5 percent of a plant's value on maintenance procedures — should be established to reduce disincentives for maintenance due to uncertainty. Where to set these thresholds is a matter of dispute between the administration and environmentalists, as both sides seek leverage for upcoming debates in Congress. Neither side comes to the table with completely clean hands.

But this short-run maneuvering should not detract attention from the importance of moving beyond NSR.

It is not only possible, but eminently reasonable to be both a strong advocate for environmental protection and a strong advocate for the elimination of New Source Review. And that is where the evidence leads us.

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