

Statement of Senator Hillary Rodham Clinton
Senate Democratic Policy Committee Hearing
“Clearing the Air: An Oversight Hearing on
the Administration’s Clean Air Enforcement Program”
Friday, February 6, 2004

Thank you, Senator Dorgan. I am pleased to join you, Senator Jeffords, Senator Leahy and others in discussing this extremely important public health issue. I also want to thank our witnesses for appearing today.

While I am glad that we have this opportunity today, I am very disappointed that we have not been able to have a hearing on this issue in the EPW committee, as I and many other Senators have called for. I want to renew that call today, because the American people deserve to have the Administration answer questions about the NSR program for the record.

I want to focus primarily on the ecological and health impacts of the Administration’s NSR rollbacks, because they are extremely important in New York.

First of all, the Adirondacks, along with many other eastern forests, are under continued assault from acid rain. Recent studies show that 41% of lakes in the Adirondacks and 15 % of lakes in New England exhibit chronic or episodic acidification. For the vast majority of these lakes—83 percent—the impacts are the direct result of acid rain.

This increased acidity in lakes not only damages ecosystems, it has human health impacts as well. The increased acidity of the lakes and streams leads to elevated concentrations of mercury in the water, contributing to higher levels in fish. That is an increasing problem in New York, where more than 60 waterbodies have fish consumption advisories—including seven New York City reservoirs, that were just added last June.

But the most devastating impacts of power plant emissions come directly from breathing in the pollution. Pollution from power plants and other industrial facilities is now scientifically and medically proven to cause or contribute to asthma attacks, heart attacks, cardiopulmonary disease, cancer, and even premature death.

And I want to mention a few recent studies, which have drawn ever stronger links between power plant emissions and respiratory ailments and other health problems.

In October of 2003, a study published in the Journal of the American Medical Association concluded that children with severe asthma start suffering from symptoms even at what are now considered to be acceptable levels of air pollution.

And in that same month, a study published in the Journal of the American Heart Association concluded that high pollution levels may make people more susceptible to stroke.

In November of 2003, University of California at Los Angeles researchers reported results of a study showing that that air pollution alone may be enough to cause acute asthma flare-ups. We have known from previous studies that air pollution aggravates asthma, but this study now indicates that pollution alone can cause it.

And in January of this year, the Columbia Center for Children's Environmental Health released the results of a study that tracked the children of 226 nonsmoking mothers from Washington Heights, Central Harlem and the South Bronx. The conclusion of Dr. Perera, the chief author is that: "The combined effect of secondhand smoke and combustion pollution harms the unborn child...and they interact to reduce fetal growth, which has been linked in other research to learning difficulties."

So I think it's clear that as our ability to discern the links between pollution and a range of health problems grows, we're finding that those links are stronger than we previously thought.

I bring these studies up because they reinforce prior estimates of the health impacts of power plant pollution and of the NSR changes that the Administration is attempting to make.

For example, an October 2001 report by the Clean Air Task Force—conducted by EPA's own consultants—showed that companies that had been sued under NSR create pollution that causes about 270 hospitalizations, 8,000 asthma attacks, and over 300 premature deaths in New York State alone - not to mention more than 70,000 work days lost for those who suffer from respiratory problems as a result of this pollution.

And a more recent analysis by the Clean Air Task Force of the Administration's changes to the NSR program estimates that implementation of the changes will result in approximately 20,000 additional premature deaths per year, 400,000 additional asthma attacks per year, and 12,000 additional cases of chronic bronchitis per year.

So those are the stakes that we're talking about here. In spite of the science, in spite of the significant evidence of the health impacts of power plant pollution, the Administration wants to eviscerate the New Source Review program and allow old plants to continue to pollute

It's my belief that many of the changes that they are making violate not only the intent, but the very letter of the Clean Air Act. And that is why I will be filing an amicus brief along with Congressional colleagues in the suit brought by New York and many other states to challenge these regulations.

In that light, I was extremely pleased that the U.S. Court of Appeals for the D.C. Circuit stayed the "equipment replacement exemption" on December 24, pending the outcome of the case. But given the stay, it is imperative that the Administration enforce the existing rules. To date, there have been mixed signals on this issue. On January 21, an EPA spokesperson indicated that EPA would enforce the current rules. And while it is true that the Administration has taken recent enforcement actions against plants in Kansas and Kentucky, it is also true that these actions would be justified under both the disputed rules and the existing rules. So the recent enforcement actions are not proof that the Administration will enforce the current rules.

Furthermore, with respect to the many cases in the enforcement pipeline that were developed under the existing equipment replacement rules, the Administration has taken no action since the Appeals court decision.

So there are a number of questions that New Yorkers want the Administration to answer. Will the EPA refer the more than fifty outstanding Notices of Violation that fall within the scope of the existing equipment replacement rule to the Justice Department? Will the Justice Department file civil actions on similar violations that EPA referred prior to promulgation of the disputed rules? By law and for the sake of the health of the American public, the answer must be yes.

Finally, I want to say that I am looking forward to the comments of our panel on the issue of the impact of the Administration's NSR changes on states. It's my belief that the changes take away an invaluable tool that States and others are using to help bring about much needed air quality improvements. I know that the NSR program has been instrumental in New York state's effort to fight power plant pollution both in state and out-of-state.

New York State, other northeast states, the federal EPA under previous Administrations and various environmental organizations have used the NSR program that EPA is now gutting to address air pollution harms by going to their source. New York State Attorney General Eliot Spitzer has filed lawsuits with respect to 17 power plants in Ohio, West Virginia, Virginia and Indiana -- plants that had undergone major, multi-million dollar improvement projects without installing NSR-required pollution controls. He has also filed similar lawsuits against plants in our own State that have violated NSR.

States have significant responsibilities under the Clean Air Act for achieving National Ambient Air Quality Standards. EPA's changes to NSR will take away a valuable tool and reduce States' options for achieving these national air quality standards. If air pollution from older, dirtier industrial sources is allowed to continue at its current rate or even increase under EPA's proposal, States are going to have to look elsewhere to find air pollution reductions to offset these increases.

In closing, we clearly need to be doing more - not less - to clean up our air, protect children's health, and provide for safe and healthy communities. The Bush Administration is taking us in precisely the wrong direction. Thank you.