

**Statement Of Senator Jim Jeffords**  
**Democratic Policy Committee Hearing On Bush Administration Enforcement**  
**Of The Clean Air Act**

February 6, 2004

Today, we're here to conduct oversight that is sorely lacking. The Bush Administration continues its egregious attacks on the Clean Air Act and one of its main targets is the New Source Review (or NSR) program

Fortunately, the courts are deciding to uphold the law so far and not the Administration's continued attempts to undermine the Act.

Unfortunately, at every turn, the Bush Administration has sought to stall or blunt our legitimate efforts to conduct oversight on their shadowy rulemakings and their closed door energy policy meetings. As we all know, sunshine is the best disinfectant. That's why we're here today.

We need to shed some light on the travesty of these NSR rules and the poor enforcement record of this Administration.

The public needs to know and has a right to know that the Bush Administration is not keeping the public's health in mind. The public needs to know that their voice is being drowned out by the owners of old, dirty power plants.

Those plants got a good deal in the 1977 amendments to the Clean Air Act. They were allowed to wait until making major modifications to their plants before cleaning up to new, more stringent standards.

But, here we are 27 years later and most of the oldest and dirtiest plants still haven't put on advanced pollution controls.

These are the same 150 to 200 plants that EPA projects will never put on such controls even under the so-called Clear Skies proposal or the new proposed "transport rule."

Why should the public care? Why should they be outraged? Because this inaction and willful non-compliance is dangerous.

The Bush "routine maintenance" rule, if the courts do not kill it, permanently exempts these old power plants and many others from NSR. These plants will be allowed to make an unlimited number of equipment changes that can increase emissions without having to put on pollution controls, as long as each replacement costs under twenty percent of the total plant cost.

That means 20,000 people or more would continue to die prematurely every year and 400,000 asthma attacks would continue to take place. All because certain big energy corporations are cozy with the White House.

We know that lobbyists and law firms representing the big utility companies are writing the rules on mercury and air quality regulations. It's not a well-kept secret.

But, the Bush White House refuses to give Congress access to those documents and materials, despite our constitutional rights. In fact, members of this Administration have gone out of their way to intentionally mislead me and other Senators.

This Administration has created great uncertainty and distrust in Congress by these actions.

Last November, even before the new "routine maintenance" rule was final, they announced the end of all enforcement of past violations under the old rule. This is an abuse of Executive Branch discretion and it directly contradicted witness' statements to Senator Leahy and me in July 2002 at our joint hearing on NSR. We were told the new rule would apply only prospectively.

Since the court stayed the rule, however, Administrator Leavitt has suggested that EPA may reconsider its decision to abandon NSR enforcement.

I wrote to him recently to ask him how EPA will proceed. I have no answer yet, but his actions will speak louder than his words. At a minimum, all the investigations dropped should be restarted.

Then, perhaps the Agency and the Department of Justice can begin to once again prosecute their cases, take care of their backlog, and investigate new ones. At every turn, the public should be demanding that the large polluters be brought to trial and forced to clean up.

It's a mystery to me why President Bush hasn't just ordered the Tennessee Valley Authority to stop polluting the Great Smoky Mountains and thousands of communities for hundreds of miles. The Department of Justice has one week to decide whether to enforce the law of the land against this Federal agency. That decision will tell us who's in charge of air quality.

It's also a mystery to me why so many of the largest utilities in the nation, with great financial and technical capabilities, have not been forced to settlement or brought to trial by the Department of Justice since the enforcement actions were brought in 1999, almost five years ago.

But, this is not entirely about punishing polluters for breaking the law. We need and must have cleaner air sooner rather than later.

If all 51 of the power plants originally charged by the Clinton Administration were to put on the best available controls, NOx and SOx pollution would be cut in half, and thousands of lives would be saved.

Today, Senator Lieberman and I are releasing the latest in a string of GAO reports looking at the Administration's NSR activities. The report shows that the vast majority of the state air quality directors - the people who know the most about how NSR works - think that Bush rules will increase emissions, especially in areas already suffering from bad air quality and related health effects.

The GAO report also repeats a previous recommendation that EPA improve its data collection so we will know the health impacts of the NSR rules. Instead, EPA is relaxing Title Five monitoring requirements, largely by request of the large utilities. It's a calculated effort to minimize the data that regulators could use to enforce the law.

Mr. Chairman, this Administration does not seriously care about the spirit or the letter of the Clean Air Act. They have squandered every opportunity for constructive reform.

They stopped the discussion started by President Clinton that could have given certainty to industry and environmentalists.

This President can do a better job. After all, NSR is about constant improvement and saving lives.