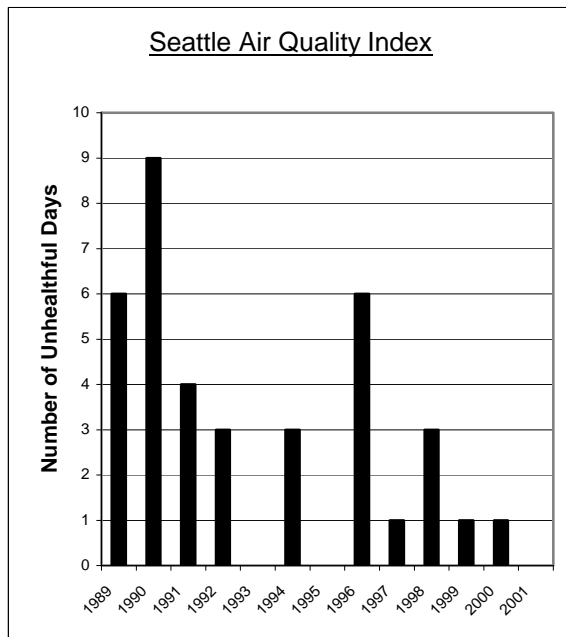


Clearing the Air on New Source Review

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by Eric Montague, Director, Center for Environmental Policy

Listening to the popular media it would be easy to conclude that environmental quality in our nation is getting worse by the day. It may come as a surprise that many indicators show the opposite is true. No area of environmental quality has seen better improvement than the air we breathe. Compared to conditions half a century ago, the air today is much healthier and contains far fewer pollutants. In fact, as the chart below shows, air quality in the state's largest urban area now meets or exceeds most federal standards for health and cleanliness.



Source: Pacific Research Institute, "2002 Index of Leading Environmental Indicators." In 1993, 1995 and 2001 Seattle suffered zero unhealthful days.

Success in lowering the risk of air pollution helps illustrate the effectiveness of public and private pollution control initiatives. Significant reductions in emissions from power plants and other

industrial facilities have led the way in improving our nation's environmental quality. But the effort to modernize how industrial polluters are regulated faces strong opposition from some within the environmental community.

In 2002 the U.S. Environmental Protection Agency (EPA) announced changes to federal air pollution regulations that would update current laws to better accommodate technology improvements and facility repairs without threatening environmental quality. The regulation in question is called New Source Review, or NSR, and it governs industrial emissions from facilities like power plants and factories.

Under the old version of NSR, any changes made to existing facilities were often interpreted to be new sources of pollution, even if the total emissions from the facility did not increase as a result of the improvements. As a result, many old, inefficient power plants delayed upgrading their facilities so they could avoid costly federal review. In effect, the strict requirements prevented many old, inefficient power plants and manufacturing facilities from adopting new, cleaner technology.

In the mid-Nineties federal regulators recognized the need to update the NSR process. After almost 10 years of public comment and scientific analysis, the EPA announced the new rules in 2002. The changes allow power plants and manufacturers to upgrade their facilities, making them more efficient and often times reducing pollution, without going through the

costly process of New Source Review, as long as pollution levels do not exceed their existing permitted level. The fundamental concept of the new law is to make NSR what it is meant to be - a thorough review of any new sources of pollution - not a hindrance to regular plant maintenance and improvements.

NSR in Washington State

Here in Washington we benefit from a two-tiered NSR program. Under Washington law, the Department of Ecology (DOE) has delegated authority to enforce federal NSR regulations. Projects that affect large facilities and meet certain federal thresholds are considered a “major” emission source and are subject to federal NSR requirements. These projects are usually large, industrial projects that require a Prevention of Significant Deterioration (PSD) permit, which ensures that any facility upgrades do not increase pollution or harm the environment.

A separate program managed by the state that covers all “minor” new sources of air pollution regulates any project that does not meet the federal threshold. Under the state’s NSR program, the Department of Ecology requires the installation of Best Available Control Technology (BACT) for even small increases in pollution. County or regional air pollution authorities administer most minor new source regulations with oversight from DOE.

Need for Regulatory Certainty

The combination of major and minor New Source Review in Washington offers a unique and effective protection against increased air pollution. The vast majority of projects are regulated by state, not federal guidelines. Of the few projects that do qualify for federal oversight, the system is currently in limbo. State regulations currently incorporate the old, out-of-date EPA guidelines by reference. The state also has

delegated authority for implementing the new federal rule announced in 2002. Court challenges being pursued by some east coast states and environmental groups have delayed full implementation of the federal changes.

Ensuring cheap and reliable power is a vital function of state government. The existence of two sets of rules, one based on an outdated federal standard, adds significant uncertainty to the business climate and drives up the cost of power and other manufactured products. Observers are optimistic that ongoing negotiations between industry, environmentalists and state regulators will resolve the existing conflict between state and federal guidelines. Eliminating the regulatory conflict will help reduce uncertainty and allow power producers to plan for new projects that can deliver abundant, clean energy to Washington customers using the most efficient and environmentally friendly technology available.

Because Washington has a state program governing new emission sources, the federal changes are well suited to our regulatory model. Minor emission increases, which make up the majority of all projects, will still be subject to the state’s BACT requirements, and any major emission increases will be covered by the EPA’s PSD permitting program. It is in the state Department of Ecology’s best interest, both environmentally and economically, to adopt the EPA’s changes in New Source Review. Without the new rules, the life of old, inefficient power plants and manufacturing facilities will be unnecessarily prolonged and the cost of power for Washington residents and businesses will continue to increase.

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