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**Title:** Resolution urging the City of New York to support efforts by the New York State Attorney General to fight the New Source Review rule recently adopted by the Bush Administration that eases rules on emissions from power plants.

**Sponsors:** Peter F. Vallone, Jr., Tony Avella, Yvette D. Clarke, Leroy G. Comrie, Jr., James F. Gennaro, Robert Jackson, Allan W. Jennings, Jr., Michael C. Nelson, Christine C. Quinn, James Sanders, Jr., David Yassky

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Res. No. 1070

Resolution urging the City of New York to support efforts by the New York State Attorney General to fight the New Source Review rule recently adopted by the Bush Administration that eases rules on emissions from power plants.

By Council Members Vallone, Avella, Clarke, Comrie, Gennaro, Jackson, Jennings, Nelson, Quinn, Sanders and Yassky

Whereas, On August 27, 2003 the United States Environmental Protection Agency (EPA) issued a final rule that creates a category of activities that automatically will be considered routine maintenance, repair and replacement (RMRR) under the New Source Review (NSR) permitting program established by Congress as part of the 1977 Clean Air Act; and

Whereas, The United States Congress established the NSR to help control emissions from major new stationary sources of pollution; and

Whereas, The NSR is a preconstruction permitting program that serves two important purposes, first, it ensures the maintenance of air quality standards when factories, industrial boilers and power plants are modified and added; and

Whereas, In areas with unhealthy air, NSR assures that new emissions do not slow progress toward cleaner air; and

Whereas, In areas with clean air, especially pristine areas like national parks, NSR assures that new emissions fall within air quality standards; and

Whereas, The NSR program also assures that state-of-the-art air control technology is installed at new plants or at existing plants that are undergoing a major modification; and

Whereas, The NSR program covers (1) the construction of new major emitting industrial facilities and (2) existing facilities that make major modifications that would significantly increase pollution emissions; and

Whereas, The NSR program applies to existing sources, if they propose to make a modification that would result in a significant emissions increase; and

Whereas, The NSR program requires that new plants and major modifications of existing plants obtain a permit before construction, which will be issued only if the new plant or major modification includes pollution control measures that reflect the best available technology; and

Whereas, Under EPA's final rule issued on August 27, 2003, an equipment replacement activity will automatically be excluded from NSR requirement if it involves replacement of any existing component(s) of a process unit with an identical or functionally equivalent component(s), the fixed capital cost of the replaced component, plus the costs of any repair and maintenance activities that are part of the replacement activity (such as labor, contract services, major equipment rental, etc.), does not exceed 20 percent of the replacement value of the entire process unit, the replacement(s) does not change the basic design parameters of the process unit, and the replacement does not cause the unit to exceed any emission limits; and

Whereas, According to an EPA fact sheet, the final rule "would not allow power plants to increase emissions past their current Clean Air Act limits"; and

Whereas, According to an August 29, 2003 New York Times article, the EPA made changes "to its New Source Review program, saying it would no longer require factories and power plants to upgrade their pollution controls if the cost of their expansions or renovations are less than 20 percent of the plant's total cost"; and

Whereas, According to that New York Times article, environmentalists and state leaders "warned that the new regulations would allow an estimated 17,000 factories across the nation to increase their emissions and would lead to hundreds of thousands of tons of additional pollutants being released each year"; and

Whereas, In the same August 29, 2003 New York Times article, it was reported that "[a]lthough the new rule affects plants across the country, the battle over regulating the industrial emissions is fought largely along geographical lines. The bulk of the nation's largest coal-fired power plants operate in the West and Midwest, and much of their emissions carry east, where governors and local officials have for years been fighting for tighter air-quality standards"; and

Whereas, According to an August 28, 2003 New York Times article, "[t]he Justice Department contends that 51 power plants are in violation of the Clean Air Act because they made significant upgrades and increased their pollution without installing pollution controls. Under the new rule, those plants would not be in violation of the act and could make their improvements without new pollution controls", and

Whereas, According to a statement on the New York Public Interest Research Group's (NYPIRG) website, "[p]ower plants are a major source of the pollution causing ozone-smog, particulate matter (soot), acid rain, mercury poisoning and global warming; "[g]lobal warming is expected to cause a three-foot sea level rise along the coast of Long Island New York City and the Hudson Valley up to Albany, and up to a 40% decrease in the state's agricultural yield by 2100; "[f]ine particles, or soot, from power plants cause an estimated 1,800 New York State residents and 30,000 people nationwide to die prematurely each year; "acid rain has made the Adirondacks and Catskills the most ecologically sensitive regions in the nation with 25% of the Adirondack lakes surveyed not supporting any fish"; "[m]ercury has poisoned certain fish populations in 34, out of the approximately 200, bodies of water tested in New York, making them unsafe to eat. Mercury is a heavy metal that passes through the placenta and in breast milk attacking the central nervous system, affecting a child's ability to walk, talk and learn"; now, therefore, be it

Resolved, That the Council of the City of New York urges the City of New York to support efforts by the New York State Attorney General to fight the New Source Review rule recently adopted by the Bush Administration that eases rules on emissions from power plants.

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LS # 3060

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