



Our Children's Earth Foundation | 100 First Street, Suite 100-367, San Francisco, CA 94105

NEWS RELEASE

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Power Plant Standards May Stiffen -- Facilities on East Coast would be most affected

via S.F. Daily Journal; San Francisco, CA -- Federal regulators and two environmental groups filed an agreement Wednesday with U.S. District Judge Claudia Wilken in Oakland that could mean tougher air pollution standards for the country's new power plants.

The ramifications for California, where virtually all new plants are fueled by relatively clean-burning natural gas, were uncertain. State officials say many of the pollutants at issue are of greater concern on the East Coast, where electricity is more often generated by dirtier coal-fired plants.

Wednesday's agreement settles a lawsuit that environmentalists filed in February and requires the Environmental Protection Agency to review standards for four different types of facilities, including utility boilers and combustion turbines. Some of those standards have not been updated since 1979, according to the suit, even though they are supposed to be reviewed every eight years.

"Do we build 2004 model cars with 1980s technology? No," said Patrick Gallagher, director of environmental law for the Sierra Club, which joined with another environmental group, Our Children's Earth Foundation, in the suit. Both organizations are based in San Francisco.

California was among nine states that filed amicus briefs supporting the environmentalists. A key issue for the states was that the EPA should regulate pollutants linked to global warming, such as carbon dioxide.

However, Wednesday's consent decree will not immediately affect carbon dioxide. The EPA earlier this year declared it had no authority to regulate emissions of the gas. That stance is being challenged by Gov. Gray Davis, Attorney General Bill Lockyer and officials from 11 other states in the U.S. Circuit Court of Appeals in Washington, D.C., in separate litigation that focuses on auto emissions.

The carbon dioxide issue "could very well come back" into consideration for power plants if the D.C. Circuit rules in favor of the states, said Ken Alex, a supervising deputy attorney general for California.

Chris Davis, a spokesman for the California Energy Commission, which is responsible for licensing large new generating plants, said that agency had not yet reviewed the consent decree.

The nine-page agreement says the EPA would have to consider whether new standards for power plants are necessary. If so, the agency would have a year to draft those standards. Any revisions would become final after another year. *Our Children's Earth Foundation v. EPA*, 03-0770CW.

EPA spokesman John Millett said the timetable would begin after the settlement agreement is published in the Federal Register and a 30-day public comment period is allowed to run.

"We wanted to move forward," he said.

The plaintiffs said in a written statement that the EPA would have to consider more stringent limits for pollutants such as airborne particles, nitrogen oxides and sulfur dioxide. Of those, nitrogen oxides, which help form smog, may pose the biggest concern from gas-fired plants, attorneys involved in the case said.

Gallagher said that even if the new standards don't immediately affect California they could help prevent the federal government from attempting to roll back state regulations.

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