

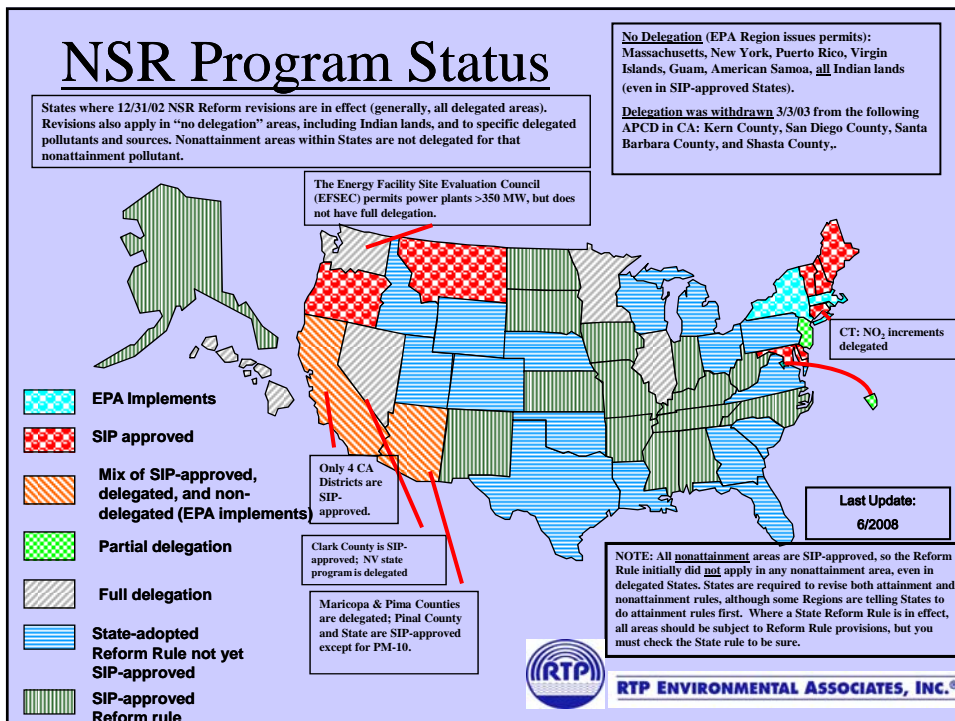
# NSR Reform Status

## NSR Reform Status

- 12/31/2002 NSR Reform Rule
  - “Energy Efficiency Reform”
  - “New Year’s Eve Massacre”

## Reform Transition

- NSR Reform became effective 3/3/03 in delegated and Indian lands
- Non-delegated States and programs required to adopt NSR Reform 1/2/2006



## NSR Reform Status

- Hourly Test
  - Duke Energy Decision (District Court)
  - Duke Energy (4<sup>th</sup> Cir.)
  - Duke Energy (Supreme Court)
    - Deferred to regulation
    - Statutory Issues ?
- EPA's Continued Work On Hourly Test
  - Supremes stated that EPA could change regulations – there was not statutory bar to interpreting NSR with a hourly test

## Routine Maintenance

- EPA's 20% Rule
- D.C. Cir. Struck Down Rule
- Routine Maintenance Still Allowed
  - Nature
  - Extent
  - Purpose
  - Frequency
  - Cost

## NSR Reform

- Benefits of 2002 Reform
  - Increased Efficiencies without environmental impact
    - Chemical Plants
    - Turbine Blade Replacements (increased efficiency with lower emissions)
  - Fuel Switches
    - Old NSR punished fuel switch
      - Coal to Oil
      - Oil to Natural Gas
    - NSR Reform allows fuel flexibility

## NSR Reform Difficulty

- Projected Actual Emissions
  - Calculating capable of accommodating
  - Tracking projected and reporting

## Changes to NSR

- Carbon Dioxide ... and water vapor?
- CO2 Not Regulated
  - Endangerment Finding Required
  - Continue ANPR?
- CO2 Regulated
  - Reporting = Regulating
    - Longleaf decision in Georgia State Court
    - NOT Deseret (despite news coverage)

## NSR Moving Forward

- Repeal of the NSR Reform
  - By regulation?
  - Not approving pending SIP revisions
    - Note: Dual program in effect in many states where state adopted but EPA has not approved