

ENVIRONMENTAL AND ENERGY TO-DO LIST

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ACTIVELY LOWER ENERGY PRICES

Help the lower and middle classes

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- ▶ Topics I would like to see changed
 - ▶ Environmental Policy
 - ▶ Energy Policy

NONE OF WHAT YOU HEAR IS
OFFICIAL NC POLICY

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- ▶ WOTUS
- ▶ Water Treatment Plants
- ▶ Buffer Science
- ▶ Transfer Section 404 to States

WATER

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- ▶ Expand Risk-based Compliance Options
 - ▶ Used successfully in UST and Dry Cleaning
- ▶ Expand Brownfields Program

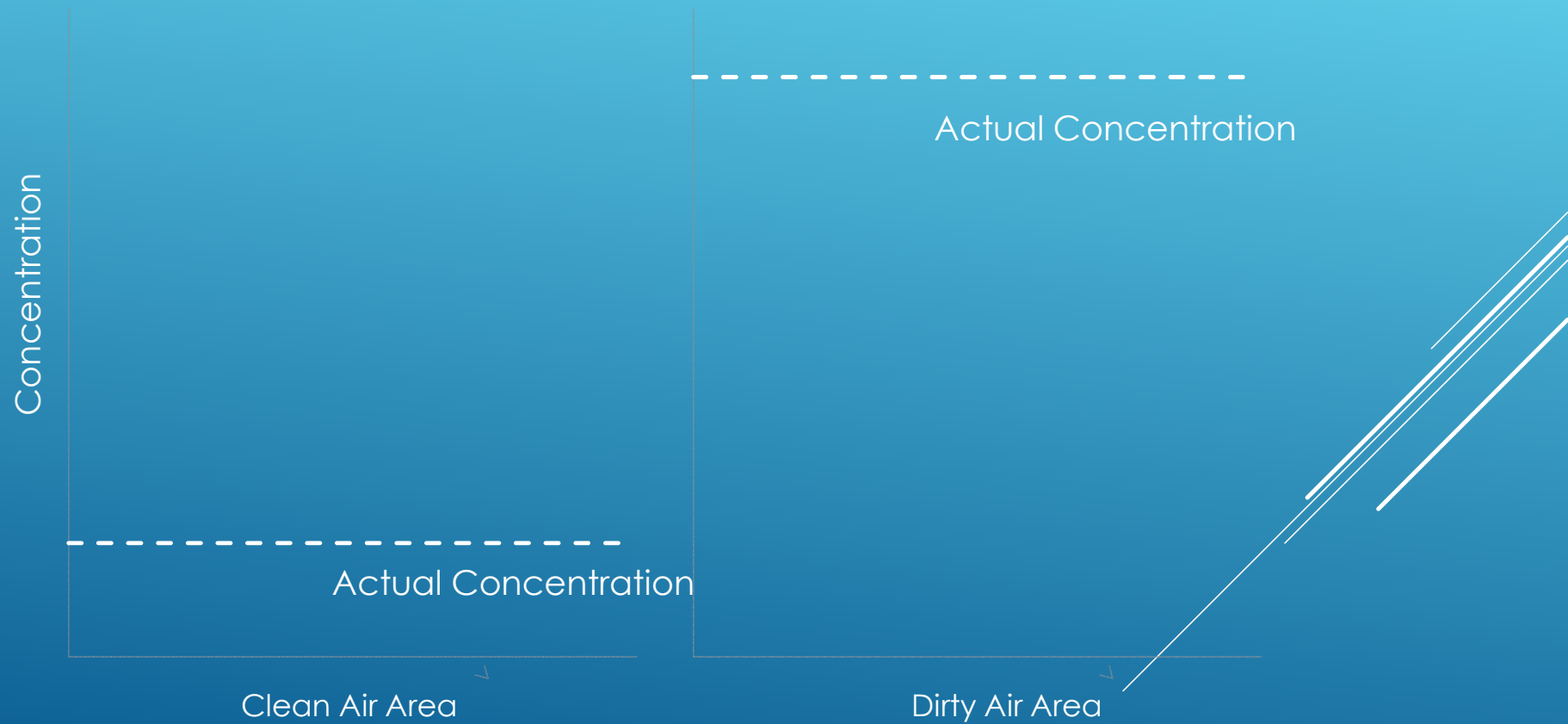
HAZARDOUS AND SOLID WASTE

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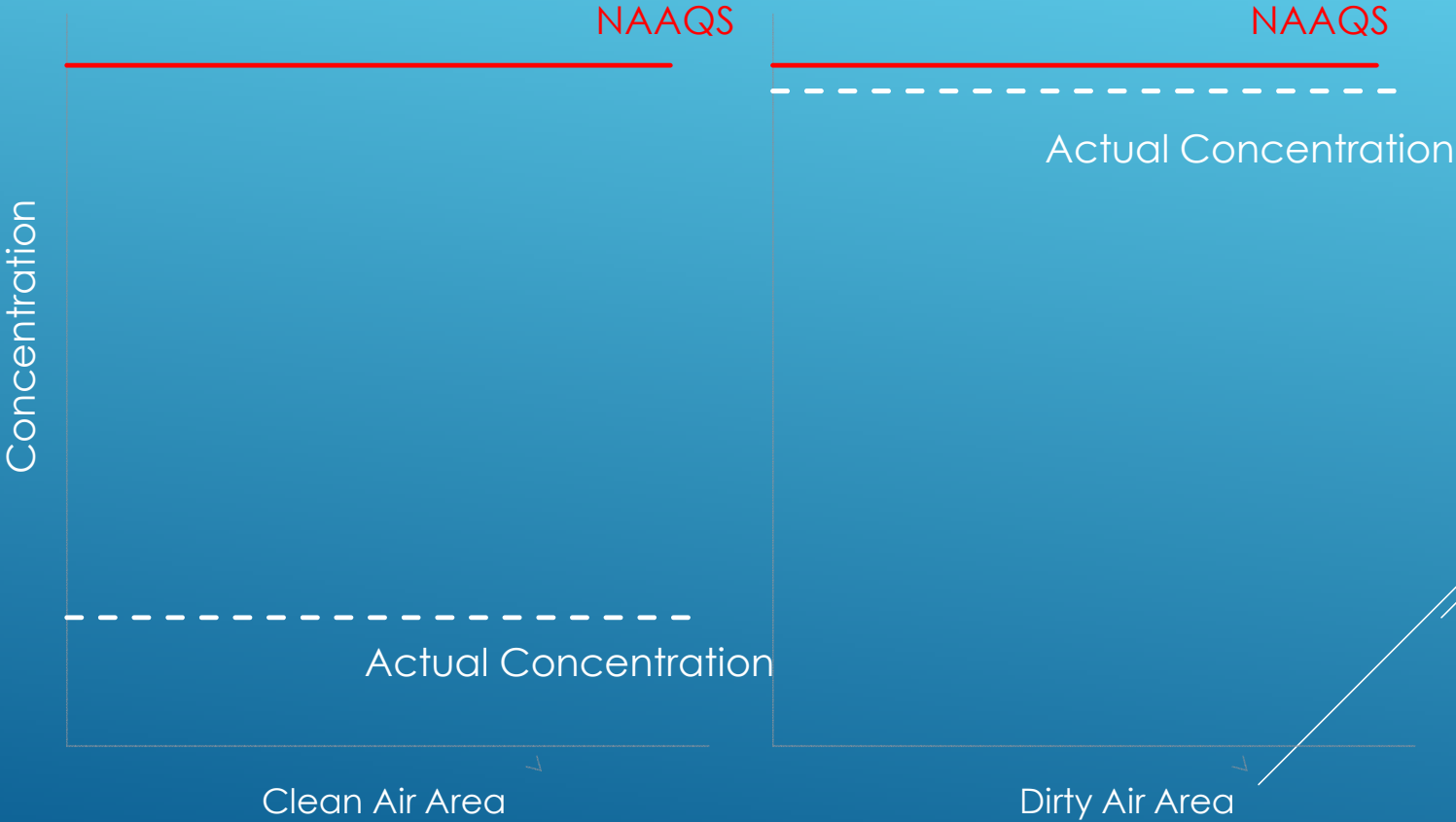
- ▶ Originally an R&D law, the CAA became a Federal Oversight Bill in 1970 (Constitutional issues abound)
- ▶ Contained Health and Welfare Based Goals
 - ▶ Defined NAAQS
- ▶ Contained non-health Based Goals
 - ▶ Technology based limits to achieve certain goals

CLEAN AIR ACT (1970)

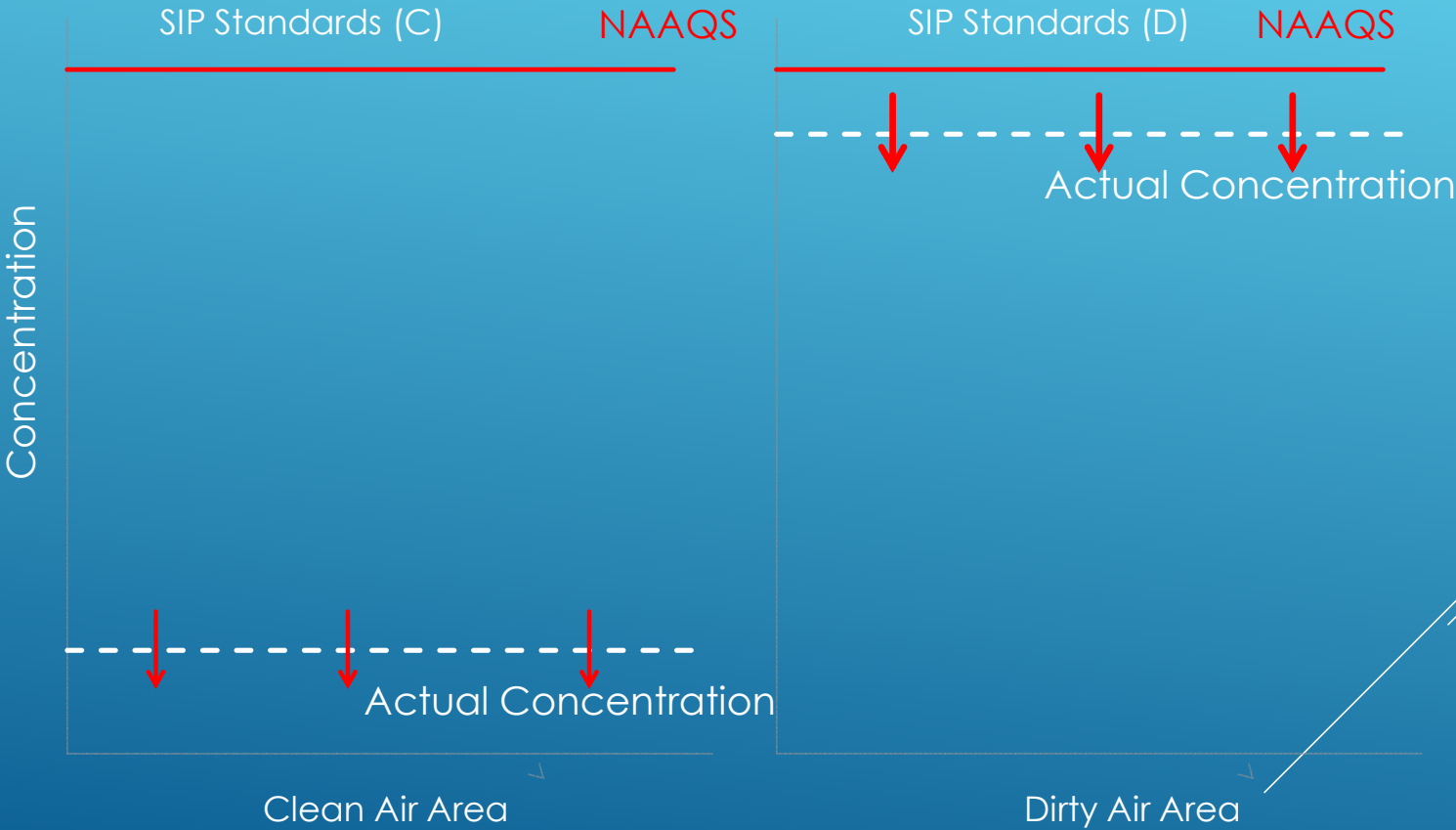
Clean Air Areas and Dirty Air Areas Pre-1970 CAA



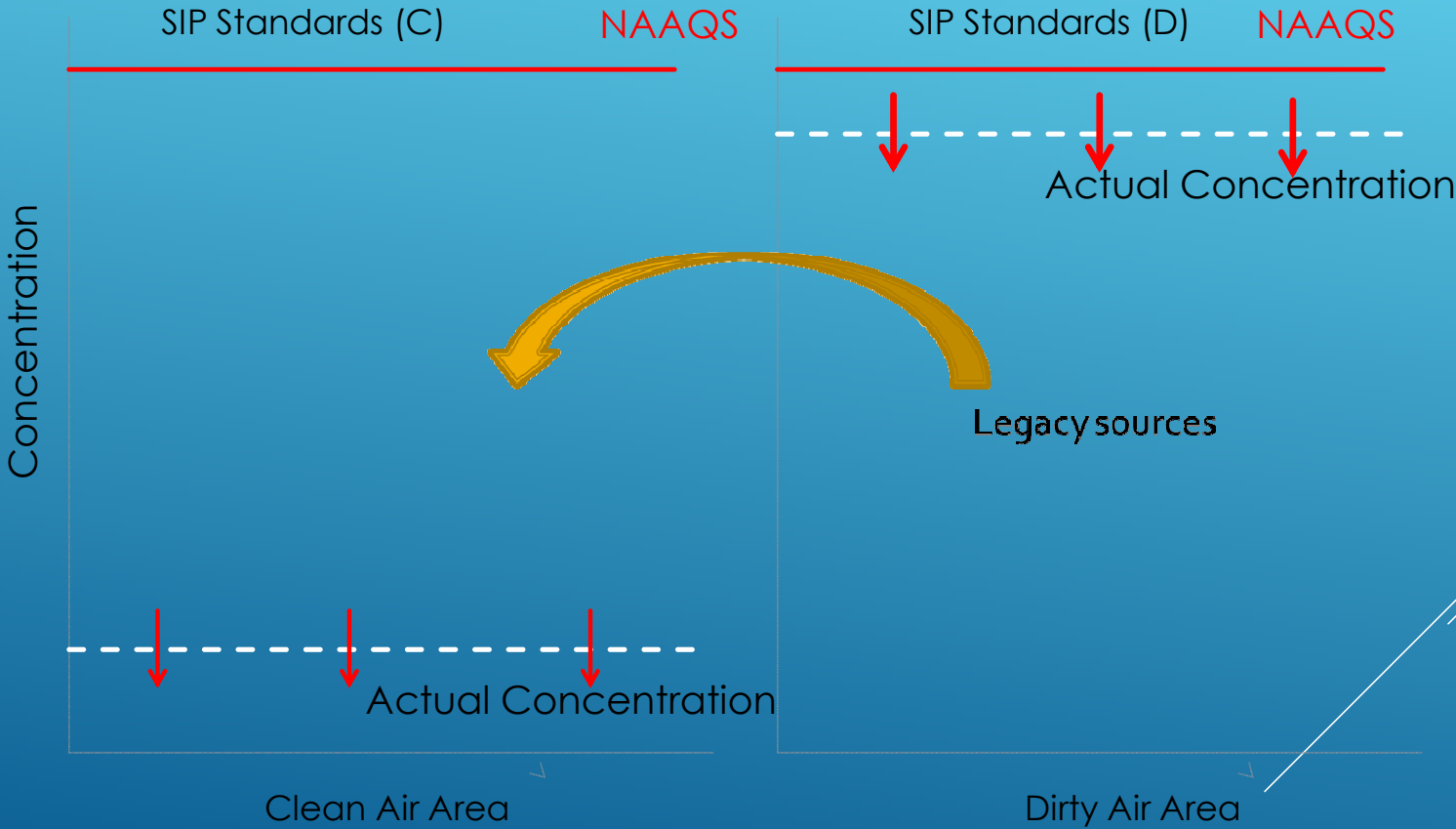
Clean Air Areas and Dirty Air Areas



Clean Air Areas and Dirty Air Areas



Clean Air Areas and Dirty Air Areas



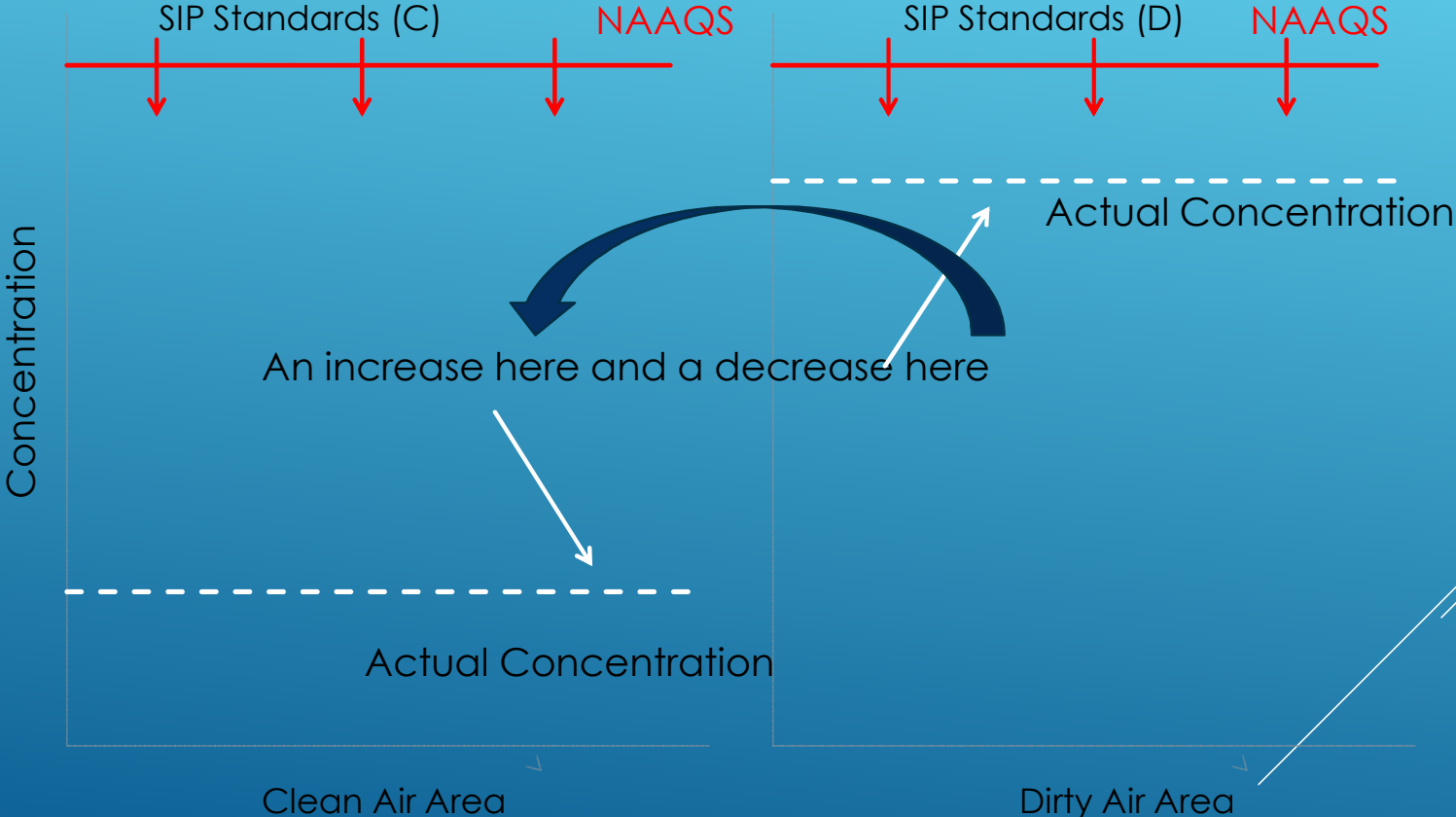
- ▶ The solution was National standards for source categories more stringent than the most stringent SIP standard. Legacy sources could now move, but only to more stringent (non-SIP) emission standards, BUT
- ▶ NSPS was not required if the sources remained in the dirty air areas = grandfathers were born.

NEW SOURCE PERFORMANCE STANDARDS

- ▶ The Secretary of HEW supported NSPS:
 - ▶ “The application of national emission standards would also tend to minimize the competitive advantage of locating a new facility in an area where emission standards are less rigorous than in other areas. This would eliminate "polluter havens" that have sprung up in this country.”
- ▶ More clearly stated by Rep. Vanik (D-Ohio),
 - ▶ “National standards of pollution control would prevent another State from attracting any industries because of a greater pollution tolerance. Such competition is unfair and against the public interest.”

SUPPORT FOR NSPS

Clean Air Areas and Dirty Air Areas



- ▶ Since 1970, some States were unhappy with the EPA for not promulgating *enough* NSPS rules.
- ▶ Governor of NJ (B. Byrne (D)) petitioned the EPA to add glass plants to their priority list for new NSPS.

BETWEEN 1970 AND 1977

- ▶ The EPA responded,
 - ▶ “Since they are free to relocate in terms of both markets and required resources, the possibility exists that operations could be moved or relocated to avoid stringent SIP regulations, thereby generating *economic dislocations*. For these reasons, emissions of particulate matter from new glass manufacturing plants have been selected for control by NSPS.” [*emphasis added*] 44FR 34840 at 34841

EPA AS ECONOMIC DEVELOPMENT COP

▶ In 2012, Senator Max Baucus wrote Lisa Jackson (a.k.a. Richard Windsor) referring to his participation in the drafting of the 1977 CAA amendments proclaiming that,

“In seeking to prevent the flight of industry from metropolitan areas, Congress enacted several important provisions, including the regional haze program.”

RECENT INSIGHT FROM SENATOR
BAUCUS

- ▶ Bolstering of the NSPS
- ▶ Prevention of Significant Deterioration (PSD)
- ▶ Regional Haze

1977 AMENDMENTS

- ▶ Rep. Waxman (D) from CA was clear,
 - ▶ “not because we want to have [clean air areas] clean for cleanliness sake, it is because we want to control growth of those areas.”
- ▶ Rep. Satterfield (D) from Va. lamented,
 - ▶ ...to shield the developed and polluted States from the natural advantages which may otherwise be enjoyed by less developed and cleaner States. Our federal system, based upon the equality of the several States is severely strained by the Federal Government favoring some States at the expense of others. It is particularly odious here that the relatively guilty (*i.e.* those whose pollution levels are high) are protected, while the relatively innocent (*i.e.* those whose pollution levels are low) are penalized.

PURPOSE OF PSD?

- ▶ Prevention of Significant Deterioration program
 - ▶ Required limits on degradation
 - ▶ Introduced Class I and II “increments.”
 - ▶ Required *ad hoc* technology standard (BACT)
 - ▶ Required check on NAAQS
 - ▶ Required Visibility Analysis (Haze)

1977 AMENDMENTS

ENERGY TO-DO LIST

Not a Statement of North Carolina Policy

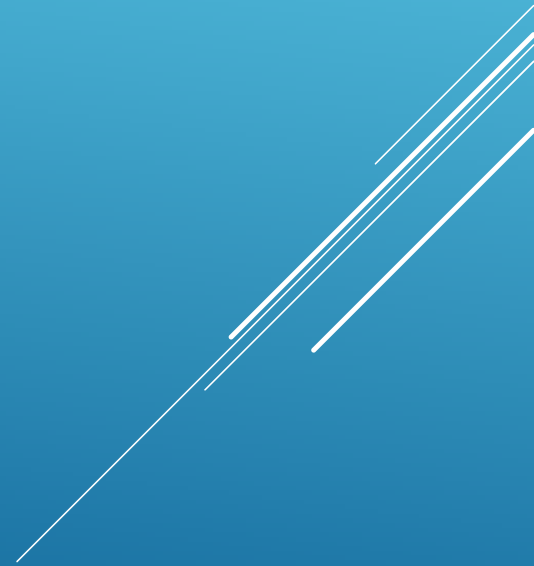
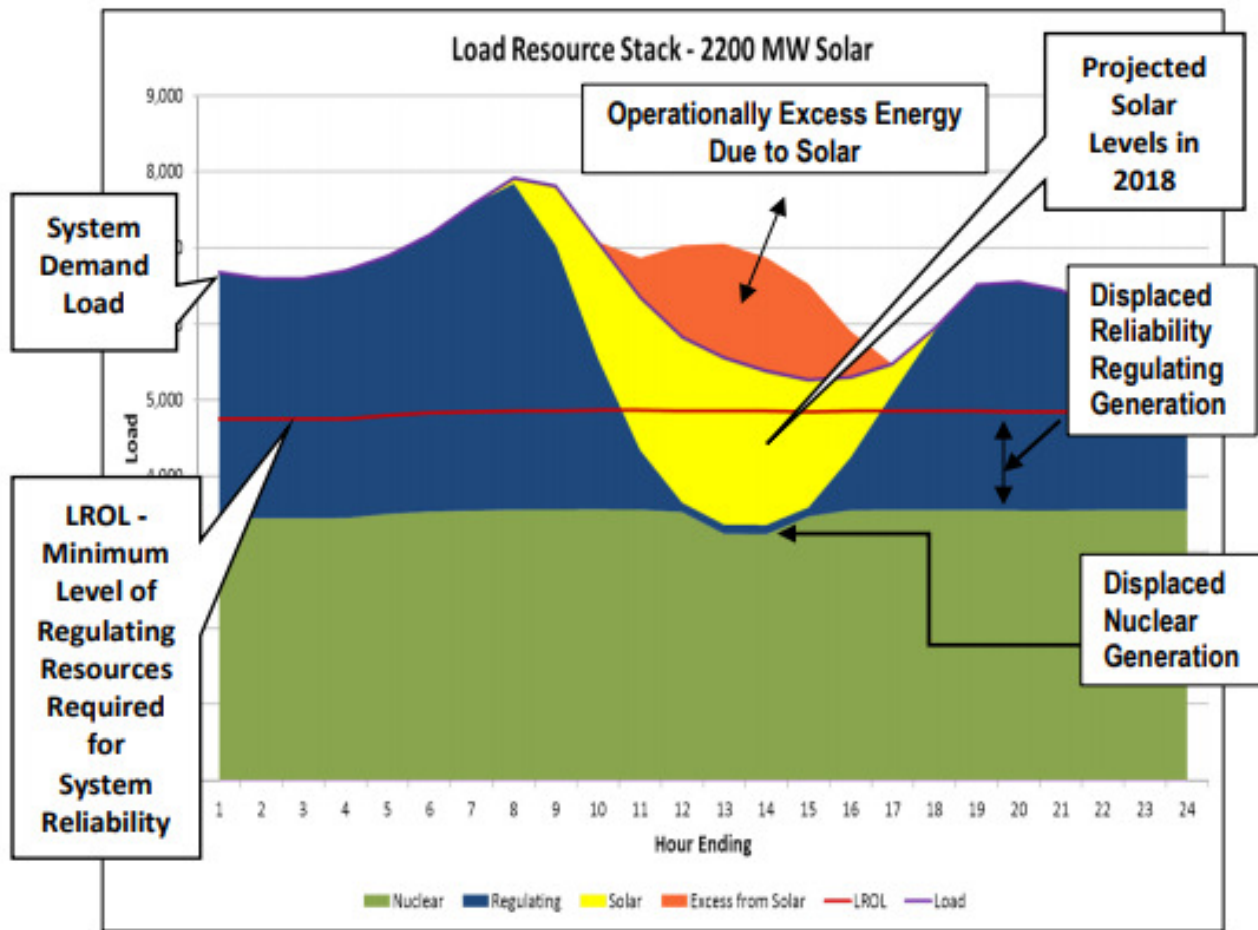


Figure 1



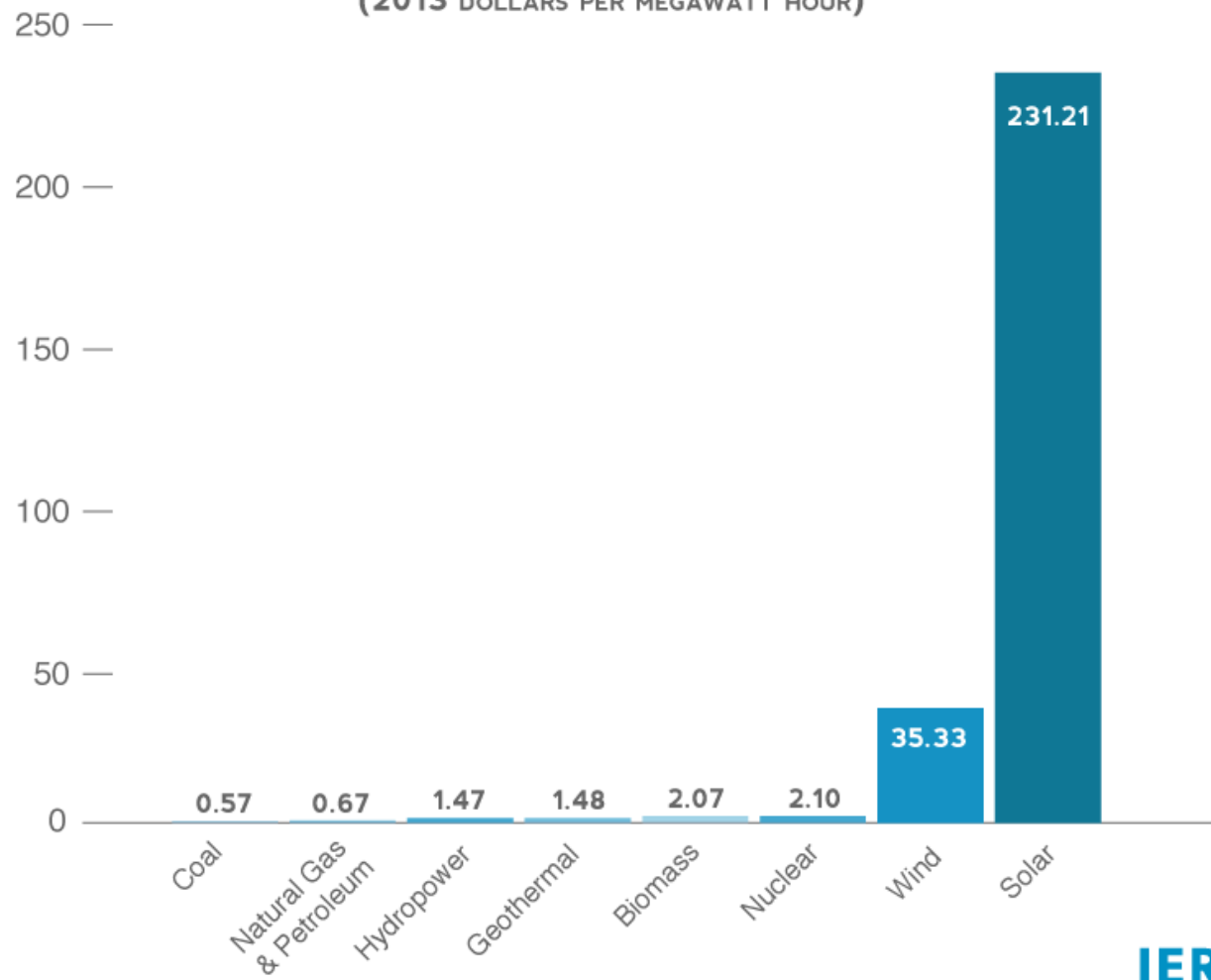
- ▶ Forced purchases and substantial subsidies are crushing reliable base load generation
- ▶ Massively increasing costs

STOP CANNIBALIZATION OF RELIABLE
ELECTRICITY GENERATORS

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FEDERAL ELECTRIC SUBSIDIES PER UNIT OF PRODUCTION, FY 2013

(2013 DOLLARS PER MEGAWATT HOUR)

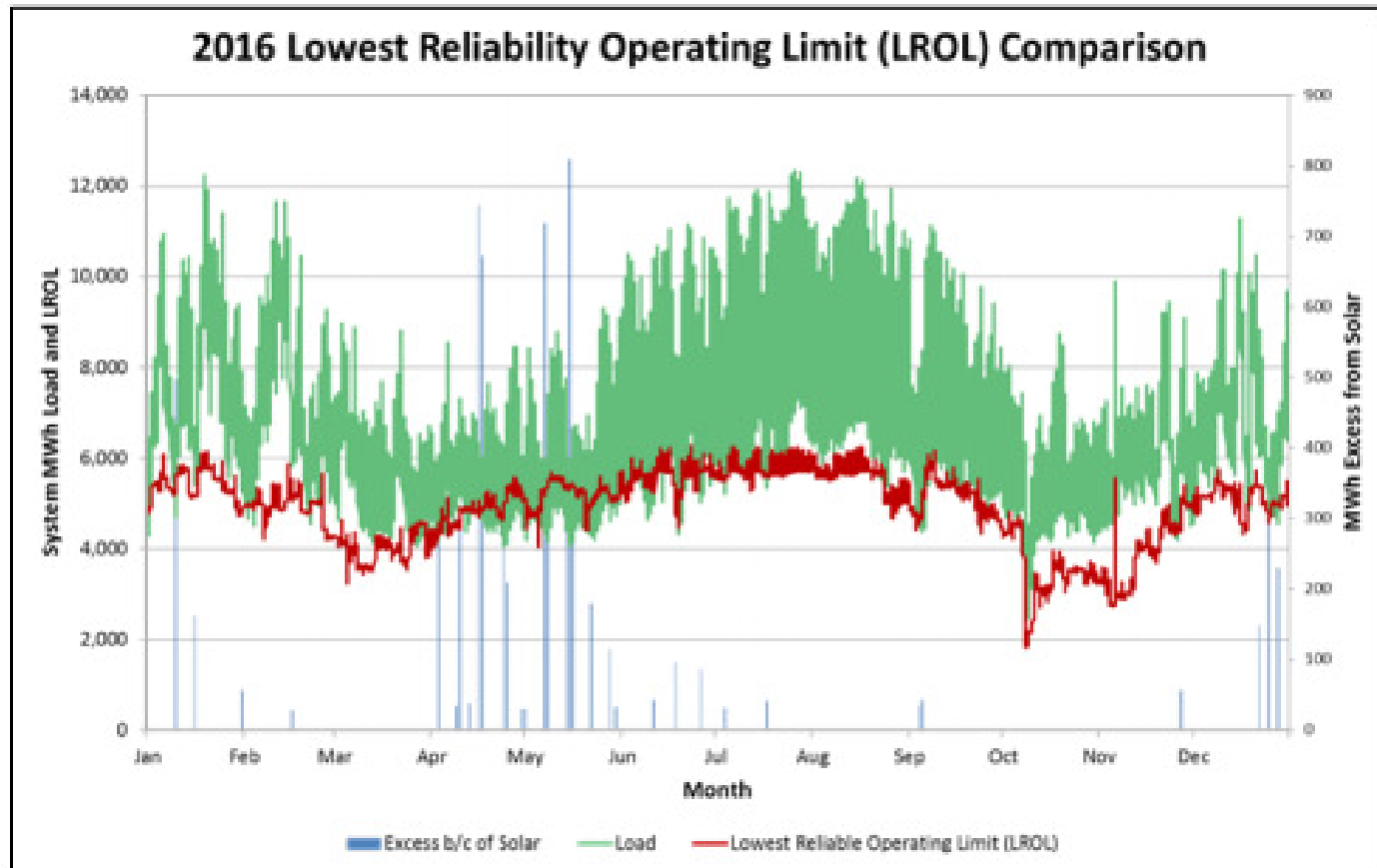


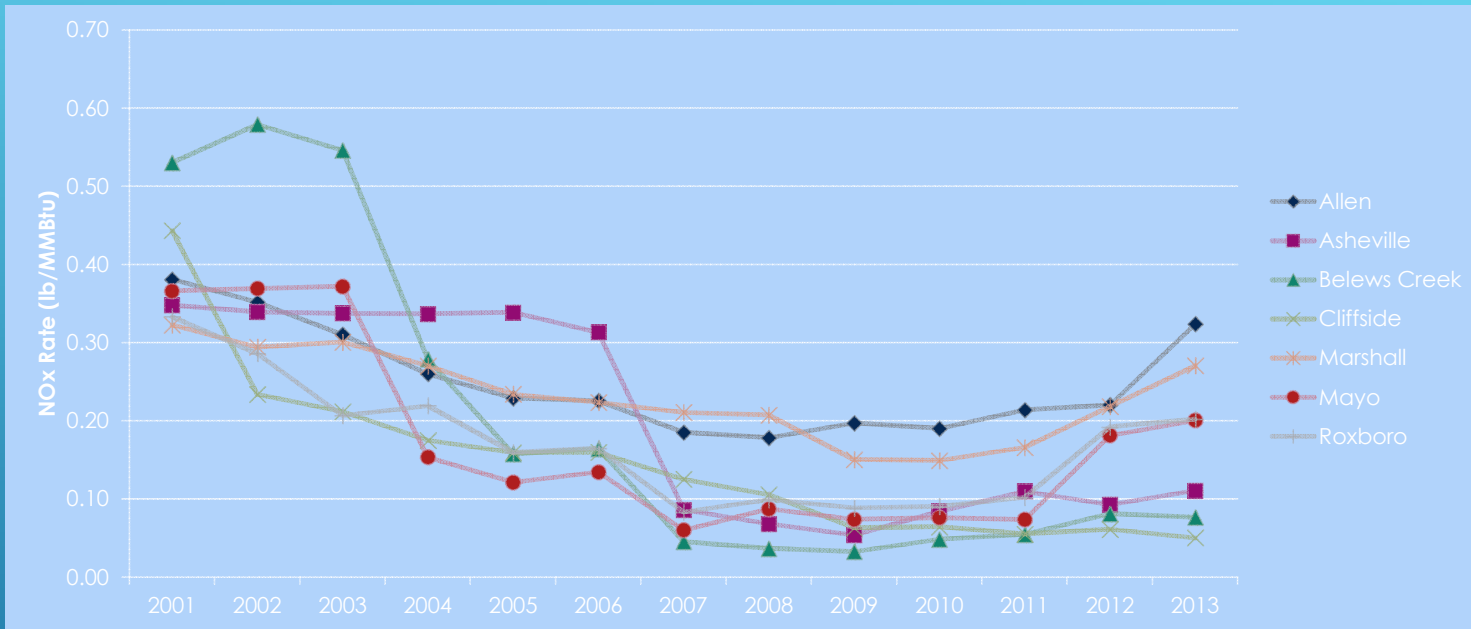
- ▶ Transfer Burden to Tax Payers
 - ▶ Production Tax Credits
 - ▶ Portfolio Standards
 - ▶ Property Tax Breaks
- ▶ Increase Burden on Rate Payers
 - ▶ Forced purchases
 - ▶ Portfolio standards
 - ▶ PURPA

MECHANISMS TO PAY FOR OVER-PRICED GENERATION

- ▶ As discussed in the Companies' Joint Initial Statement, DEC and DEP have long-range PPAs with Commission-set avoided costs ranging from \$55 to \$85 per MWh, while the Companies' current avoided costs are closer to \$35 per MWh. This disparity has resulted in our customers bearing an estimated \$1 billion overpayment for PURPA power for the remaining lives of the applicable PPAs, which is the next 12-15 years.

Figure 10





RESULTING IMPACT ON OZONE SEASON NOX RATES (LB/MMBTU)

- ▶ Perfectly good, in many cases paid for, coal units are being shut down
 - ▶ Renewables
 - ▶ MATS
 - ▶ CSAPR
 - ▶ Power Plan
 - ▶ SO₂ and NO₂ NAAQS?
 - ▶ Coal Ash

WAR ON COAL IS CONTINUING

- ▶ Redefine WOTUS consistent with Rapanos
- ▶ Increase Funding for Water Treatment Plants
- ▶ Transfer Section 404 to States
- ▶ Withdraw Power Plan
- ▶ Re-evaluate Endangerment Finding in Light of UN New Science
- ▶ Re-balance energy subsidies and include nuclear power
- ▶ Fund electricity storage research
- ▶ Return Technology standards to States
- ▶ End PSD – focus on NAAQS
- ▶ Implement fast-track provisions under NEPA
- ▶ Expand risk-based compliance options
 - ▶ Expand Brownfields program
 - ▶ This includes recognizing provisions under 112(d)(4)

TO-DO LIST

QUESTIONS?



- ▶ NAAQS defined on basis of criteria for health and welfare protection
 - ▶ Primary standard protected public health with adequate margin of safety
 - ▶ Secondary standard protected welfare
- ▶ If NAAQS were met why would additional programs be required?
 - ▶ Today's discussion.

CAA (1970)

- ▶ SIP was simply a set of 20 – 30 rules that limited emissions from a State's facilities.
- ▶ Through analysis, each State showed to the EPA (who eventually approved the rules) that the NAAQS were protected provided the SIP was enforced.
- ▶ No GRANDFATHERING for SIP rules.

STATE IMPLEMENTATION PLAN

- ▶ So, fine – the air was cleaned up – and health and welfare was protected.
- ▶ Are we done?

PROTECTING HEALTH AND WELFARE

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- ▶ Just as airsheds throughout the US were different, the resulting SIPs were different.
- ▶ Dirty air areas had more stringent SIP rules than Clean air areas.
- ▶ In parlance, the Dirty states had consumed more of their air resources.

UNEQUAL SIPS

- ▶ Figure 10 below illustrates the operationally excess energy that DEP experienced during 2016 due to solar QF installed capacity, showing the LROL resources at minimum output and with energy injections exceeding system demand during those periods. During calendar year 2016, there were 33 days and 105 hours when the DEP BA had operationally excess energy due to unscheduled and unconstrained solar QF injections. Already in 2017 (feb 21) 71 hours when the DEP BA had operationally excess energy due to unscheduled and unconstrained solar QF injections.