

STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

June 14, 2004

S. WILLIAM BECKER
EXECUTIVE DIRECTOR

The Honorable Joe Barton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
2125 Rayburn House Office Building
Washington, DC 20515

The Honorable John D. Dingell
Ranking Member
Committee on Energy and Commerce
U.S. House of Representatives
2322 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Barton and Representative Dingell:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), the national associations of state and local air pollution control officials in 53 states and territories and more than 165 major metropolitan areas across the country, we write to you today to express our associations' opposition to H.R. 4517, the *United States Refinery Revitalization Act of 2004*. Our concerns with this bill are two-fold: First, we do not believe such legislation is warranted. Second, the bill preempts state and local environmental agencies' permitting authority and weakens control technology requirements, likely jeopardizing public health and air quality.

Premised on the notion that "refiners are subject to significant environmental and other regulations and face several new Clean Air Act requirements over the next decade" and that "more regulatory certainty for refinery owners is needed to stimulate investment in increased refinery capacity," H.R. 4517 contends that "required procedures for Federal, State, and local regulatory approvals need to be streamlined to ensure that increased refinery capacity can be developed and operated in a safe, timely, and cost-effective manner." Lacking from these assertions and conclusion, however, is any evidence that environmental requirements, particularly those related to air pollution, have

prevented or impeded the construction of new, or the major modification of existing, refineries. In fact, what experience shows is that when regulated sources comply with federal, state and local permitting requirements in a timely manner, state and local agencies are able to act expeditiously to approve permits.

In addition to being unnecessary, H.R. 4517 inappropriately supercedes state and local air agencies' authority to permit sources of air pollution by transferring authority for permitting refineries located in areas designated as "Refinery Revitalization Zones" to the U.S. Department of Energy (DOE). As the "lead agency," DOE would assume responsibility for "coordinating all applicable Federal authorizations and related environmental reviews of the facility." As such, DOE would be authorized to "prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law" and "ensure that once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed within 6 months." Further, "in the event any agency has denied a Federal authorization required for a refinery facility within a Refinery Revitalization Zone, or has failed to act by the deadline established by the Secretary," the DOE Secretary may grant the permit even if the state or local permitting authority has determined that the application fails to comply with environmental protection requirements or if the applicant has not submitted, or did not submit in a timely fashion, adequate information upon which to base a decision that is appropriately protective of public health and air quality.

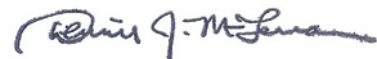
H.R. 4517 also weakens emission control technology requirements for refineries in "Refinery Revitalization Zones." Although the Clean Air Act requires new and modifying refineries in nonattainment areas to install technology reflecting the Lowest Achievable Emission Rate and achieve emission offsets, and those in attainment areas to install the Best Available Control Technology (BACT) and protect Air Quality Related Values, the bill would require BACT only "as appropriate" at all refineries located in a Refinery Revitalization Zone.

In conclusion, our associations believe H.R. 4517 is unwarranted; moreover, we are concerned that this bill will obstruct state and local efforts to achieve and maintain clean, healthful air. Accordingly, STAPPA and ALAPCO oppose H.R. 4517.

Sincerely,



James A. Joy, III
President of STAPPA



Dennis J. McLerran
President of ALAPCO