

July 27, 2001

Docket # A-2001-19
Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
401 M Street, SW
Washington, DC 20460

To Whom It May Concern:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), thank you for the opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA's) June 22, 2001 New Source Review (NSR) 90-Day Review Background Paper (background paper). The background paper, which was prepared in response to a directive in the President's May 2001 National Energy Policy to examine NSR regulations, represents the agency's first step in the overall review process to determine what, if any, impact the NSR process has on investment in new utility and refinery generation capacity, energy efficiency and environmental protection. Specifically, the purpose of the background paper is to (1) provide background on the NSR program and its implementation; (2) provide an introduction to some of the information EPA is developing for the final report; and (3) request comment upon the information in the document and solicit additional information needed to complete EPA's review.

STAPPA and ALAPCO commend EPA for its speedy and thorough response to the National Energy Policy directive. We have reviewed the background paper and find it to be both accurate and useful. The document serves as an excellent primer for the NSR process, and provides helpful information on the impacts of the NSR process on both the refinery and utility industries. However, in light of the broad context of this review process, we would like to share our general comments on the overall NSR process, as well as provide EPA with the additional information it is seeking in the background paper.

General Comments:

STAPPA and ALAPCO have a long-standing interest in NSR. Over the past 25 years, we have worked with EPA, industry and environmental organizations on numerous NSR issues, including offsets in nonattainment areas, netting, the Best Available Control Technology

(BACT)/Lowest Achievable Emissions Rate (LAER) Clearinghouse, top-down BACT and NSR reform.

As the primary implementers of NSR programs throughout the nation, we believe that the NSR requirements under the Clean Air Act are an essential tool, critical to state and local air pollution control agencies' ability to attain and maintain the health and welfare standards mandated in the Act. Quite simply, NSR provides state and local permitting agencies an opportunity to review proposed new and modified stationary sources to ensure that they install the best available control technology available to minimize their impacts on ambient air quality. For example, NSR has resulted in millions of tons of reductions of nitrogen oxides (NO_x) and sulfur dioxides (SO₂) that would not have otherwise occurred. Therefore, any changes to the current NSR process must serve to better protect public health and welfare, as well as strengthen our ability to do so.

In addition, the information we have received from state and local permitting agencies throughout the nation indicates that the current NSR process does not prevent sources from expanding capacity or improving efficiency. In fact, our experiences have demonstrated that where the NSR process functions as it was originally designed – where sources notify permitting agencies of the proposed construction of new sources, or of modifications to existing sources, in a timely manner and supply us with a well-prepared, complete permit application that commits to the installation of the best control technology – the NSR process can readily fit within the overall planning process of a project.

We base our comments on the hundreds of years of combined experience that we share as state and local permitting authorities. Furthermore, we are guided by a set of principles that the associations adopted in 1994 to assist us in our efforts to work with EPA in the agency's NSR reform process. The cornerstone of these principles is the concept that the best and most cost-effective time to control a source is at the time of its installation or modification, and that BACT and LAER should be applied in attainment and nonattainment areas, respectively. Consistent with this principle, the associations believe that a source's selection of BACT should be "top down" to ensure that sources apply the best controls, unless they can demonstrate that another control technology is more appropriate.

Our associations also hold the principle that NSR sources should not be allowed to "net out" of control requirements (BACT or LAER). This practice undermines the benefits that can be achieved by applying controls to new or modifying facilities. In fact, the background paper states that the best time to control a source is at the time of installation. Yet, existing EPA policies allow new units at existing sources to net out of NSR requirements. This netting exemption is inconsistent with EPA's stated position that good pollution control technology is necessary at the time of installation; accordingly, STAPPA and ALAPCO strongly recommend that as EPA considers changes to the current NSR process, it take this opportunity to eliminate netting.

We want to be clear that while we do not believe that the NSR process is preventing industry from expanding or increasing their efficiency, we do acknowledge that the NSR process can be improved. For the last eight years, we have participated in NSR reform efforts, using our NSR principles to evaluate draft proposals put forth by the EPA, industry and environmental groups. We have endorsed many of the concepts EPA proposed for clean unit exemptions, sector-based off ramps and plant-wide applicability limits as part of the agency's NSR reform efforts. We continue to support and work with EPA to further develop these concepts. Attached are numerous comments we have submitted to EPA over the last few years, including a March 14, 2000 letter stating our positions on EPA's 1996 NSR reform proposal and the various industry

proposals, a May 5, 2000 memorandum detailing our response to EPA's April 26, 2000 NSR proposals, as well as our 1994 principles, that further outline our position on these draft proposals and NSR reform.

However, we also want to be clear that while the current NSR system should be reformed, tens of thousands of megawatts (MW) of new power generator capacity have been permitted under the current process. Even in cases regarding modifications to existing sources, where improvements to the current process would be most useful, permitting agencies have been able to address the vast majority of changes in a timely manner under the current NSR process.

Data Gap Responses

In addition to our general comments on the NSR process, we would like to respond to EPA's request for specific information in the background document. We hope that our responses, which are based on an informal survey of our membership, will provide EPA with the additional information necessary to complete its review.

Information on the Impact of NSR on New Sources

(1) The Amount of Time Spent in Pre-Permit Application Activities

The amount of time a state or local agency spends on pre-permit application activities varies with the complexity of the particular project. Easier projects can be disposed of within a few hours, while some of the most complicated projects can require 30 or more hours of pre-application meetings and discussion. In general, when the industry contacts the agency early in the planning process, pre-application activities can be completed with little or no impact on the overall timing of the project.

(2) Impact Of NSR Requirements on Investment in Expansions of, or New, Utility and Refinery Capacity

The idea that NSR is restricting energy projects is not supported by the experiences of state and local permitting agencies. In the last few years, state and local agencies have permitted tens of thousands of MW of new electrical generation, with additional tens of thousands of MW currently being processed. For example,

- Washington State has approved 3,000 MW of new electrical generation, with another 6,000 MW currently being processed.
- Georgia has permitted 14 new power plants, as well as an expansion of one power plant in the last five years, for a total capacity of 10,000 MW. In addition, Georgia is currently processing applications for nine new power plants with a total capacity of 6,500 MW.
- New Hampshire has two combined-cycle, natural gas-fired power plants under construction for a total of 1,345 MW.
- Since 1997, Wisconsin has issued air pollution control permits authorizing construction or modification of 10 power plants generating 2,600 MW of energy capacity, and is currently reviewing construction permits for an additional 13 power plants that would generate 6,700 MW.

- In California, there are 46 new power projects, including major projects over 50 MW in size, as well as smaller “peaker” projects, that have been approved for construction, totaling 12,000 MW of capacity. In addition, there are approximately 22 projects totaling 6,000 MW that are currently under consideration for approval, and 30 more projects totaling 10,000 MW that have just been announced.
- The Missouri Air Pollution Control Program has evaluated 13 gas turbine projects in the last five years. These projects involved 34 separate turbines producing approximately 3,600 MW of combined electrical output. Missouri currently has two projects pending with 13 turbines and about 1,700 additional MW.
- Connecticut, which has a peak in-state demand of 6,000 MW, has permitted over 2,500 MW in new clean generation since 1997.
- Since January of 1997, Texas has permitted over 36,000 MW of electrical generating capacity, with an additional 10,000 MW of capacity currently undergoing permit review.
- Since 1997, Massachusetts has issued NSR permits for a dozen new or modified electric generating facilities, amounting to approximately 5,000 MW of new capacity.
- In the past year, Arkansas has issued permits for 5,540 MW of capacity, for a total of 6,423 MW since May 1999. Furthermore, the agency has almost 6,000 MW under review, including a 1,800 MW permit that is currently in the public comment phase.
- Since mid-1998, Florida has permitted approximately 15,000 MW of additional clean electrical generating capacity, with an additional 8,000 MW of capacity currently undergoing permit review. Because several of these projects involved repowering while increasing the capacity of grandfathered units, Florida estimates that NO_x emissions will decrease by about 20,000 tons per year, while SO₂ emissions will decrease by over 100,000 tons per year, even with the 23,000 MW increase.
- New Jersey has permitted 2,500 MW of new electric generation in the last two years and is scheduled to propose another 1,500 MW within a month. In addition, New Jersey is actively working on the review of 6,000 MW of applications, with another 2,000 MW of projects in the preapplication stage. This is a total of 12,000 MW that the agency either has approved or expects to approve between 1999 and 2002. This represents more than a 60% increase in the approximately 18,000 MW of existing capacity in New Jersey.

These statistics clearly demonstrate that NSR is not preventing energy expansion or improved efficiency in the United States. Moreover, the timing of the entire NSR process – from pre-application to final permit approval – does not appear to be an impediment to either capacity expansion or efficiency improvement. For example, Georgia’s average permitting time ranged from 2 to 12 months, with an average time of five and one-half months. Some of these were PSD “avoidance permits.” Just counting PSD permits, the permitting time ranged from 4 to 12 months, with an average time of seven months.

In Wisconsin, projects that have completed the NSR/PSD process have done so in an average of 51 days from the receipt of a complete permit application (174 days from the initial receipt of the application materials). This includes the public comment period. There have been

three exceptions to the rule – projects that took an average of 283 days to complete. However, in each of these cases, the process was delayed due to a dispute over pollution control technology – it took an average of 222 days to resolve on BACT/LAER issues. Once these issues were resolved, the average permit time was 61 days.

Even in the situation of longer permit review timeframes for new sources, it is clear that when permit review is managed in a professional manner, with both the applicant and the permitting agency using standard project management procedures, the review process can readily fit within the process for electric generators to plan for and obtain approval to connect to the electrical grid.

(3) The Significance of the Cost of Offsets in Nonattainment Areas Related to the Annualized Cost of Control

The costs of offsets in nonattainment areas is minor in comparison to the costs of the overall project and does not prevent the expansion of energy capacity or efficiency improvements. This is true even in California, where offset availability has become constrained in some areas and prices have increased. However, California's own estimates show that the costs of offsets represent anywhere from less than one percent to not more than six percent of the total project costs of a new power plant.

Information on the Impacts of NSR on Existing Sources

(1) *Ability to Undertake Pollution Prevention or Energy Efficiency Projects*

Since a true pollution prevention or energy efficiency project should result in decreased emissions, we believe that NSR has not affected the ability of existing sources to undertake these types of programs. Moreover, some state and local agencies, such as New Hampshire, have adopted pollution prevention/NSR policies and guidelines to help sources address this issue.

Conclusion

Based on our review of the background document, as well as data provided by state and local permitting authorities, it is clear that the current NSR process does not prevent sources from expanding capacity or improving efficiency. Moreover, we believe that the NSR requirements under the Clean Air Act are an essential tool, critical to state and local air pollution control agencies' ability to attain and maintain the health and welfare standards mandated in the Act. However, we also believe that the NSR program can, and should, be improved. We think improvements, including eliminating the netting loophole for new sources, could provide greater environmental protection. Toward that end, we look forward to our continued participation in EPA's NSR reform efforts.

Again, thank you for the opportunity to comment on EPA's June 22, 2001 New Source Review (NSR) 90-Day Review Background Paper. If you have any further questions or desire additional information, please contact either of us or Geri O'Sullivan of STAPPA and ALAPCO.

Sincerely,

John A. Paul
ALAPCO Chair
NSR Subcommittee

William O'Sullivan
STAPPA Chair
NSR Subcommittee

Cc: Bill Harnett
Michael Ling

March 14, 2000

John Seitz
Director
Office of Air Quality Planning and Standards (MD-10)
U.S. Environmental Protection Agency
Research Triangle Park, NC 27711

Dear John:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), and as a follow-up to the National State and Local Air Quality Roundtable Meeting convened by EPA Assistant Administrator Robert Perciasepe on Sunday, February 6, 2000, we would like to reiterate the associations' top priorities on the agency's 1996 base proposal and the various industry proposals for NSR reform.

Commensurate with EPA's NSR reform stakeholder process begun in 1993, STAPPA and ALAPCO adopted a set of principles to serve as guidance for our associations in any NSR reform effort. Chief among these principles is that the best and most cost-effective time to control a source is at the time of installation or modification. The associations also oppose netting for technology review and urge that this practice be eliminated.

To aid the process of identification and installation of good controls EPA should greatly increase its program support for the Best Available Control Technology (BACT)/Lowest Achievable Emissions Rate (LAER) Clearinghouse. This important step will greatly expedite information transfer, promote technical analyses, and ensure equity in permit transactions. STAPPA and ALAPCO believe EPA's BACT/LAER Clearinghouse should be web-based and function as a worldwide resource for control technology options. Moreover, STAPPA and ALAPCO recognize that the success of the BACT/LAER Clearinghouse depends upon the information it contains; therefore, we support the concept that PSD and major NSR permits not take effect until state and local agencies enter them into the BACT/LAER Clearinghouse. By providing state and local agencies with the most recent BACT/LAER determinations, the Clearinghouse will play a critical role in ensuring that new or modified significant sources install BACT/LAER at the time of their construction. Moreover, a robust Clearinghouse would allow state and local agencies to make timely BACT/LAER determinations, thus providing industry with the timeliness and certainty they desire. Our associations agree to identify a sub-group of state and local officials to work with EPA on Clearinghouse issues.

With regard to EPA's 1996 NSR reform base proposal, STAPPA and ALAPCO would like to clarify our position on the "clean unit" concept. Originally, the associations opposed this concept based upon EPA's proposed ten-year look back. However, if the clean unit determination were based upon a current top-down determination of BACT, STAPPA and ALAPCO could support the concept. The associations believe the clean unit concept could provide all industries with the opportunity to gain timeliness and certainty on future operations, while at the same time achieving BACT control on an existing source.

With regard to the sector-based off ramp proposal submitted by the Utility Air Regulatory Group (UARG), STAPPA and ALAPCO believe the following changes would bring this proposal in line with the associations' principles, and could serve as a basis for further discussions:

- The off ramp would apply to coal-fired boilers only.
- Existing utility coal-fired boilers that have operated for 30 years or more should be placed on a schedule for upgrade of air pollution control equipment. Upgrade of all units currently over 30 years of age should be accomplished as soon as practical (we feel 2010 is a reasonable end date, with significant progress by 2005).
- Upgrade of air pollution control equipment should be to levels that represent BACT and should apply to all criteria pollutants. The BACT control levels should be established by EPA and should be revised on a periodic basis. Additionally, EPA should establish a process that will allow for the application of harmonized controls for mercury and carbon dioxide.
- Emissions trading could be allowed among coal-fired units to provide the utility industry flexibility in attaining BACT levels over a period of time. However, at the close of the control period (2010 is suggested for the first group of units) each individual unit should be controlled to BACT levels.
- Once controlled to BACT levels, an existing coal-fired unit would be governed by the clean unit concept for future modifications (judged on an allowables-to-allowables test for applicability).

STAPPA and ALAPCO believe that the above recommendations would provide the utility industry with the timeliness and certainty they desire, while at the same time ensuring good controls on all coal-fired units. Units would be brought into the program on an age basis and required to meet known control levels equal to BACT and established by EPA. State and local agencies would work with the industry to assure the BACT levels are attained. Additionally, the future allowables-to-allowables test should resolve the industry's questions regarding "routine maintenance, repair and replacement."

With regard to the Plant-wide Applicability Limit (PAL) proposal, although there are a few outstanding issues, if these issues are addressed in accordance with STAPPA and ALAPCO's principles, it could result in a proposal that would be acceptable to our members. Our recommendations on those issues are as follows:

- The baseline for an actuals-based PAL should be the last two years of operation, with the possibility of substituting a more representative period of time if the industry makes a convincing argument, using PSD contemporaneous guidelines.
- Significant and major new units (federal NSR/PSD definitions) added under a PAL, whether it is actuals-based or allowables-based, should meet federal BACT.
- The allowables-based PAL would be a declining cap that would equate to BACT performance on all units significant and larger at the plant. The company would work with the state or local agency to establish a schedule for attaining the BACT performance level for existing sources within 10 years. Significant progress must be made to meet the BACT performance level in the early years of the PAL implementation.
- A state or local agency may include minor sources in the PAL.
- Partial PALs (e.g., for a boiler house, a production line, or a group of printers) are acceptable.
- The issue of LAER for PAL facilities located in nonattainment areas has not been formally addressed by STAPPA and ALAPCO; however, the associations are not opposed to the use of BACT as the basis for the PAL.
- To the extent that a state rule implementing MACT requires a reduction in the pollutant covered by the PAL, the PAL should be reduced to the extent necessary to meet the MACT. For example, if a source meets a VOC-based MACT through VOC substitution, the PAL would not be reduced.

The complex manufacturing proposal still contains numerous problematic features that must be resolved to make it acceptable to our members, including the following:

- The proposal's concept to eliminate netting is not clearly developed.
- The proposal speaks to future modifications as based on changes to maximum achievable rates, rather than the current actual-to-potential test or the discussed potential-to-potential test. The significance of this proposal is unclear to us.
- The industry-defined levels for the control of new units are based on an after-control potential emissions test. Thus, a new unit could be controlled to 39 tons per year VOC and escape the BACT control requirement defined for a significant source. Additionally, the three levels defined for controls (levels A, B, and C) add confusion to the process. STAPPA and ALAPCO recommend BACT on new or modified units greater than the significance levels (uncontrolled potential-to-emit).
- Aggregation of units is not discussed. Instead, the proposal commits to further discussions on this issue.
- A new test for "reconstruction" is suggested, but most of the details of this test are unresolved. STAPPA and ALAPCO are concerned with the limited time period suggested for aggregation.

- An air quality impact test is included in the basic program flow chart, but this test is not triggered unless there is an increase in the maximum hourly achievable rate. STAPPA and ALAPCO are interested in preserving the right to require an air quality impact test whenever there is an increase in actual emissions.
- There is a voluntary emission reduction program proposal that would apparently reward a company with a 15-year exemption from NSR if the company agrees to install BACT within a specified timeframe. STAPPA and ALAPCO would prefer the real-time clean unit exemption that EPA is currently discussing.

In addition to these issues, there are various other significant issues that will need to be resolved as this process proceeds. For instance, at the February 28, 2000 Senate field hearing in Cincinnati, Ohio on the NSR program, the definition of “routine maintenance, repair and replacement” was a prime topic of testimony, as was concern with the time it takes for states and localities to review permit applications and issue permits in final form. Additionally, we support the concept of pollution prevention and would like to see its role in NSR more clearly defined. STAPPA and ALAPCO request further discussion with EPA on these and other outstanding issues.

We hope this review of our key NSR reform principles and concerns helps to clarify our most important outstanding issues in this process. EPA staff have been very cooperative in working on the issues to date. We look forward to continuing to work with you and your staff to resolve this important program.

Sincerely,

John A. Paul
ALAPCO Chair
NSR Subcommittee

William O’Sullivan
STAPPA Chair
NSR Subcommittee

MEMORANDUM

TO: Bill Harnett and Karen Blanchard

FROM: STAPPA and ALAPCO's NSR Subcommittee

DATE: May 5, 2000

RE: STAPPA/ALAPCO's NSR Subcommittee's Revised Comments on EPA'S
APRIL 6, 2000 NSR Proposals

BACKGROUND

On April 6, 2000, EPA provided STAPPA and ALAPCO's New Source Review (NSR) subcommittee with a more detailed NSR sector-based approach and a revised clean unit test proposal. Since that time, the associations have participated in a number of conference call with EPA to discuss the revised proposals, and we would like to take this opportunity to offer the following additional comments and recommendations on the April 6 proposals, as well as reiterate one of the associations' top priorities regarding NSR reform.

NSR SECTOR-BASED APPROACH

With regard to EPA's sector-based approach for NSR reform, we offer the following additional comments and recommendations:

- A mandatory program is preferred over voluntary programs. A mandatory program will ensure all sources in a common category are subject to the same standards and will make emission trading more feasible. A common program for common sources is also more efficient from an implementation perspective.
- The concept of "useful life" should be used as an applicability trigger; it is simple, logical and justifiable from a NSR review perspective. Useful life can be used to provide a phase-in of sources over time as their useful life is reached and automatically continues the sector based program into the future.
- Emission trading works best with mandatory programs. Voluntary programs create issues, such as selective groupings of sources to avoid BACT, which may make trading

inappropriate. NSR avoidance should not be a goal of trading. All units should be upgraded or replaced to meet BACT at the end of their useful life. Trading is appropriate to provide flexibility for existing sources that are beyond their useful life, to catch up with BACT. Trading could be used to meet interim goals on the road to BACT for all units. Trading should be limited to NO_x and SO₂.

- Reasonable time should be provided for existing units beyond their useful life to be replaced or retrofit. We believe requiring BACT for ten years is a reasonable time frame for BACT catch up, provided there is significant progress in the first five years. For extraordinary circumstances (e.g. replacement versus retrofit of a unit) a maximum of 15 years could be considered for a limited number of units.
- BACT should be defined periodically, no less than every five years. Those units, for which construction of BACT has not commenced when EPA establishes a new BACT, should meet the latest pre-defined BACT.
- For combustion sources, sector-based NSR should address NO_x, SO₂, particulates and CO. For some noncombustion sectors, VOC would need to be added. While mercury and CO₂ need not be part of this NSR reform package, it would be appropriate to harmonize efforts for control of these pollutants within the NSR BACT catch up time frame.
- For combustion sources performance standards should be set for CO to avoid significant increases in emissions of products of incomplete combustion (PICs).
- Ambient modeling should be a baseline requirement for each plant to determine if there are existing violations of the NAAQS at the maximum potential-to-emit (PTE), so these can be addressed along with the BACT retrofits. Also, certain changes to stack discharge parameters after the baseline PTE modeling should be remodeled to assure continuing protection of the NAAQS.
- New units over significant emission levels should be subject to normal NSR, including a top down BACT analysis. Netting should not be used to avoid NSR for new units. Pre-defined BACT for categories of new units should be considered.

CLEAN UNIT TEST PROPOSAL

As we stated in our March 14, 2000 comment letter to EPA, STAPPA/ALAPCO supports EPA's clean unit concept. We see the development and use of this concept as providing timeliness and certainty to the NSR process and benefit to the environment. The associations believe the clean unit concept could provide all industries with the opportunity to gain timeliness and certainty on future operations, while at the same time achieving BACT control on an existing source. Therefore, STAPPA/ALAPCO encourages EPA to make this Clean Unit Test a core element in the NSR reform process, and offer the following comments and recommendations:

- Development of the Clean Unit Test should encourage the application of BACT on existing units (especially when a facility is otherwise controlling emissions to meet MACT or RACT limits).

- The development of the clean unit lists should serve to quickly define BACT/LAER for new sources and provide increased national consistency in these determinations.
- For significant and larger units installed under a PAL, the clean unit lists could serve as pre-defined control levels that would be acceptable to the state or local agency.
- Pre-defined BACT/LAER would increase timeliness in the processing of permits to install and free up state and local resources for other tasks.
- In order to assure the clean unit lists are accurate and relevant, we emphasize the need for the recommended strengthening of the RACT/BACT/LAER Clearinghouse.
- With regard to the eligibility of existing sources for the clean unit exemption, the associations recommend a two-year look-back period. However, a unit which meets the clean unit performance emissions levels and has had its ambient impact modeled at allowable levels could arguably be eligible for designation.
- Implementation of the clean unit exemption could be accommodated through permits to install (PTIs) or Title V permits.
- The lifetime of the clean unit exemption could be a default ten years, with monitoring and record keeping requirements as part of the implementing permit. Periods less than or beyond the default ten years could be established on a unit category basis.
- When an existing unit applies controls sufficient to meet the clean unit test, we believe the emission reductions below SIP allowables should be eligible for meeting the offset requirements of new units. As long as the excess emission reductions are not used to net a new unit out of review, we believe the emission reductions otherwise meet the offset requirements.
- With regard to the issue of debottlenecking, we believe that Title V permits could eliminate future debottlenecking problems by specifying unit-by-unit emission allowables. As long as emission units at a facility do not exceed their allowables as stated in their Title V permit, debottlenecking should not present a problem.
- Ambient air impact analyses should be performed by any facility anticipating future increases in actual emissions up to allowable levels. If an analysis shows acceptable conditions at allowable emissions, then the clean unit should be free to increase emissions to these levels at any time in the future.
- We believe the above ambient air impact analyses would alleviate any Environmental Justice issues associated with the clean unit test.

BACT/LAER CLEARINGHOUSE

STAPPA and ALAPCO would also like to take this opportunity to urge EPA to greatly increase its program funding for the BACT/LAER Clearinghouse. Since the inception of EPA's NSR reform efforts, one of the association's top priorities has been that the best and most cost-effective time to control a source is at the time of installation or modifications. By providing state and local agencies with the most recent BACT/LAER determinations, the Clearinghouse

will play a critical role in ensuring that new or modified significant sources install BACT/LAER at the time of their construction. Moreover, a robust Clearinghouse would allow state and local agencies to make timely BACT/LAER determinations, thus providing industry with the timeliness and certainty they desire. This important step will greatly expedite information transfer, promote technical analyses and ensure equity in permit transactions. Therefore, the associations urge EPA to establish a robust Clearinghouse and offer the following recommendations for its development:

- EPA's BACT/LAER Clearinghouse should be web-based and function as a worldwide resource for control technology options.
- The Clearinghouse should be an EPA managed system with consistent entry by trained staff (approximately ten people in the regional offices and five people plus a supervisor at OAQPS), regular follow-up on entries and diligent quality control.
- In order to ensure that the information contained in the BACT/LAER Clearinghouse is timely and relevant, we support the concept that PSD and major NSR permits not take effect until state and local agencies enter them into the BACT/LAER Clearinghouse.
- The associations agree to identify a sub-group of state and local officials to work with EPA on Clearinghouse issues.

CONCLUSION

We hope these additional comments further clarify our position on the newly revised sector-based approach and the clean unit test proposal, as well as our most important outstanding issue in this process. Again, we would like to express our thanks to you and your staff for working closely with us on the issues to date and we look forward to continuing to work with you to reform this important program.

STATE AND LOCAL AGENCY GUIDING PRINCIPLES FOR NEW SOURCE REVIEW

The best time to control a source is at the time of its installation or modification.

We support the application of BACT and use of the "Top Down BACT Process."

New or modified sources must have legally enforceable limits on their future emissions. These emissions limits must be compatible with the SIP and should be analyzed at their future allowable rate.

Emission increases must be analyzed with regard to their potential ambient impact. The increases may not interfere with the attainment and maintenance of the NAAQS, or cause a violation of a

PSD increment. The new source or modification should be analyzed with regard to toxics. The effect of any increase on air quality related values also must be analyzed.

The impact of future MACT and RACT controls on the new source review process is currently unknown but should be significant, and could lessen our anxiety about sources netting out of controls.

Sources should not be allowed to “net out” of control requirements (BACT or LAER).

New Source Performance Standards (NSPS) are not a good surrogate for BACT, since many are outdated and were never intended to represent BACT in the first place.

We support the RACT/BACT/LAER Clearinghouse and consider it reasonable to expect data entries by State and Local Agencies. We also support the concept of a major source application data sheet submission to the Clearinghouse.

Plantwide Applicability Limits (PALS) are supportable under Title V with all units identified and allowable emissions stated in the permit. However, even under the PAL concept, new units should apply BACT.

We favor a simplification process which gives industry timeliness and certainty, but retains a strong technology requirement for all new or modified sources.

April 1994