

Testimony of John A. Paul
on Behalf of the
State and Territorial Air Pollution Program Administrators
and the
Association of Local Air Pollution Control Officials
On the U.S. Environmental Protection Agency's
90-Day NSR Review Process

July 10, 2001

Good morning, my name is John Paul and I am the Supervisor of the Regional Air Pollution Control Agency, a six-county local agency, centered in Dayton, Ohio. I am here today representing STAPPA – the State and Territorial Air Pollution Program Administrators – and ALAPCO – the Association of Local Air Pollution Control Officials. STAPPA and ALAPCO are the two national associations representing air pollution control agencies in 54 states and territories and more than 165 major metropolitan areas across the United States. I am pleased to have this opportunity to present STAPPA and ALAPCO's comments on the U.S. Environmental Protection Agency's (EPA's) 90-day New Source Review (NSR) process.

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.

Our message today on NSR is simple. 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 new and modified stationary sources to ensure that they install the best available control technology available to minimize their impacts on ambient air quality. In addition, we strongly believe that the current NSR process in no way impedes the ability of sources to expand capacity or improve 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 construction of new sources, or of modifications to existing sources, and supply us with a well-prepared, complete permit application that commits to

the installation of the best control technology – the NSR process is both timely and efficient. It is only where industry has resisted the installation of good pollution control technology that the process becomes uncertain and time-consuming.

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. In exchange for good controls, the associations are committed to providing industry with the timeliness and certainty they desire.

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, even EPA's June 22, 2001 NSR 90-day Review 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 completely contradicts EPA's stated position that good pollution control technology is necessary at the time of installation and we strongly recommend that as EPA considers changes to the current NSR process, it take this opportunity to eliminate netting.

As STAPPA and ALAPCO have participated in EPA's NSR reform efforts, we have used our NSR principles to evaluate draft proposals put forth by the agency. Accordingly, 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 to my statement is a copy of our March 14, 2000 comments to EPA that further outlines our position on these draft proposals.

We have reviewed EPA's NSR 90-day NSR Review Background Paper and find it to be both accurate and useful. The document serves as an excellent primer for the NSR process, and provides interesting information on the impacts of the NSR process on both the refinery and utility industries. Moreover, we see nothing in the document that would indicate that the NSR process is onerous or burdensome to these industries. However, as EPA acknowledges in the document, there are some data gaps and STAPPA and ALAPCO will work with state and local permitting agencies to fill those gaps.

Our associations are currently developing a detailed set of formal written comments on the NSR background paper and we will submit those comments to you by the July 27, 2001 comment deadline. On behalf of STAPPA and ALAPCO, thank you

again for this opportunity to present our views on some fundamental NSR principles. I am happy to answer any questions you might have.