STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

S. WILLIAM BECKER
EXECUTIVE DIRECTOR

December 8, 2005

Attention Docket ID No. OAR-2004-0004
Air and Radiation Docket and Information Center
U.S. Environmental Protection Agency
Mailcode: 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Sir or Madam:

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 this opportunity to comment on the Proposed Action related to the National Emission Standards for Industrial Process Cooling Towers, which was published in the *Federal Register* on October 24, 2005 (70 *Federal Register* 61411).

The U.S. Environmental Protection Agency (EPA) is seeking comment on the possibility of delisting the source category under Section 112(c)(9), even though Maximum Achievable Control Technology (MACT) standards have been implemented. The delisting would be based on the possibility that emissions of hazardous air pollutants (HAPs) from the source category would be sufficiently low even in the absence of MACT standards. STAPPA and ALAPCO oppose this approach. If the source category were delisted, there would be nothing to prevent sources from increasing their HAP emissions substantially or changing their processes to emit new HAPs. This could result in HAP levels that are unacceptable to public health and the environment. Such an approach ignores the very real possibility that emissions of HAPs have been reduced to an acceptable level *because* of the MACT requirements and that emissions could increase again without the MACT standard in place.

EPA is also seeking comment on "the notion that, barring any unforeseeable circumstances which might substantially change this source category or its emissions" the agency no longer has an obligation to carry out future technology reviews under Section 112(d)(6), which calls for EPA to review and revise emission standards at least every eight years. EPA is suggesting this because it has determined that the source category presents low risk under the Residual Risk provisions of Section 112(f). We do not agree

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that low risk from a source category at this time should absolve EPA of its obligation to conduct future technology reviews. Without future reviews, EPA will likely not know what technologies have been developed. Further, without periodic reviews of source categories and technology in the future, EPA will not be aware of any "unforeseeable circumstances" related to the source category to which the agency refers in the notice.

STAPPA and ALAPCO believe Congress did not intend for the Residual Risk review to result in the delisting of regulated source categories or the removal of EPA's obligation to conduct future technology reviews under Section 112(d)(6). If Congress had wished to make delistings and technology reviews dependent on or linked to the outcome of the Residual Risk process, it would have specifically mandated this in the Clean Air Act, which it did not. We do not believe that a finding that additional Residual Risk standards are not necessary at this time should absolve sources of regulation and future review.

Thank you again for this opportunity to comment on this important proposal. Please do not hesitate to contact us for additional information.

Sincerely,

Robert H. Colby
Chair
STAPPA/ALAPCO Air Toxics Committee