

**Overview of the NSR reform history, trying to identify some of the key issues and their original intent.**

First let me make sure everyone has the web address to access the Menu of Options: <http://www.cleanairworld.org/> and the important NSR documents at: <http://www.4cleanair.org/members/committee/newsourcedocs.html>

These are important sites, with the later one being the place to go to view all the relevant historical documents. Now for the history.

A complete history really begins with the CAA itself and follows the court cases:

z1970 CLEAN AIR ACT

z1972 SIERRA CLUB SUPREME COURT DECISION

z1974 FIRST PSD RULE

z1976 EMISSIONS OFFSET RULE

z1977 CLEAN AIR ACT AMENDMENTS

z1978 NEW PSD RULE

z1979 ALABAMA POWER COURT DECISION

z1981 PLANT-WIDE SOURCE DEFINITION

z1982 CMA COURT AGREEMENT

z1984 CHEVRON COURT DECISION

z1990 CLEAN AIR ACT AMENDMENTS

z1992 WEPCO COURT DECISION

z1992 NSR REFORM EFFORT BEGUN

EPA held a series of meetings in N. Carolina with a large number of stakeholders just to get a handle on the issues that industry, environmental groups, and states and locals felt needed to be addressed in the process. STAPPA/ALAPCO participated in this process. Out of this effort, EPA formed a formal stakeholder process under FACA as a subgroup of the CAAAC. That group of around 40 members then met for a period of two years,

discussing issues. Note: the transcripts of all these meetings can be viewed and downloaded at: [http://www.epa.gov/ttn/nsr/rule\\_dev.html](http://www.epa.gov/ttn/nsr/rule_dev.html)

#### z1993 NSR FACA SUBCOMMITTEE MEETINGS

#### z1994 NSR FACA SUBCOMMITTEE MEETINGS

The issues identified and fleshed out by this FACA were: PALs; BACT/LAER issues, including cutoff dates for BACT determinations, funding and structure of the clearinghouse; the applicability test (what should be in NSR and what should be out of NSR); and Class I issues.

Don Theiler of Wisconsin and I represented STAPPA/ALAPCO in this process and to help us, the membership adopted the STAPPA/ALAPCO NSR principles at its April, 1994 membership meeting in St. Louis.

#### z1996 NSR SIMPLIFICATION PROPOSAL BY USEPA

This proposed rule dealt with Clean Units, Baseline emissions, PALs, BACT issues, Pollution Prevention, Class I areas, and other issues.

STAPPA/ALAPCO presented testimony at the hearing and followed up with written testimony, all of which can be found on the STAPPA/ALAPCO web page.

#### z1997 ANPR NON-FEDERAL CLASS I AREAS

#### z1998 NOTICE OF AVAILABILITY BY EPA

This notice introduced a concept of “10 year enforceable limits” on future emissions (rather than potential to emit) and also discussed adjustments to PALs.

Again, STAPPA/ALAPCO submitted written testimony.

#### z1999 EPA PUBLIC HEARING

This hearing was held in Washington, DC on February 2 and 3 and basically was an attempt by EPA to get the various stakeholders to meet and try to identify and resolve issues.

#### z1999 STAKEHOLDER MEETINGS

Bill O’Sullivan and I represented STAPPA/ALAPCO and met with stakeholders representing manufacturing, utilities, PALs, and environmental groups. We also met periodically with EPA. The issues we concentrated on were: Applicability, PALs, Clean Units, and a Utility off-ramp. These meetings culminated in Washington, DC in December of 1999 when STAPPA/ALAPCO hosted NSR subcommittee meetings with each of the stakeholder groups.

In March of 2000 we then put formal comments together on all the stakeholder positions and submitted those to John Seitz of EPA’s OAQPS.

In May of 2000, we supplemented our March comments with more detailed recommendations, based on feedback and questions we had received from EPA staff.

January, 2001 Bob Perciasepe, outgoing AA for air and radiation issued a memorandum outlining where the NSR reform process needed to go.

We then were engaged in the new administrations look at the nation's energy policy and the question of the influence of NSR on energy efficiency improvements. A number of STAPPA/ALAPCO members delivered testimony at EPA public hearings on this issue across the country in July of 2001. This oral testimony was supplemented by written testimony the same month.

In January of 2002, STAPPA/ALAPCO sent Administrator Whitman a letter expressing concerns over what we heard were drafts of the NSR rules.

In June of 2002 EPA issued its recommendations for NSR improvement based on its study of the energy sector.

In July of 2002 STAPPA/ALAPCO responded with a letter to Administrator Whitman and brought to light an additional concern with the upcoming NSR measures—that being the mandatory nature of the rules. The 1996 proposal offered NSR alternatives that were voluntary. We were now hearing the planned rules were to be mandatory elements of all NSR programs.

Between July of 2002 and the remainder of the year, there were a number of Congressional hearings and letters to EPA from Congress regarding rumored changes to the program. Several STAPPA/ALAPCO representatives met with OMB representatives on the NSR issues.

December 22, 2002 EPA announced their NSR reform rules and then published them on December 31, 2002. The rules addressed the issues of Baseline Actual Emissions, Provision of an Actual-to-future-Actual emissions test for applicability, PALs, Clean Units, and Pollution Control Projects.

STAPPA/ALAPCO sent a January 16, 2003 letter to EPA requesting a one year stay of the rules.

There then followed various petitions by states on both sides of the issue, with 15 states opposing the rules, and 8 states supporting the rules.

STAPPA/ALAPCO held a number of conference calls with EPA addressing members questions regarding the various components of the rule.

On March 31, 2003, five STAPPA/ALAPCO members presented STAPPA/ALAPCO testimony at EPA public hearings on the RMRR proposal part of EPA's December rulemaking. Written comments were submitted on May 1, 2003.

In May of 2003 STAPPA/ALAPCO held a NSR conference in Washington, DC where members heard for one full day from EPA on the new rule and then discussed the issues among ourselves on a second day. The concept for the Model Rule Menu of Options took shape at that meeting.

In July of 2003 EPA announced they would reconsider six issues raised by petitioners regarding their December 2002 rule. On August 14, 2003 we presented testimony at an EPA hearing on the reconsideration issues. This was followed by written comments.

On August 27, 2003 EPA finalized the equipment replacement portion of their RMRR proposed rulemaking.

On October 14, 2003 STAPPA/ALAPCO released the Model Rule Menu of Option.

On October 31, 2003 EPA responded on the 6 issues of reconsideration.