



July 27, 2001

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

Re: EPA's Draft NSR 90-Day Review Background Paper  
(Document II-A-01)

Dear Mr. Ling:

The Ozone Transport Commission (OTC) appreciates the opportunity to provide comments into your docket on the U.S. Environmental Protection Agency (EPA) draft New Source Review (NSR) 90-Day Review Background Paper (Docket A-2001-19, Document II-A-01). OTC was created by Congress, pursuant to the Clean Air Act Amendments of 1990, to coordinate ground-level ozone planning in the Northeast and Mid-Atlantic region of the U.S. OTC's members include Connecticut, Delaware, the District of Columbia, Maine, Maryland, New Hampshire, New Jersey, New York, Massachusetts, Pennsylvania, Rhode Island, Virginia, and Vermont. (It should be noted that page three of EPA's paper is incorrect; it should be corrected to indicate that Virginia is a member of the OTC and that some Northern Virginia counties are part of the Federally designated Ozone Transport Region.)

OTC believes that the background paper is a useful primer on the issues and NSR's legislative, regulatory, litigation, and reform history. OTC members, individually and through the State and Territorial Air Pollution Program Administrators and the Association of Local Air Pollution Control Officials (STAPPA/ALAPCO), are submitting specific comments and requested information into the docket. As EPA finalizes its paper for submittal to the President, OTC would like to express its support for the program as a region and articulate its views on a few key issues. Please note, however, that the Commonwealth of Virginia has expressed some divergent views to those presented by OTC within this letter.

First, OTC believes that it is imperative to maintain the integrity of the NSR/Prevention of Significant Deterioration (PSD) program, and believes that its requirements are an essential tool critical to States' ability to achieve and maintain federal health-based air quality standards.

Second, OTC strongly believes that NSR is not an impediment to the development of new energy supply. To provide just one example, under the NSR program Connecticut has permitted over 2,500 MW of new clean generation since 1997. One 540 MW project went from application to receipt of permit, including public hearing, in just six months. In addition, Connecticut had to respond to energy reliability issues in 1995-1997 due to safety concerns at nuclear plants. Within a matter of weeks, several new units were brought on line that met stringent control technology requirements with

Connecticut

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New Hampshire

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New York

Pennsylvania

Rhode Island

Vermont

Virginia

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appropriate emissions offsets. Similar examples exist throughout our region, and are documented in STAPPA/ALAPCO's comments into this docket. Therefore, environmental agencies have a demonstrated record of providing timely permits with certainty while maintaining environmental commitments.

Third, OTC does not believe the program is fatally flawed, as some assert. However, simplifying the program is widely desired, and OTC supports efforts to fine-tune those aspects of the program that are needlessly complicated or remove problematic components. For example, OTC would support eliminating "netting" as a means to avoid control technology review. This would streamline the review of major modifications at existing facilities and provide greater certainty to industry.

Fourth, OTC believes that NSR can provide sufficient certainty for industry. The uncertainties, and some delays, come when applicants seek to avoid the requirements of the program or seek approval of less than adequate controls. In other words, it is not the program itself that causes delay and uncertainty.

Fifth, OTC believes that the best and most cost-effective time to address emission controls for a source is at the time of initial installation or modification of the source. Thus, major new or modified facilities should not be installed without good control technology (i.e., Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER), as appropriate). The OTC supports the technology-forcing aspects of NSR, which are consistent with the Clean Air Act and have proven to be environmentally successful.

Finally, OTC commends EPA's efforts to thoughtfully evaluate the NSR program in the context of the President's new energy policy. OTC firmly believes that a strong NSR program is not an impediment to achieving the important goal of providing reliable energy. While some aspects of the NSR program could be improved to provide more certainty for environmental benefits and increased flexibility for clean sources, including energy facilities, OTC strongly believes that the program works well and should not be dismantled. Any reform should be done carefully to prevent environmental setbacks.

Should you have any questions or wish to discuss this matter further, do not hesitate to contact me at the OTC office at (202) 508-3840. Again, thank you for the opportunity to comment.

Sincerely,



for - Bruce S. Carhart  
Executive Director

cc: OTC Members  
S. William Becker, STAPPA/ALAPCO  
Robert Brenner, EPA