

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Office of Air Quality Planning and Standards  
Research Triangle Park, North Carolina 27711

JUN 22 1993

MEMORANDUM

SUBJECT: Formation of a Federal Advisory Committee Act  
Subcommittee for New Source Review (NSR) Issues

FROM: John S. Seitz, Director  
Office of Air Quality Planning and Standards (MD-10)

TO: Michael H. Shapiro  
Acting Assistant Administrator  
for Air and Radiation (ANR-443)

ISSUE

The Office of Air Quality Planning and Standards is recommending that you approve the establishment of a new subcommittee to the Clean Air Act Advisory Committee (Advisory Committee). The subcommittee would focus on reform of the current rules on new source review (NSR) including prevention of significant deterioration (PSD).

The purpose of the subcommittee would be to provide independent advice and counsel to the Environmental Protection Agency on policy and technical issues associated with reforming the NSR rules. The subcommittee will be consulted on environmental, technical, scientific, economic, policy, and guidance issues.

We also recommend that two members from the previous Advisory Committee, Ernest Rosenberg of Occidental Petroleum and William Becker of State and Territorial Air Pollution Program Administrators/ Association of Local Air Pollution Control officials, be invited to participate on the new Advisory Committee. In addition, we recommend that Patrick Rahe, Hogan & Hartson be asked to serve as a co-Chair of the NSR Subcommittee. At our previous workshops, he has been particularly effective at interacting with the varied representatives without bias or partiality. I also recommend that Lydia Wegman be designated as the Environmental Protection Agency's (EPA's) co-Chair for this subcommittee.

BACKGROUND

Over the past year members of my staff have been meeting with representatives from environmental groups, State and local agencies, and the regulated community to discuss pertinent issues regarding NSR activities. We have been conducting these sessions as public meetings and have been securing comments on the various options that have been proposed. This input has been valuable; however, the meetings have resulted in additional options which require further review and discussion. We believe that we now need to select appropriate options in order to formulate policy and regulations. To accomplish this, we recommend that a subcommittee, constituted as part of the Advisory Committee, be formulated to assist in choosing a course of action.

Attached is a listing of individuals we are nominating for membership on the subcommittee. Most of these individuals have participated in our previous meetings to discuss NSR issues and all are quite knowledgeable in State and Federal NSR and PSD requirements and policies. We believe that these individuals broadly represent the groups affected by these requirements, and that their guidance will assist in preparing sound regulations and policies. Messrs, Rosenberg and Becker participated in the previous Advisory Committee and their continued participation on a reconstituted Advisory Committee will be beneficial to the Agency.

We anticipate that the subcommittee will meet up to four times per year with support from my staff. The meetings will be open to the public and will be announced in the Federal Register as required for the Advisory Committee. David Solomon will serve as the Designated Federal Officer on the subcommittee and will be present at all meetings. As appropriate, the subcommittee will report back to the full Advisory Committee on activities and recommendations.

My staff has discussed the formation of this subcommittee with Paul Rasmussen of your staff who serves as the Designated Federal Official for the Advisory Committee. Paul has provided us with guidance and assistance and has indicated that the composition and proposed duties and activities for this subcommittee appear consistent with the charter that has been approved for the parent advisory committee.

As you are aware, we are concerned about the need for the Agency to pay travel expenses for subcommittee members. As you know, it has been the policy of the Advisory Committee to reimburse the committee members' travel expenses upon request. This same policy would presumably be extended to subcommittee members. We estimate the travel costs per meeting would be approximately \$7,500 for state and local

agencies and \$2,500 for environmental organizations, for a total of \$10,000. Based on past experience, none of the industry representatives will request reimbursement of travel expenses. However, the environmental organization representatives and some of the State and local agency representatives have indicated that they would not be able to participate unless they are reimbursed for their travel expenses. Thus, the Agency's inability to use contract funds to pay travel costs combined with our shortage of travel funds could delay our plans for holding two meetings with the subcommittee this fiscal year.

#### RECOMMENDATIONS

I believe that this subcommittee to the Advisory Committee will expedite our efforts to develop sound policy and regulations and recommend your concurrence on its formation and our nominees for membership. Since we hope to hold the first subcommittee meeting in mid-July, we would appreciate it if you would take action on this recommendation as soon as possible. Upon receiving your approval, we will send out letters inviting the listed individuals to participate as subcommittee members.

Attachments

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
ADVISORY SUBCOMMITTEE CHARTER**

**NEW SOURCE REVIEW SUBCOMMITTEE**

1. PURPOSE AND AUTHORITY. The New Source Review (NSR) Subcommittee is established in accordance with the charter of the Clean Air Act Advisory Committee and is subject to the requirements of the Federal Advisory committee Act, 5 U.S.C. App. II § 9(c).

The purpose of the NSR Subcommittee is to provide independent advice and counsel to the Environmental Protection Agency on policy and technical issues associated with reforming the NSR rules.

2. SCOPE OF ACTIVITY. The NSR Subcommittee is to provide independent advice and counsel to the Environmental Protection Agency on policy and technical issues associated with reforming the NSR rules. The NSR Subcommittee shall be consulted on environmental, technical, scientific, economic, policy, and guidance issues.

The NSR Subcommittee shall hold meetings, analyze issues, make necessary recommendations, and undertake other activities necessary to meet its responsibilities.

3. OBJECTIVES. The NSR Subcommittee shall advise on the development and implementation of reforms to the NSR rules.

The responsibilities of the NSR Subcommittee include providing the Agency with advice on the following:

- Approaches for reforming the NSR rules that reduce the current systems complexity, inflexibility and impediments to speedy review, while at the same time maintaining the environmental benefits embodied in the current approach (i.e., protecting and improving air quality and advances in control technologies).
- Potential health, environmental, and economic effects of reforms to the NSR rules and the potential impacts on the public, the regulated community, and State and local governments.

4. COMPOSITION. The NSR Subcommittee shall be composed of approximately 28 members, including the chairperson, and shall be selected and appointed by the Assistant Administrator of the Office of Air and Radiation for 2-year terms. Members of the NSR Subcommittee shall be selected on the basis of their professional qualifications and diversity of perspectives that will enable them to provide advice and guidance to the Agency in reforming the NSR rules.

The NSR Subcommittee members shall be appointed in a balanced representation from the following sectors: business and industry, State and local governments, and non-governmental and environmental groups. All members will be appointed as representatives of non-Federal interests.

5. MEETINGS. Meetings will be held up to four times a year, as determined by the EPA co-chairperson. A full-time employee of the Agency, who will serve as the Designated Federal Officer, will be present at all meetings and is authorized to adjourn any meeting whenever it is determined to be in the public interest. Each meeting will be conducted in accordance with an agenda approved in advance of the meeting by the Designated Federal Officer.

The estimated annual operating cost of the subcommittee is \$50,000, which includes 0.3 workyears of staff support. The Office of Air and Radiation will provide the necessary support for the subcommittee.

6. DURATION. The NSR Subcommittee shall be needed on a continuing basis and may be renewed beyond its initial 2-year period, as authorized in accordance with section 14 of the Federal Advisory Committee Act.

Nominees for Membership  
on the Clean Air Act Advisory Committee Subcommittee for  
New source Review

EPA Co-Chairperson

Lydia Wegman  
Deputy Director  
office of Air Quality Planning  
and Standards

Designated Federal Official

David Solomon  
New Source Review Section  
Permits Programs Branch, AQMD  
Office of Air Quality Planning  
and Standards

Industry

Representing

- |                                  |  |
|----------------------------------|--|
| 1. Ernest Rosenberg <sup>1</sup> | Occidental Petroleum/Chemical Manufacturers Assoc.               |
| 2. Michael Barr                  | Pillsbury, Madison & Sutro/National Association of Manufacturers |
| 3. Vivian McIntire               | Eastman Chemical Co.   |
| 4. Leslie Ritts                  | Chadbourne & Parke/NEDA-CARP                                     |
| 5. David Aldorfer                | General Motors   |
| 6. William Pedersen              | Perkins Coie/Council for Clean Air Implementation <sup>2</sup>   |
| 7. William Lewis                 | Morgan, Lewis & Bockius  |
| 8. Andrea Bear Field             | Hunton & Williams/Utility Air Regulatory Group                   |
| 9. Mark Carney                   | Electric Generation Association                                  |
| 10. Patrick Raher                | Hogan & Hartson  |
| 11. James Jewett                 | Intel  |
| 12. David McAvoy                 | Eli Lilly  |
| 13. Barbara Bankoff              | Siemens  |
| 14. William Bumpers              | Howery and Simon/Class of '85 Utilities                          |
| 15. Richard Zbur                 | Latham and Watkins   |
| 16. Chuck Knauss                 | Swindler & Berlin  |

Environmental Organizations

Representing

- |                      |                                   |
|----------------------|-----------------------------------|
| 17. David Hawkins    | Natural Resources Defense Council |
| 18. Christine Shaver | Environmental Defense Fund        |
| 19. David Carr       | Southern Environmental Law Center |

state/Local Agencies

Representing

- |                                 |   |
|---------------------------------|---|
| 20. Praveen Amar                | Northeast States for Coordinated Air Use Management   |
| 21. John Paul                   | Montgomery County, Ohio, Regional Air Pollution Control Agency (NSR Committee Chairperson for Association of Local Air Pollution Control Officials) |
| 22. William Becker <sup>1</sup> | State and Territorial Air Pollution Program Administrators/Association of Local Air Pollution Control Officials                                     |
| 23. Pamela Faggert              | Virginia Department of Air Pollution Control  |
| 24. Donald Thieler              | Wisconsin Department of Natural Resources   |
| 25. Joseph Williams             | Washington Department of Ecology  |
| 26. Wendy Sims                  | Oregon Department of Environmental Quality  |
| 27. Ray Menebroker              | California Air Resources Board  |
| 28. David Jordan                | Indianapolis Air Pollution Control Division   |

<sup>1</sup>Member of the Clean Air Act Advisory Committee.

<sup>2</sup>Represents the Council for Clean Air Implementation. Council members are as follows:

- American Automobile Manufacturers Association
- American Forest and Paper Manufacturers Association
- American Iron and Steel Institute
- American Mining Congress
- American Petroleum Institute
- Association of International Automobile Manufacturers