

March 26, 2012

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Michael Hadrick
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Hadrick:

On behalf of the National Association of Clean Air Agencies (NACAA), thank you for this opportunity to provide comments on the *U.S. Environmental Protection Agency (EPA) Office of Air and Radiation Draft Fiscal Year 2013 Program and Grant Guidance*, dated February 23, 2012. This guidance pertains to the President's budget request for FY 2013, which, among other things, proposes to increase federal funding for state and local air quality grants by \$65.8 million over FY 2012 levels (for a total of \$301.5 million).

NACAA is very appreciative that the Administration's requested budget for FY 2013 calls for significant increases in grants for state and local air agencies. While the increases would not completely address all the deficits that state and local agencies are facing, they would certainly be helpful as these agencies carry out our responsibilities to protect public health.

Again this year, we are gratified to see that the President's budget request recognized the critical importance of funding for state and local agencies' core programs. We must have adequate resources for our core programs, which include day-to-day activities that are the foundation of our efforts to protect public health and welfare. We agree with EPA's acknowledgement of the importance of new and expanded core program responsibilities under the Clean Air Act (page 51), but we suggest that the increased funds should not be just for new and updated programs. They should also be used to fill in some of the deficits in state and local resources that have existed for many years and support continuing activities that have been underfunded.

NACAA has reviewed the draft grant guidance and appendices and would like to offer the following specific comments and recommendations.

EPA/State Priorities Workgroup (page 2)

The draft guidance references the EPA/State Priorities Workgroup, in which NACAA participated, and stated that EPA intends the document to reflect the

workgroup's priorities. We suggest that the guidance be clearer in identifying within the document how it is meeting the commitments from the workgroup's priority list.

Greenhouse Gas (GHG) New Source Performance Standards (NSPS) (pages 2-3)

In the discussion of the GHG NSPS, EPA mentions that it will continue to work on updating the NSPS for sources of GHG from refineries, but there is no mention of power plants. EPA entered into a consent agreement to develop GHG NSPS for petroleum refineries and power plants; EPA has yet to propose these standards, so we assume this work would have to continue into FY2013.

Chapter 1, Outdoor Air Quality, Summary of Activities (page 7)

We are pleased that EPA states that it “will work to increase opportunities for greater collaboration with states, tribes and other federal agencies in addressing air quality problems with continued emphasis on innovative strategies to improve air quality.” State and local air agencies have vast expertise carrying out the initiatives described in this chapter. It would be to EPA's great benefit to engage states and localities in more consistent and meaningful ways, beginning at the time the agency develops the concepts and philosophies that will form the basis of rules, guidance and other policies and processes.

We also recommend the guidance include a paragraph stating that if there are not adequate resources to carry out all of the necessary work, that Regional Offices and state and local air quality agencies should work together to assign priorities for the activities and agree on the level of effort for each activity relative to its environmental benefit.

NAAQS – HQ Activities, Regional Office Activities and Other (pages 9-10)

EPA identifies various important guidance documents, rules and actions it will undertake in FY 2013. The agency does not, however, discuss specific schedules or the need to fulfill these responsibilities in a timely manner. State and local air agencies depend on timely delivery of guidance and rules in order to meet their statutory obligations. We recommend that EPA include dates by which each listed activity will be completed. Furthermore, given the importance of timely guidance to the work of state and local air agencies, EPA should publish a list and schedule and discuss progress on that schedule on a monthly basis with NACAA. In addition, with respect to the fifth bulleted item under “Other” HQ Activities, NACAA recommends that EPA amend the item to read “Engage state/local agencies *in more consistent and meaningful ways, and earlier on*, in the guidance and regulation development process.”

NSPS for Residential Wood Heaters (page 9)

It is critical that the New Source Performance Standards (NSPS) for residential wood heaters be finalized as soon as possible; however, it is also important that the standards achieve emission reductions needed to attain the NAAQS. Because residential wood heating is the primary cause of wintertime fine particulate violations in many nonattainment areas, the NSPS must achieve the greatest reductions possible consistent with the law. EPA should consider not only standards adopted by states, but also standards set in Europe as well as the best performing technologies in use.

The program guidance for the Office of Enforcement and Compliance Assistance (OECA) calls for a disinvestment in enforcement of the wood heating NSPS. We urge the Office of Air and Radiation and OECA to raise the priority of enforcing the wood heating NSPS.

NAAQS – Expected State and Local Agency Activities (page 10)

EPA lists as a NAAQS-related state and local agency activity for FY 2013, “Submit recommendations for area designations for a potentially revised PM NAAQS.” Based on EPA Assistant Administrator Gina McCarthy’s January 17, 2012 declaration to the U.S. Court of Appeals for the District of Columbia Circuit, wherein she stated that the agency plans to take final action on its review of the 2006 PM NAAQS by June 2013, states will not be required to submit designation recommendations until 2014. Therefore, this activity should be revised to read “Work to prepare recommendations for area designations for a potentially revised PM NAAQS.”

Mobile Source Programs – HQ Activities (page 20)

We are pleased that EPA commits to “[i]mplement the Tier 3 light-duty vehicle and fuel standards” in FY 2013. We are concerned, however, that EPA has not yet proposed this extremely important rule, which will be critical to the success of state and local air agencies in attaining and maintaining the NAAQS. We recommend that EPA add to its list of FY 2013 HQ Activities for mobile source programs, “Promulgate the final Tier 3 program, to require cleaner, low-sulfur gasoline and low-emission passenger vehicles.”

Seasonal NO_x Trading Program (page 53)

EPA proposes to use state and local grant funds for the CAIR NO_x Trading Program. NACAA recommends that EPA fund the administration of the program in the same way that the Acid Rain program is administered – through EPA’s budget. The cost for administering the seasonal and annual trading programs should be covered by EPA’s budget, not state and local air grants.

Training (page 55)

While EPA indicates that it is directing \$2 million in STAG funds for training, it does not specify EPA’s financial commitment from agency funds for training. In addition, the document does not discuss the Learning Management System, which, while funded by STAG funds, will be overseen by EPA.

Diesel Emission Reduction Program (page 56)

NACAA was happy to see that the President’s budget request for FY 2013 once again included funding (\$15 million) for the Diesel Emission Reduction Act (DERA) program. This is a worthwhile effort and will help to address emissions from diesel engines. Since many of the DERA funds are not provided to state and local governments, we recommend that future DERA activities not be funded through the STAG account. Instead, we suggest that the grants be provided through one of EPA’s other accounts.

Co-regulator Organizations (page 59)

The draft notes that EPA has clarified that co-regulator organizations are exempted from competition for awards made under the State and Tribal Assistance Grant program for activities that support state or local agency responsibilities. NACAA has indicated in the past that co-regulator organizations, such as NACAA and the multi-jurisdictional organizations, should be treated under an exception to competition requirements. NACAA is appreciative that EPA has made this positive change to its competition policy.

Animal Feeding Operations

While EPA is working on developing emissions estimation methodologies (EEM) for air emissions from animal feeding operations (AFOs), this activity is not mentioned in the document. It is unlikely that EPA will have completed the methodologies by the end of FY2012. Even if EPA does complete it, the agency will need to provide guidance to state and local air agencies on how to use the EEM.

Ambient Monitoring (Appendix C)

NACAA commends EPA's request for an additional \$15 million in FY 2013 state and local air grant funds for the purchase of new monitoring equipment. This additional funding is critical to the ability of state and local agencies to implement new and existing monitoring requirements. However, the association stresses that the requested \$15 million falls far short of the funding needed for new monitoring equipment over the next few years, particularly as the additional funding requested for state and local agencies in both the FY 2011 and FY 2012 budgets was not included in the final federal budget. As of March 2012, changes to the monitoring networks for nitrogen dioxide (NO₂), sulfur dioxide (SO₂), and carbon monoxide (CO) require the installation and/or relocation, as well as continued operation, of hundreds of monitors over the next few years; in spite of the best efforts of all involved, there is a substantial shortfall in funding for this network expansion. EPA should indicate in the final NPM Guidance what changes to monitoring funding allocations can be expected in the event that the requested \$15 million is not included in the final federal budget for FY 2013.

As state and local agencies prepare to implement new monitoring requirements, NACAA recommends that EPA continue to work with state and local agencies to prioritize new monitoring equipment purchases and implementation over the next several years, and ensure that expectations for new monitoring are consistent with the funding available to support that monitoring both in amount and in timing. In the spirit of prioritization, EPA has developed a phased approach to implementation of the near road NO₂ network, as discussed on the draft NPM Guidance. While NACAA continues to support a phased approach, the association has expressed significant concerns regarding the specific implementation in this case. A mutually agreeable approach to near road NO₂ monitoring is urgently needed in the very near term, and we will continue to pursue it in other fora.

NACAA further recommends updating the National Monitoring Strategy to reflect changes in the monitoring network, include sustainable funding strategies, and address issues such as the importance of special field programs and monitoring to evaluate environmental

successes (as recommended by the National Resource Council in its 2004 report, “Air Quality Management in the U.S.”). NACAA also suggests allowing state and local agencies the flexibility to use some of the \$15 million for operating monitors, rather than new equipment purchases only, if the state and/or local agency so chooses. Such decisions should be determined by the state or local agency and the appropriate regional office.

NACAA urges EPA to continue to work with state and local agencies to fully develop funding allocation plans for monitoring networks. This includes identifying opportunities for disinvesting in current monitoring activities, along with providing realistic estimates of the associated cost savings. While EPA addresses divestment and other changes, including equipment replacement, in the Draft NPM Guidance, the reality is that available divestments are limited. When recommending divestments, state and local agencies have experienced resistance from EPA and the public, and only after additional discussions have these divestments been approved. Also, many state and local agencies are finding it very difficult, given current funding levels, to not only replace equipment but maintain existing equipment. EPA must allow state and local agencies flexibility in making necessary network changes. However, it is important to note that this flexibility, while necessary, is not a substitute for full federal funding.

Collaboration regarding sustainable funding strategies must include evaluation of proposed funding for photochemical assessment monitoring stations (PAMS), Interagency Monitoring of Protected Visual Environments (IMPROVE) sites, and quality assurance. In the current Draft NPM Guidance, EPA is proposing to:

- 1) reserve 5 percent of FY 2013 PAMS funds for the purchase of new capital equipment;
- 2) use \$150,000 prorated from each PAMS region to perform data analysis;
- 3) use \$30,000 to cover the costs of the PAMS retention time cylinder verification program;
- 4) use \$40,000 to support the Standard Reference Photometer (SRP) Program;
- 5) use \$30,000 to perform regional and national scale assessments of the data quality of the SLAMS criteria pollutant data;
- 6) use \$4 million for visibility monitoring at IMPROVE and Clean Air Status and Trends Network (CASTNET) sites; and
- 7) allocate more than \$2 million for quality assurance programs, including the Performance Evaluation Program (PEP) and National Performance Audit Program (NPAP).

EPA must consult with state and local agencies regarding the ongoing implementation and future needs of these programs before allocating specific funds, and needs to re-evaluate these activities in light of new EPA priorities.

EPA is also proposing to transition funding for the PM_{2.5} monitoring network from Section 103 to Section 105, which requires matching funds from state and local agencies, over four years beginning in FY 2013. NACAA opposes this transition. The PM_{2.5} monitoring program has traditionally been funded under Section 103 and this arrangement has worked very well in the past. These are the kinds of activities that Section 103 was intended to address. NACAA recommends that it continue for PM_{2.5} monitoring.

We were also disheartened to learn that part of the proposed transition to Section 105 authority included reducing the amount of grants set aside for PM_{2.5} by the amount of the expected state/local match (page 51). Even if the program were to be shifted to Section 105 authority, many state and local agencies are already over-matched and would not increase their contributions. Additionally, some agencies have prohibitions against replacing reduced federal funds with state or local resources. Therefore, there would not be additional funds available to replace the PM_{2.5} monitoring grants that were reduced. Since this program is still very important, it is critical that it not suffer reduced funding.

Additionally, state and local agencies will face new and/or expanded monitoring efforts to address NO₂ and air toxics. Since these are either start-up or expanded programs, it is especially important that they be well-funded and kept under Section 103 authority. As you know, Section 105 calls for state and local air agencies to provide a 40 percent match, while Section 103 does not have this requirement. As a result of the difficult economic conditions we currently face, not all air agencies are in a position to increase their matching grants. Those that cannot would be unable to accept the grants for these important ongoing, expanded or new monitoring programs and may be forced to discontinue required monitoring at existing sites. Since these are nationwide monitoring efforts, NACAA believes the funding should be provided under Section 103 so it can be available for all, regardless of their ability to match the grants. However, if EPA does go forward with plans to shift funding from Section 103 to Section 105 authority beginning in 2013, NACAA supports EPA's proposal to do so gradually. It is vital that funding levels not be decreased throughout the transition or thereafter.

Finally, NACAA encourages EPA's continued support for "hot-spot" community scale air toxics monitoring. The association looks forward to working with EPA to meet the goals in the National Monitoring Strategy and continue to evaluate the expansion of the air toxics monitoring program.

Thank you for your consideration of our comments and recommendations. We look forward to discussing these issues with you. Please do not hesitate to contact us if you need additional information.

Sincerely,



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