

STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

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EXECUTIVE DIRECTOR

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To Whom It May Concern:

The State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) – the two national associations of clean air agencies in 54 states and territories and more than 165 metropolitan areas – are pleased to provide the following comments on the U.S. Environmental Protection Agency's (EPA's) proposed rule on the *Control of Hazardous Air Pollutants from Mobile Sources*, as published in the *Federal Register* on March 29, 2006 (71 FR 15803).

The very serious problems posed by mobile source emissions of hazardous air pollutants are well documented, including by EPA. In fact, mobile sources represent the predominant source of toxic air pollutants in this country. EPA's 1999 National-Scale Air Toxics Assessment (NATA), referenced in this proposal, indicates that 42 people out of 1 million are expected to contract cancer as a result of breathing toxic air pollutants from outdoor sources at 1999 levels. According to NATA, mobile sources are responsible for approximately 44 percent of outdoor toxic emissions, almost 50 percent of the cancer risk associated with breathing outdoor toxics and 74 percent of the noncancer risk. In addition, those who live or work near major roadways – and a U.S. Census housing survey found that in 2003, nearly 13 percent of U.S. housing units were within 300 feet of a major transportation source – are exposed to even greater concentrations of mobile source air toxics (MSATs), and greater related risk, than the 1999 NATA estimates. Similarly, in the analysis EPA conducted for this proposal, the agency indicates that those who live in homes with attached garages may experience twice the benzene exposure estimated by NATA.

STAPPA and ALAPCO appreciate that EPA has issued this "MSAT 2" proposal. It represents a step forward in addressing mobile source air toxics and, moreover, it will allow the dialogue on our nation's efforts to adequately protect the public from the dangers of

mobile source air toxics to continue. As you are well aware, our associations provided extensive input to the agency prior to the March 2001 issuance of the MSAT 1 rule, strongly urging a far more substantial mobile source air toxics program. While we were disappointed with the final MSAT 1 rule, we were hopeful that in fulfilling its commitment to issue a subsequent rulemaking, EPA would take a comprehensive approach to controlling mobile source air toxics, consistent with the level and scope of risk posed by these dangerous pollutants.

The Clean Air Act mandate is clear regarding mobile source air toxics. Under Section 202(l) of the Act, EPA must promulgate regulations to control hazardous air pollutants from motor vehicles and fuels. These regulations are to apply, at a minimum, to benzene and formaldehyde and “reflect the greatest degree of emission reduction achievable through the application of technology which will be available, taking into consideration the standards established under subsection (a), the availability and costs of the technology, and noise, energy, and safety factors and lead time.” STAPPA and ALAPCO are concerned that EPA’s MSAT 2 proposal falls short of meeting this requirement.

Gasoline Fuel Standards

EPA has proposed a national annual refinery average benzene content standard of 0.62 percent by volume for all gasoline nationally (excluding California) beginning January 1, 2011. This standard would be accompanied by an Averaging, Banking and Trading (ABT) program that would allow refiners to generate benzene credits by producing gasoline with a benzene level below the 0.62-percent average standard. Generated credits could be banked and used later or traded to any other refinery in the nation (except in California). STAPPA and ALAPCO have significant concerns with this program.

First, notwithstanding the fact that the Clean Air Act requires EPA to set a benzene standard that “reflect[s] the greatest degree of emission reduction achievable through the application of technology which *will* be available...” (emphasis added), EPA’s proposed average standard of 0.62 percent, to take effect in 2011, is 50 percent weaker than the lowest levels (0.41 percent) being achieved by some refiners today (according to data included in EPA’s proposal).

Second, the proposed 0.62-percent standard is not a cap, but a national average refinery standard, accompanied by an ABT program that places no limit on benzene levels or on the geographic scope of credit trading. This proposed approach would continue the significant existing geographic inequities and leave substantial portions of the nation’s population vulnerable to extremely high levels of a known human carcinogen. EPA’s own projections show that with a 0.62-percent national average refinery standard, three of the nation’s five Petroleum Administration for Defense Districts (PADDs) would experience benzene levels above this average. In PADD 5, where benzene levels are currently the highest in the country, even though the proposed rule would reduce those levels by half, the average benzene content within the PADD would be 1.04 percent benzene by volume – more than twice the level projected for PADD 1.

Third, under EPA's proposed ABT program, refineries with significantly higher benzene levels could avoid lowering their levels. Further, any refinery – whether its benzene level is unacceptably high or relatively low – could actually increase or backslide from its respective level. Any of these scenarios is unacceptable.

In setting the stage for this benzene-focused proposal, EPA highlights the fact that 68 percent of our nation's benzene emissions come from mobile sources and that benzene will continue to be the key cancer risk driver into the future. We acknowledge EPA's effort to stem this risk, but believe more can and should be done and strongly urge EPA to maximize this opportunity to glean the greatest benzene reductions possible.

With respect to gasoline benzene content, simply lowering average benzene levels is not acceptable when whole regions of the country will remain exposed to excessively high levels of this toxic pollutant. Therefore, we believe EPA should pursue a more robust approach, including a more stringent national average benzene standard and a per-gallon benzene cap to ensure equity across the nation.

Specifically, we recommend a national annual refinery average benzene content standard of 0.52 percent. Commercially proven technologies to meet such a level are currently in use. Moreover, implementation of this standard would result in greater and more equitable health protection at an average nationwide cost of only 0.36 cents per gallon. For example, in PADD 5, EPA has projected an average benzene level of 0.67 percent under a 0.52-percent national average benzene standard, versus 1.04 percent as projected under a 0.62-percent national average standard. We further recommend a maximum per-gallon benzene cap of no higher than 1.3 percent (currently required in federal reformulated gasoline [RFG] areas), which will still allow for trading and flexibility, while compelling refiners to make reductions in benzene emissions; a per-gallon cap will also ensure that reduced benzene levels can be enforced. EPA has included in the proposal special provisions for small refiners and cases of hardship that would address adverse impacts individual refiners might face.

With respect to timing, EPA has proposed to implement the gasoline fuel standards on January 1, 2011. STAPPA and ALAPCO strongly urge that full implementation of this program be no later than this proposed date and, further, that EPA give serious consideration to earlier implementation. In that Canada implemented gasoline benzene controls, including a per-gallon cap, 18 months after rule adoption, a shorter implementation period appears feasible and should be explored for the U.S., as well.

Although addressing benzene in gasoline is an important step, EPA must also seek to reduce a broader range of mobile source air toxics in gasoline. Looking to the future, we encourage the agency to, among other things, commit in the final MSAT 2 rule to taking appropriate steps to reduce aromatics in gasoline. Further, because aromatics comprise a significant portion of gasoline by volume, reducing aromatics could yield potentially large reductions not only in mobile source air toxics (for example, California's aromatic content standard could increase benzene emission reductions two-fold), but also in fine particulate matter (PM_{2.5}), ozone-precursors and carbon monoxide emissions from gasoline-fueled vehicles and engines.

Light-Duty Vehicle Exhaust Emission Standards

STAPPA and ALAPCO are pleased that EPA has acknowledged that exhaust emissions from passenger vehicles are significant contributors to levels of mobile source air toxics. While we appreciate the agency's proposal of new exhaust emission standards to reduce non-methane hydrocarbon emissions from passenger vehicles at cold temperatures, we do not believe trucks of 6,001 pounds to 8,500 pounds gross vehicle weight rating (GVWR) and passenger vehicles up to 10,000 pounds, warrant less protective standards than vehicles of 6,000 pounds GVWR or less, with the possible exception of work trucks.

Light-Duty Vehicle Evaporative Emission Standards

EPA has proposed to codify the approach vehicle manufacturers already take for evaporative emission systems for 50-state vehicles, with the codification taking effect with MY 2009 for lighter vehicle and MY 2010 for heavier vehicles. EPA has noted in the proposal that this is a nominal standard, and assigns no benefits to it in the Regulatory Impact Analysis. We are disappointed that EPA did not propose to take more meaningful action to address evaporative emissions, such as nationwide adoption of California's Partial Zero-Emission Vehicle (PZEV) evaporative standards. We urge the agency to commit in the final rule to pursue actions to achieve additional evaporative emission reductions in the future.

Portable Gasoline Container Controls

Our associations agree with EPA's assessment that emissions from portable gasoline containers contribute significantly to personal exposure to mobile source air toxics and with the agency's proposal to limit gas can hydrocarbon emissions from these containers nationally, consistent with California's revised program. As EPA notes, however, California's portable fuel container requirements extend beyond gas cans, to kerosene containers and utility jugs (used to store motor vehicle fuels and kerosene). We recommend that EPA adopt nationally these container requirements as well. We further recommend that these container requirements take effect on January 1, 2008 rather than EPA's proposed date of January 1, 2009.

Additional Recommendations

In the proposal, EPA observes that "gasoline exhaust is a significant source of particulate matter, contributing to the health effects observed for ambient PM." STAPPA and ALAPCO urge the agency to follow through on this observation and to continue its work "to improve the understanding of PM emissions from gasoline engines, including the potential range of emissions and factors that influence emissions."

In addition, given that diesel PM accounts for 70 percent of the risk from all air toxics, STAPPA and ALAPCO are disappointed that EPA has not addressed diesel PM in its proposal. Following a rigorous scientific review by a panel of independent scientists, California adopted a unit risk factor for diesel PM. Although EPA has not adopted a risk factor for diesel PM, the agency should, nonetheless, acknowledge in the final MSAT 2 rule its impact on public health and, at a minimum, describe what the agency has done to reduce

diesel PM and identify additional measures that can be pursued in the future. Because, as EPA acknowledges, “source apportionment studies show gasoline and diesel PM can result in larger contributions to ambient PM than predicted by EPA inventories,” it is critical that the agency fully analyze opportunities to reduce mobile source and fuel-related PM, as well as other mobile source air toxics from diesel fuel and diesel engines, and take prompt action to remediate these emissions to the greatest extent and as quickly as practicable.

Similarly, we urge EPA to capitalize on opportunities for reducing mobile source air toxics from nonroad gasoline engines, in addition to gasoline-fueled passenger vehicles.

We are also concerned by EPA’s proposal to revoke the anti-backsliding and anti-dumping provisions of MSAT 1 and urge that these provisions be retained. Additionally, we recommend that EPA retain the NO_x performance standard for the federal RFG program, rather than relying on the federal gasoline sulfur program as the sole regulatory mechanism for implementing gasoline NO_x requirements.

We further recommend that EPA conduct a thorough study of metal emissions and their impacts, including a review of research recently published by the Health Effects Institute, and take regulatory action as appropriate.

Finally, we are troubled that EPA has not fully explored and taken advantage of the range of measures available for controlling the spectrum of mobile source air toxics. For example, EPA should consider making Stage 1 gasoline emission controls mandatory nationwide. When Stage 1 controls are used, underground storage tanks (bottom-filled design) at service stations emit 96 percent less volatile organic compounds (including benzene) than uncontrolled units. Since many gas stations have a throughput of several million gallons of gasoline per year, the benzene reductions from Stage 1 controls would be substantial.

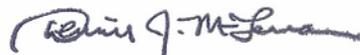
Conclusion

In conclusion, STAPPA and ALAPCO thank EPA for this opportunity comment on this very important proposal. We hope our comments will be carefully considered by the agency as it crafts a final rule. We cannot overstate how seriously our associations take this issue or the importance of it to our collective efforts to achieve and sustain clean, healthful air throughout the nation. Accordingly, we believe EPA must act vigorously to address the problem posed by mobile source air toxics, and exhaust its opportunities to affect the greatest emissions and risk reductions possible. We look forward to working with you to realize that goal.

Sincerely,



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