<center>**Straw Proposal**
Alternative Reporting Schema for AFS
November 5, 2012</center>

Background
- Purpose of AFS is to provide information to EPA to assure that delegated agencies are meeting federal grant commitments and to provide information for the public that demonstrates state agency air pollution control program compliance and enforcement activities at stationary sources.
- State data submittal to AFS is dictated both by the rules of EPA (the MDR as defined through the most recent ICR) and the rules of due process in the state. No EPA requirement relative to the timing and content of a data submittal can superseded a states regulation for due process relative to enforcement.
- Therefore, the NESCAUM states support moving away from reporting federally reportable violations to reporting federally reportable **actions**. Such a change in approach would require changes to EPA's FRV memo.
- To effect such a change, the NESCAUM states have tried to identify solutions that would provide EPA the information needed to both oversee the activity of delegated agencies and provide valuable information to the public
- On a related issue, states are increasingly concerned that the SRF has become more reliant on analysis of AFS data as the tool to analyze program performance yet AFS is NOT representative of all program activities and omits some of the activities states and locals undertake that have a significant impact on compliance with air pollution control laws. The AFS data review should only represent a portion of the review for SRF purposes and revisions to SRF should be made so that EPA can to more accurately and fully assess program performance is necessary.
- In order to better define what data should be used to characterize compliance & enforcement activity, the NESCAUM states have focused on the key question, "What does the public want to know or need to know to understand the environmental performance of both state/ local agencies and the regulated community? We offer two options for consideration.

Option A – Full Document Approach
- The easiest and most transparent way to provide information relative to environmental performance is to provide the actual enforcement documents generate by the states through a web portal.
- This approach provides the greatest transparency to EPA and the public, and would have the added benefit of allowing outside parties to link the actual enforcement documents to the performed action in the AFS.

Approach Overview
- The delegated agency provide an electronic copy of the enforcement document (in PDF format) to a point-of-contact at EPA,
- EPA to set up the links between EPA's Online Tracking Information System/Environmental and Compliance History Online (OTIS/ECHO) systems

Approach Disadvantage
- EPA would need moderately sophisticated data mining software to cull out key metrics from the documents.

Approach B: Core Violation Data Approach
- This approach tracks a common set of core violation types for a set of specified facilities that are subject to listed federal programs.
- We would propose three "action" areas: (1) the source activities, (2) the programs, and (3) the violations. Below are our recommended criteria for each.
  - Sources tracked would include major sources, SM80 facility or other facilities included in CMS plans
  - The core violations that would be tracked would be those related to:
    a. A PSD/NSR permit;
    b. A conditions of an NSPS subpart;
    c. A condition of a NESHAP subpart;
    d. A condition of a MACT subpart;
    e. A condition of a SIP.
  - Core violation Types to be tracked include:
    a. Excess emissions violation;
    b. Failure to keep records or report as required by permit or regulation;
    c. Failure to test or conduct monitoring as required by permit or regulation;
    d. Failure to construct or operate facility/equipment in accordance with permit or regulation;
    e. Failure to obtain or maintain a current permit.
  - Understanding that there may be a single violation type with multiple program applicability, the system would need to be able to accept a one-to-many relationship.
    a. For example, if we had a company with air program codes (APCs) for SIP (0) and NSPS (8) that had a performed enforcement action loaded into AFS, then the action would have an associated matrix listing the five violation types and the air program codes. The state could either enter by hand an X in the appropriate boxes or configure the user interface to map the state data system equivalent over to this field in the AFS. The matrix for this example would look like:

Violation Type	APC = 0	APC = 8
Excess emissions	X	
Failure to keep records/ report		
Failure to test or conduct valid monitoring		X
Failure to construct or operate facility		
Failure to obtain permit		
Other: Must describe in comment		

Comment: