Improving Our Nation's Clean Air Program:

Recommendations from the National Association of Clean Air Agencies to President Trump's Administration

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NACAA

national association of clean air agencies

Introduction

The National Association of Clean Air Agencies (NACAA)[1] is pleased to offer the following recommendations for consideration by Environmental Protection Agency (EPA) Administrator Scott Pruitt and other members of the Administration of President Donald J. Trump related to key issues associated with our nation's clean air program.

The Clean Air Act vests state and local governments with primary responsibility for ensuring that everyone in this nation breathes clean, healthful air. The state and local air pollution control agencies that comprise NACAA's membership are front and center in fulfilling this critically important responsibility. They are uniquely positioned to identify the greatest air quality challenges of the day and to offer advice for confronting those challenges. In short, our recommendations include the following:

1. Improve Technical Assistance to State and Local Agencies
2. Ensure State and Local Air Agencies Have the Resources They Need to Implement Federal Requirements
3. Improve Regulatory Assistance to State and Local Air Agencies Through Effective Federal Measures for Mobile and Stationary Sources
4. Continue and Expand Efforts to Address the Transport of Air Pollution
5. Ensure Effective Establishment and Implementation of the National Ambient Air Quality Standards (NAAQS)
6. Address Critical Air Monitoring Challenges
7. Identify and Address Toxic Air Pollution Challenges
8. Support State and Local Efforts to Address Climate Change
9. Improve the Integration of Federal, State and Local Data Programs and Requirements

We elaborate on each of these issues in the following pages.

NACAA's most important recommendation is that the Trump Administration make working in close collaboration with state and local air pollution control agencies a top priority. We encourage the White House and EPA to forge a truly cooperative partnership with state and local air agencies, which are co-implementers of the Clean Air Act. We invite this Administration not only to reach out to NACAA in the initial stages of any rulemaking and policymaking processes, but also to seek input from and engage NACAA on an ongoing basis. Throughout his campaign, President Trump stated strongly his support for clean air and his desire to ensure it. NACAA urges the Trump Administration to draw on the expertise of state and local air agencies and empower them in every way possible to protect public health and welfare and fulfill their clean air goals.

1 NACAA is a national, non-partisan, non-profit association of air pollution control agencies in 40 states, the District of Columbia, four territories and 116 metropolitan areas. The air quality professionals in our member agencies have vast experience dedicated to improving air quality in the U.S. These recommendations are based upon that experience. The views expressed in these recommendations do not represent the positions of every state and local air pollution control agency in the country. http://www.cleanair.org

1 Improve Technical Assistance to State and Local Air Agencies

Background

Technical assistance from EPA is crucial to the ability of states and localities to carry out their mission to clean up air pollution. EPA's technical support comes in many forms, including educational programs, implementation guidance, and guidance for the performance of complex technical tasks. Over the past decade, however, the agency has dramatically scaled back its support in a number of critical areas.

One area in which EPA's technical assistance is particularly needed is training. Historically, the agency has provided an array of online and classroom courses for state and local agency personnel on a wide variety of air pollution topics – as required under Section 103(a)(5) of the Clean Air Act. State and local agencies relied heavily on this training to familiarize their employees with the intricacies of Clean Air Act requirements that are central to their job functions.

In recent years, funding and staff support for EPA's training functions have declined dramatically and most of the remaining resources have been devoted to newly issued rules. Accordingly, regional air quality planning organizations have had to shoulder much of the burden of developing and coordinating training opportunities for state and local air agencies.

State and local agencies also rely on EPA to provide direction and guidance for the highly technical work they must perform in areas such as air quality modeling. EPA is often slow in providing such guidance and in addressing complex issues that arise with new rules and policies.

A final area where EPA's technical support has been lagging is in the development of emission factors. Emission factors are representative values that estimate the amount of pollutants discharged into the atmosphere by specific processes, fuels, equipment or sources. State and local agencies rely heavily on emission factors in developing emissions inventories and control strategies, determining the applicability of permitting and control programs, and ascertaining and mitigating the pollution effects of individual sources. Unfortunately, over the past decade EPA has only rarely updated existing emission factors, many of which are decades old.

NACAA's Recommendation

The Administration should improve the breadth and timeliness of technical assistance programs that are crucial to state and local air agencies. In particular, EPA should significantly increase the resources it devotes to developing, updating and providing training opportunities in the air pollution control field. The agency should strive to issue technical guidance and support, including the development of new and revised emission factors, in a timelier manner.

2 Ensure State and Local Air Agencies Have the Resources They Need to Implement Federal Requirements

Background

The Administration has expressed a desire to reset the existing state and federal relationship for implementing the Clean Air Act. In light of that, we urge that such changes include ensuring that state and local agencies have the resources to meet their responsibilities.

Funding for state and local air pollution control programs comes from a variety of sources, including the federal Title V permit fee program, state and local permit and emissions fees and federal grants under Sections 103 and 105 of the Clean Air Act. Section 105 grants support a host of essential activities to attain and maintain healthful air quality. These include ongoing, day-to-day responsibilities that constitute the foundation or "core" of state and local programs. Such activities include efforts to develop and implement State Implementation Plans, monitor emissions, develop emissions inventories, conduct sophisticated modeling of emissions impacts, analyze data, inspect sources of pollution, conduct oversight and enforcement, issue minor source permits, provide technical assistance to regulated sources and respond to citizens' complaints. Section 103 grants have typically funded specific monitoring efforts, such as the fine particulate matter ($PM_{2.5}$) monitoring network.

Clean Air Act Section 105 authorizes federal grants to cover up to 60 percent of the cost of state and local air programs and requires states and localities to contribute a 40-percent match. In reality, however, state and local air agencies provide over 75 percent of their budgets (not including fees collected under the federal Title V program, which can fund only activities related to the Title V permitting), while the federal government provides approximately 25 percent of the total state/local air budget. Although states and localities supply significant resources to their air quality programs, they also rely heavily on the federal grant contribution.

State and local air agencies have done their best to operate with insufficient resources for many years, but it has been a struggle. Recent federal annual appropriations under Sections 103 and 105 of the Clean Air Act have been approximately $228 million – amounts far short of what is needed, especially if there is a shift in responsibilities from EPA to the states. Exacerbating the situation is the fact that federal grants have decreased by nearly 17 percent in purchasing power since 2000 due to inflation. NACAA has calculated that state and local air programs face an annual shortfall of $550 million in federal grants,[2] which has caused many agencies to reduce or eliminate important air pollution programs. This not only harms public health, it can slow down the permitting process for businesses, creating delays and uncertainties.

Recent Administration budget requests have identified specific programs for increased funding (for example, on climate change). Instead, state and local air agencies should be given flexibility on how the funds would be used so that they can target the resources to address the issues that are most pressing in their communities.

A related issue of concern is federal funding for $PM_{2.5}$ monitoring grants. In recent budget requests, the Administration has proposed to begin to shift the $PM_{2.5}$ monitoring grant program from Section 103 authority to Section 105 authority. Unlike funds provided under Section 103, Section 105 grants require states and localities to provide matching funds – something many agencies can ill afford.

Finally, EPA's methodology for allocating Section 105 air grants among the EPA Regions is far out of date. Under refinements to the formula that EPA has proposed to be phased in over five or ten years, some Regions will experience decreased funding. Since Section 105 grants already are inadequate to fund all the programs they

2 *Investing in Clean Air and Public Health: A Needs Survey of State and Local Air Pollution Control Agencies,* NACAA, April 2009, http://www.4cleanair.org/sites/default/files/Documents/Reportneedssurvey042709.pdf

are designed to support, few if any agencies can afford to suffer reductions in their grants. In recognition of this concern, the Senate Appropriations Committee included in its FY 2017 appropriations legislation report language instructions to EPA to ensure that all states and Regions are held harmless (i.e., do not experience a reduction) in fiscal year 2017. One way to avoid cuts and to address the Senate's concern is for EPA to request, and Congress to appropriate, adequate additional Section 105 grants so that the revised formula can be fully implemented without reductions to any state or local agency's budget.

NACAA's Recommendation

NACAA recognizes that there are many programs that compete for federal assistance and that increases to provide full funding (an additional $550 million) may not be possible. However, the Administration should propose to Congress, and advocate for, increases in federal grants for state and local air agencies. Increases in an amount that would allow EPA to institute the new allocation formula without reducing any state or local agency's budget would be a very helpful start toward filling the gap. Additionally, EPA should provide state and local air pollution control agencies with the flexibility to use the additional resources on the highest priority activities in their areas. Finally, grants for $PM_{2.5}$ monitoring should remain under Clean Air Act Section 103 authority, rather than being shifted to Section 105 authority.

3 Improve Regulatory Assistance to State and Local Air Agencies Through Effective Federal Measures for Mobile and Stationary Sources

Background

While the Clean Air Act requires state and local air pollution control agencies to implement the national air quality program, these agencies rely on EPA to establish strong federal rules to reduce emissions from mobile and industrial sources of air pollution. This work is important for several reasons.

First, the interstate transport of air pollution has a substantial adverse impact on air quality in downwind states, particularly on levels of ozone and fine particulate matter. Downwind states are usually unable to overcome the impact of these transported emissions without federal action.

Second, many state and local air pollution control agencies are precluded by state or local laws or policies from adopting rules that are more stringent than federal requirements. If the federal rules are not sufficiently rigorous to effectively address air quality problems, those agencies may not be able to meet their air quality goals.

Third, the Clean Air Act generally precludes states, with the exception of California, from establishing standards to address emissions from mobile sources (certain states can, under Section 177 of the Act, opt into motor vehicle standards adopted by California – an important statutory authority that should be preserved). With motor vehicles being dominant contributors to air pollution throughout the country, complying with our statutory obligations to attain and maintain the NAAQS and reduce exposure to hazardous air pollutants, such as diesel particulate matter, requires strong federal standards.

Fortunately, there are opportunities, for additional, meaningful emission reductions from the transportation sector. In particular, for many areas throughout the country, attainment and maintenance of the ozone NAAQS will require additional reductions in nitrogen oxides (NO_x). There is a clear opportunity to garner substantial additional NO_x reductions from heavy-duty vehicles and engines. In June 2016, at least 16 state and local air agencies petitioned EPA to adopt an "ultra-low" NO_x standard of 0.02 grams per brake horsepower hour (g/bhp-hr), down from the current standard of 0.2 g/bhp-hr established in 2000. These improved standards can help states and local agencies achieve their required duty of coming into attainment with existing federal ozone standards. In addition, given the rapid pace at which mobile source greenhouse gas (GHG) emission control technologies are being developed for onroad light-duty and heavy-duty vehicles, there is a great opportunity for further GHG reductions from these vehicles post-model years (MYs) 2025 and 2027, respectively.

NACAA's Recommendation

EPA should assist states and localities in meeting their public-health driven clean air goals by developing in a timely manner appropriately stringent federal rules that address nationally significant stationary and mobile sources, as well as by preserving effective regulations that are already in place.

Specifically, we urge the President to issue specific directives and schedules for the timely development and promulgation by EPA of an ultra-low NO_x standard of 0.02 g/bhp-hr and additional phases of GHG emission standards for light-duty vehicles post-MY 2025, and for heavy-duty vehicles post-MY 2027. This work has and can be done in collaboration with the California Air Resources Board and other stakeholders to ensure the standards are sufficiently stringent, as well as practical and achievable.

4 Continue and Expand Efforts to Address the Transport of Air Pollution

Background

The transport of air pollution across state boundaries from "upwind" sources can impede or even prevent entirely the ability of "downwind" states to attain and maintain the National Ambient Air Quality Standards (NAAQS) for ozone and/or particulate matter (PM). Emissions of nitrogen oxides (NO_x) and sulfur dioxide (SO_2), both of which are precursors to ozone and PM pollution, and even ozone itself, can travel great distances, affecting air quality and public health hundreds, and even thousands, of miles away.

The problem of interstate transport first rose to prominence in the Eastern and Midwestern United States. In response, EPA adopted regulations to reduce NO_x and SO_2 emissions from electric power plants in those regions of the country; first, the Clean Air Interstate Rule, which was promulgated in 2005 and ultimately vacated by the U.S. Court of Appeals for the D.C. Circuit; and then the Cross-State Air Pollution Rule (CSAPR), promulgated in July 2011. Even with CSAPR and its recent update, transport in the East and Midwest remains a serious problem.

Further, although transport in the Eastern half of the country has dominated the conversation over the past few decades, it is now eminently clear not only that transport is a pervasive and substantial problem in the Western U.S., but also that there are some unique issues associated with it, including that of international transport. Western states are struggling with how to meet their statutory clean air obligations in light of the challenges posed by transport.

NACAA's Recommendation

EPA should continue and expand its efforts related to transport by: (1) developing and promulgating another regulatory update to CSAPR to address the 70-ppb ozone standard; (2) developing a strategy for addressing Eastern and Midwestern transport that ensures region-wide attainment; and (3) working closely with state and local air pollution control agencies to assess transport in the Western U.S. and put in place appropriate programs to address this problem.

5 Ensure Effective Establishment and Implementation of the National Ambient Air Quality Standards

Background

Under the Clean Air Act, EPA is required every five years to review and, if necessary, revise the National Ambient Air Quality Standards (NAAQS) for six common "criteria" pollutants that are harmful to public health and the environment: ozone, particulate matter, carbon monoxide, lead, sulfur dioxide and nitrogen dioxide. The Clean Air Act makes clear that new or revised NAAQS must be based on the most current scientific evidence without regard to the cost or feasibility of implementation.

Once EPA promulgates a new or revised NAAQS, state and local air pollution control agencies are charged with implementing the standard and are dependent upon EPA to provide timely implementation rules and guidance. Without such tools, state and local air agencies' abilities to meet their statutory deadlines are greatly impeded. Further, because implementation rules and guidance are developed specifically for use by state and local air agencies, it is critical that EPA work closely with these agencies as the materials are drafted.

A key component of state and local air agencies' NAAQS implementation efforts is the development of emission reduction strategies and programs to attain and maintain the standard. These strategies are set forth in State Implementation Plans (SIPs), which must be approved by EPA. The manner in which SIPs are developed and submitted by state and local air agencies and evaluated and processed by EPA has been an issue of considerable concern and discussion for a number of years. In 2010, NACAA, the Environmental Council of the States (ECOS) and EPA established a joint SIP Reform Workgroup to work collaboratively to make the SIP process more efficient and effective while ensuring fulfillment of statutory responsibilities to attain the NAAQS as expeditiously as practicable. A February 2014 agreement, NACAA-ECOS-EPA SIP Reform Workgroup Commitments and Best Practices for Addressing the SIP Backlog, sets forth a total of six commitments and seven best practices, including a commitment by EPA to "clear the SIP backlog (as of October 1, 2013) by no later than the end of 2017, and manage the review of other SIPs consistent with Clean Air Act deadlines."

With respect to implementation of the ozone NAAQS in particular, states across the country, and especially in the West, are confronted with the vexing issue of "background" ozone, which can contribute significantly to monitored ozone concentrations.

NACAA's Recommendation

EPA should: (1) continue the science-based process for reviewing and revising the NAAQS, leaving consideration of cost or feasibility of attainment to the implementation phase; (2) issue timely rules and guidance related to implementation of the NAAQS, developed in close consultation with state and local air agencies; (3) continue to implement the February 2014 NACAA-ECOS-EPA SIP Reform Workgroup Commitments and Best Practices for Addressing the SIP Backlog, including clearing the SIP backlog by the end of 2017; and (4) work with state and local air agencies to better understand the sources and contributions of background ozone.

6 Address Critical Air Monitoring Challenges

Background

Air monitoring is the backbone of the nation's air pollution control program. The routine, systematic collection of ambient air monitoring data is necessary for determining the extent and location of air pollution problems and for assessing the efficacy of existing emissions control strategies. Monitoring is also used to provide air quality information to the public on a continuous basis, to provide information on air quality trends, to evaluate air quality models, and for research purposes.

The vast majority of the nation's ambient air monitoring networks are operated and maintained by state and local agencies, in accordance with design and operational criteria established by EPA. These monitoring networks comprise hundreds of sites across the country with thousands of monitors measuring ground-level concentrations of criteria pollutants and their precursors, air toxics, meteorological conditions and other parameters. A very significant portion of state and local air program resources is devoted to routine monitoring tasks that must be performed on an ongoing basis by knowledgeable employees.

Unfortunately, state and local agencies are now facing unprecedented challenges in carrying out their critical air monitoring activities. As they struggle to modernize aging monitoring equipment and stave off further deterioration, state and local agencies must also regularly address important new EPA monitoring requirements. For example, over the next several years, many states and localities will contend with expanded ozone monitoring seasons under existing federal requirements.

While they confront major challenges to traditional air monitoring networks, state and local agencies are also contending with rapid developments in small, portable air sensor technologies. Sensor technologies hold a great deal of promise in providing readily available ambient data, not only for individuals, but also for air pollution agencies. On the other hand, many devices are unreliable and the data they produce is not readily comparable to monitoring data measured against the health-based National Ambient Air Quality Standards. State and local agencies are working collaboratively with each other and with EPA to evaluate new sensor technologies, identify goals for their use and to address how to best communicate and educate the public about how to interpret the data they provide.

NACAA's Recommendation

The Administration should address the need for significant federal resources to maintain the nation's ambient air monitoring networks. EPA should continue to work with state and local agencies to prioritize the implementation of any new monitoring requirements to make the best possible use of limited state and local resources. EPA should also expand its efforts to confront the opportunities and challenges associated with rapidly advancing air sensor technologies.

7 Identify and Address Toxic Air Pollution Challenges

Background

Hazardous air pollutants (HAPs), also referred to "toxic air pollutants" or "air toxics," are substances that are known or suspected to cause cancer or other serious, adverse health effects. The Clean Air Act outlines a multi-pronged process for EPA to address HAP emissions. First, Section 112(b) of the Act identifies 187 HAPs that EPA must regulate. Second, Section 112(c) requires EPA to identify the categories of sources that emit the listed HAPs and to update that list every eight years. Finally, Section 112(d) requires EPA to establish standards to control emissions from the source categories it has identified.

NACAA recently collected information from its members about numerous facilities located throughout the country that emit major amounts of listed HAPs but do not fall under any of the source categories listed by EPA under Section 112(c) of the Act. Methyl bromide fumigation facilities, which are located in multiple locations across the country, are a source of particular concern.

Another issue of concern is HAP emissions from sources that are not large enough to be considered "major" sources, including what are referred to as "non-point," "minor" or "area" sources. These sources are often numerous and widespread, and in some areas, they collectively emit more HAPs than major sources. They tend to be located in highly populated areas, many of which face disproportionate risks from toxic air pollution.

Mobile sources are also significant emitters of HAPs, including diesel particulate matter. State and local air agencies (with the exception of California) are generally precluded from establishing emission standards for mobile sources. Therefore, they are unable to address this significant source of HAP emissions on their own, yet they are expected to reduce the public's exposure to these dangerous substances.

The National Air Toxics Assessment (NATA) is EPA's comprehensive evaluation of HAPs across the United States. NATA includes emissions data as well as modeled estimates of health risks associated with exposures to HAPs. Federal, state and local air quality agencies, as well as the public, use this important tool to help identify the locations and pollutants of greatest concern and to help prioritize programs. Unfortunately, due to the tremendous effort necessary to collect the information and run the models, by the time the NATA results are released they are several years out of date. EPA has recently begun efforts, involving state and local input, to streamline and improve the NATA process.

NACAA's Recommendation

EPA should take the following actions related to hazardous air pollutants: (1) evaluate the completeness of and update as necessary the source category list under Clean Air Act Section 112(c) and, specifically, promulgate a Maximum Achievable Control Technology standard for the methyl bromide fumigation source category; (2) continue and ensure programs address non-major (i.e., non-point, minor or area) and mobile sources of HAPs that can significantly affect local communities); and (3) continue to support NATA and expand on EPA efforts to accelerate the NATA process so that the results can be made available to state and local agencies and the public more quickly.

8 Support State and Local Efforts to Address Climate Change

Background

Greenhouse gas (GHG) emissions contribute to global climate change. EPA has adopted a number of federal programs to reduce GHG emissions, including regulations to limit GHG emissions from motor vehicles, mandatory GHG reporting requirements and GHG permitting regulations. State and local agencies are required under the Clean Air Act to implement and enforce many of these programs.

Aside from their federal obligations, many states and localities have exercised leadership through local, state and regional action plans and initiatives to address the serious risks that climate change poses to public health and the environment. These efforts have focused largely on emissions from the power sector and involve a wide variety of reduction strategies, including increasing power generation from low- and zero-emitting resources, modernizing the electric grid and reducing electricity demand through improved energy efficiency. Importantly, many GHG reduction approaches offer substantial corollary benefits, including reductions of non-GHG pollutants such as ozone.

States have diverging views over how best to reduce GHG emissions and adapt to climate change. Nonetheless, there has been increased dialogue over the last few years among state and local air agencies, energy regulators, utilities and other stakeholders over how to achieve multiple goals of clean air, cleaner transportation and energy production, grid modernization and GHG emission reductions. NACAA's members are critical parties to these discussions, and federal decisions and requirements may affect their work. The experiences of state and local agencies can serve as guideposts when crafting responses to global climate change.

NACAA's Recommendation

As the Administration considers federal policies related to GHG emissions, we encourage the White House and EPA to consult with state and local air pollution agencies. Further, to the extent that state and local air agencies are obligated to implement and enforce federal GHG-related programs, we request that EPA provide them with the appropriate level of financial and technical resources to meet those responsibilities.

9 Improve the Integration of Federal, State and Local Data Programs and Requirements

Background

The national air pollution control program relies heavily on electronic data collected by federal, state and local air agencies, including emissions data, facility operational data and many other types of information. These data are vital for assessing air quality and for purposes of compliance assurance, program evaluation, enforcement, regulatory development and other activities. Therefore, it is useful if the data can be shared among the various levels of government. The public must be provided with timely access to air quality data as well.

State and local air agencies have been collecting air quality data for years, and many have expended significant resources to develop sophisticated systems for gathering and analyzing the information. These state and local information collection systems reflect the agencies' own data needs as well as requirements for electronic data submission to the federal government. However, in recent years, EPA has made changes to its compliance and enforcement program's minimum data requirements, some of which may require significantly more data to be submitted than in years past. State and local agencies have traditionally been willing to provide additional data to EPA when requested, but it is not always clear why the data are needed or how they will be used to further the shared goal of improving the environment. Some of this newly required information is too vast for EPA to properly store and process. Moreover, some of EPA's requirements call for the data to be submitted in a format that does not necessarily mesh with or accommodate the needs of existing state and local programs.

Finally, federal efforts to provide the public with access to data on a faster track have led to state and local concerns that information may be made publicly available before federal, state and local agencies have had the opportunity to conduct quality assurance and quality control checks on it. Providing inadequately reviewed, or even flawed data will not serve the public's needs and could undermine the credibility of the air quality program.

NACAA's Recommendation

Federal, state and local data collection programs should be more effectively integrated to address concerns about minimum data requirements, data quality and data use (including public access to data that have not been quality assured). Federal efforts to improve efficiency and streamline data reporting requirements must accommodate existing data collection systems in which state and local agencies have already invested significant resources.