

STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

April 20, 2006

S. WILLIAM BECKER
EXECUTIVE DIRECTOR

Jerry Kurtzweg
Director
Office of Program Management Operations
Office of Air and Radiation
U.S Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Jerry:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), thank you for this opportunity to provide comments on the Environmental Protection Agency (EPA) Office of Air and Radiation 2005-2007 National Program and Grant Guidance Draft Update for Fiscal Years 2007-2009, dated March 10, 2006. This guidance takes on unusually high importance in light of the President's budget for FY 2007, which proposes cutting funding for state and local air quality grants by \$35.1 million, from \$220.3 million to \$185.2 million. These cuts, if enacted by Congress, would have a devastating effect on the ability of our members to address serious public health problems caused by air pollution.

While the amount of the proposed reductions is problematic enough, the proposed guidance would make the situation much worse by targeting reductions based on outdated priorities and incorrect assumptions. The following comments highlight the problems with the proposed guidance and recommend an alternate approach that would minimize the negative consequences of the proposed budget cuts, should they not be restored by Congress.

Assumption #1: *Grant guidance set at the national level to distribute funds to the 10 EPA Regions determines spending priorities at the state and local level.*

Reality: *Spending priorities are negotiated between EPA Regions and the state/local agencies, and accountability is assured by the grant work plans.*

In EPA's straw allocation dated March 28, 2006, the reductions in the Section 105 Regional allocation are proportional to the percentages of spending associated with four specific pollutants: sulfur dioxide, nitrogen dioxide, carbon monoxide and lead. While these percentages were based on estimates conducted at some point, they are not representative of actual spending today. Where problems with these pollutants were resolved, many state and local air agencies – with the concurrence of their EPA Regional offices – long ago shifted the funding into higher

priority work. Further, while some areas may have improved air quality related to these individual pollutants, at least nitrogen dioxide and sulfur dioxide are precursors to fine particulate matter and it is important for many areas to continue monitoring their levels.

To the extent that the President's budget reduction assumes we can "declare success" for these pollutants, the reductions will actually have the perverse effect of cutting funding for today's priority air quality problems. This problem would be exacerbated if EPA were to distribute the reductions based on an outdated assumption about the relative levels of spending for the four pollutants among the EPA Regions. This is particularly true because some Regions recently lowered the assumed spending levels for these pollutants to better reflect reality whereas others did not. Rather than enhancing grant accountability, allocating the reduction in this manner would actually undermine the ability of state and local agencies to meet the grant commitments made to EPA regions. With respect to grant accountability, it is important to note that the Regional offices negotiate workplans with state and local agencies and, through these workplans, maintain accountability for the activities supported with grant funds.

STAPPA and ALAPCO urge EPA to allocate the reduction in the Regional allocations of Section 105 funds by equal percentages, rather than targeting four specific pollutants. STAPPA and ALAPCO have encouraged EPA to review the formula for allocating the Section 105 grant to the EPA Regions, for implementation in FY 2008 or later, and we have agreed to an extensive process that will allow for thoughtful consideration of the Clean Air Act criteria and development of a transition plan that will avoid major disruptions in state and local agency budgets. In addition, STAPPA and ALAPCO have informed EPA about our key principle for revising the allocation formula: any reallocation should be applied when there is a significant increase in the grant in such a way so that no agency experiences an actual reduction in funding due to a change in the formula. Therefore, we were surprised and disappointed that EPA proposed an arbitrary change in the formula to be applied in FY 2007 at a time when the President's proposed budget is reduced. We plan to participate in a thorough discussion of the subject of a revised allocation formula and we do not believe this exercise is the forum for that dialogue. It will be through that process that we can better align priorities with funding.

***Assumption #2:** By shifting PM_{2.5} monitoring from Section 103 to Section 105, the cut in funding will be made up by the required 40-percent match and EPA can still mandate that the funds be spent only on PM_{2.5} monitoring.*

***Reality:** Most state and local agencies will not be able to make up the cut in funding for PM_{2.5} monitoring and the monitoring will compete with other state and local priorities once the funding is moved under Section 105.*

The President's budget reduced PM_{2.5} monitoring funds by 40 percent just when monitoring costs are expected to increase due to the proposed new particulate standards. State and local agencies will be required to recommend designations for new PM fine nonattainment areas and develop attainment plans with greatly diminished monitoring resources. At the same time, state and local agencies will be grappling with the new PM coarse standard for which EPA has allocated no funding for monitoring. The assumption that state and local agencies will be able to make up this lost revenue is mistaken. Most agencies are facing ongoing budget challenges, so that additional funding is unavailable for matching. As a result, agencies that are just meeting the match may not be able to accept new Section 105 funds and those that can increase their match may not be able to target the additional funds to PM monitoring. Further,

agencies that are well above the match are not required to increase their contributions to accept increased Section 105 funds, so no additional state or local funds will be forthcoming in those areas. Because monitoring is so important, some agencies will have to cut other priority work to keep the monitoring program operational.

STAPPA and ALAPCO recommend the following change to the text on page A-9 of Appendix A (Supplemental Information and Guidance for Outdoor and Indoor Air Quality Programs Funded with FY 2007 STAG Funds):

- The promulgation of the PM_{2.5} NAAQS, designation of affected areas, and preparation of plans for attainment, means that the grant authority for operating ambient air monitoring networks for PM_{2.5} and related precursors, formerly funded with 100% federal funds under §103, ~~may must~~ now shift to coverage under the continuing program authority of §105. **In making this shift, EPA has reduced the funds by 40% in recognition of the cost-sharing requirements of § 105. However, state and local partners have informed EPA that budget challenges will prevent them from increasing matching funds in most cases. As a result, total funding available for PM_{2.5} monitoring is expected to decline significantly and will compete with other spending priorities.** ~~This means that State and local agencies will receive net increases in the §105 funds that will be subject to §105's cost sharing requirements including an overall 40% recipient match. EPA is seeking comment on the ability to, and the manner in which, state and local agencies will to address this increased funding responsibility. To that end, EPA is not proposing any detailed funding scenarios at this point, but will do so in the final guidance only after consultation with our State and local partners.~~

STAPPA and ALAPCO also have concerns about the method of allocating the PM_{2.5} monitoring reduction to the 10 EPA Regions. Because some areas of the country have already begun disinvesting fine particulate matter monitors and others have not begun this process, and because different areas have varying overhead costs, the pro-rata reductions in the March 28, 2006 straw proposal may not be appropriate. We believe that further analysis and discussion of this issue is needed before the guidance is finalized.

In shifting monitoring funds from Section 103 to Section 105, EPA must recognize the fundamental difference between the two programs. Section 103 allows EPA to start a program without creating an unfunded mandate to state and local governments. Under Section 103, EPA funds 100 percent of the cost of the new work. Because of this, EPA may dedicate the funds to a specific purpose, such as PM_{2.5} monitoring. In contrast, Section 105 is the federal grant used to provide a portion of the ongoing funding required to state and local governments to carry out their responsibilities under the Clean Air Act. The priorities for spending Section 105 funds are based on negotiations between the EPA Region and the state or local agency, and may not be proscribed nationally by EPA. While many state and local agencies will give high priority to PM_{2.5} monitoring, others will redirect the funds to higher priorities once the funding is moved to Section 105.

STAPPA and ALAPCO recommend the following change to the text on page A-9 of Appendix A (Supplemental Information and Guidance for Outdoor and Indoor Air Quality Programs Funded with FY 2007 STAG Funds):

- Federal funding of the PM_{2.5} monitoring program will be \$25.5M, representing 60 percent of the \$42.5M historically provided for the PM_{2.5} monitoring program when it was under §103. In developing the final guidance, EPA's priority will be that essential monitoring for protection of public health from PM exposure above the NAAQS not be compromised even in areas where providing matching resources may present an issue. **However, EPA recognizes that final spending priorities for the § 105 grant will be made by jointly by EPA Regional offices and the state or local agencies.** ~~It is EPA's intention to negotiate grant work plans and accountability measures that ensure that available federal funding also is used only for PM_{2.5} monitoring activities.~~

In addition, STAPPA and ALAPCO do not agree with comments on page A-9 of Appendix A that the existing PM_{2.5} FRM/FEM network is adequate for implementing the revised NAAQS and that funds to purchase and implement PM_{10-2.5} monitors will be shifted from PM_{2.5} monitoring. New funding will be needed for the PM_{10-2.5} monitoring network.

***Assumption #3:** Past decisions about using Sections 103 and 105 funds for national purposes are still appropriate in the face of significant budget reductions.*

***Reality:** Some off-the-top spending must be curtailed, and other spending must be shifted to EPA's own budget so that more funds can be included in the Regional allocation.*

A variety of activities are funded off-the-top from the Sections 103 and 105 grants before the remainder is allocated to the EPA Regions for distribution to state and local agencies. This is an efficient way to fund collective priorities, but because Congress provides Sections 103 and 105 grants to state and local air agencies and because set-asides reduce the Regional allocation, they must only be done with the concurrence of state and local agencies.

EPA's straw allocation of March 28, 2006 holds \$2,253,099 off-the-top for the NOx/CAIR Budget system. Originally, states participating in the NOx SIP call agreed to off-the-top funding for this program because it was a state initiative used as a SIP strategy that was more efficiently funded that way. Now that EPA has adopted the CAIR program, it is EPA's responsibility to administer the program in the same way that EPA administers the Acid Rain program. The cost to administer CAIR should be funded by EPA's budget, not from the Section 105 grant.

Regarding air toxics monitoring, STAPPA and ALAPCO recommend that the entire \$10 million be shifted to the Section 105 account. The NATTS funds should be shifted proportionally to how they were apportioned in the past so agencies can continue monitoring. The remaining funds should be distributed to the regions according to the same proportion as the balance of the Section 105 grants.

While the straw proposal shows no FY 2007 allocation for CASTNET, EPA has indicated that significant funds allocated for CASTNET remain unspent. Given the magnitude of the reductions in the President's budget, STAPPA and ALAPCO believe that the CASTNET enhancement project should be terminated immediately, and all remaining funds should be added to the Regional allocation for the FY 2007 Section 105 grant.

With respect to PM_{2.5} monitoring, EPA also indicated that a large amount of funds previously allocated to the Regions has never been spent. EPA should ask state and local agencies if they plan to spend those funds. If they do not, any portion of unspent funds from FY 2005 and earlier that will not be spent during FY 2007 should be recovered by EPA and added to the Regional allocation for FY 2007 Section 105 grants.

As for the PM_{2.5} associated program costs, we believe the total set-aside should be reduced to reflect the reduced size of the network. Further, we agreed to support this set-aside when there was sufficient funding. Now that reductions have been proposed, we believe EPA should shoulder these costs. Finally, there are questions about the efficiency of these contracts. The quality assurance costs seem high compared to what some of the states have been doing themselves. We recommend EPA renegotiate these contracts.

In the straw proposal, EPA did not set aside any off-the-top funds for training. For several years, STAPPA and ALAPCO have urged EPA to fund training from its own budget, and we have agreed to match EPA's expenditures for training from the Section 105 grant during the transition to full EPA funding. Elimination of funding for training will result in a loss of training infrastructure that will be very difficult to later replace. Further, elimination of training is not a wise funding choice as it will reduce the effectiveness of federal, state and local programs in the long run. STAPPA and ALAPCO request that in FY 2007 the same amount of funding be held off-the-top as in FY 2006 (approximately \$2 million) and urge EPA to at least match the Section 105 grant funding for training from EPA's own budget.

***Assumption #4:** Diesel retrofits, rebuilds and anti-idling measures are only needed in criteria pollutant nonattainment areas.*

***Reality:** Diesel emissions are also significant sources of air toxics, greenhouse gases and haze. As a result, funding for diesel emission control measures should not be limited to nonattainment areas.*

At the same time that funding for state and local agencies is proposed to be cut by \$35.1 million, the President's budget calls for new funding of \$49.5 million to support the Diesel Emission Reduction provisions of the Energy Policy Act of 2005. While STAPPA and ALAPCO do not support the cut in state and local funding, we do support new funding for diesel emission reductions. However, we strongly object to the proposed limitation that this funding may only be spent in nonattainment areas. Many state and local agencies have active diesel emission reduction programs that apply outside of nonattainment areas to reduce air toxics, greenhouse gases and haze. Limiting funding to nonattainment areas presupposes that diesel strategies in PM and ozone attainment plans are higher priorities than diesel strategies to address other public health problems. A one-size-fits-all funding priority for diesel imposed through the grant guidance will result in wasteful spending and interfere with state and local efforts to protect public health. We believe that school children who ride buses in attainment areas deserve the same protection against toxic air pollution as do children in nonattainment areas.

STAPPA and ALAPCO recommend the following change to the text on page A-33 of Appendix A (Supplemental Information and Guidance for Outdoor and Indoor Air Quality Programs Funded with FY 2007 STAG Funds):

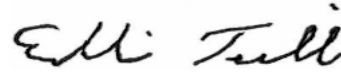
This program will support diesel engine retrofits, rebuilds replacements, and anti-idling measures. Five sectors are targeted for emission reductions from the existing fleet: freight, construction, school buses, agriculture, and ports. ~~Grants will be provided to eligible entities in areas not in attainment of the National Ambient Air Quality Standards for a criteria air pollutant.~~ Up to 30 percent of the funds appropriated for diesel emissions reduction grants will be used to provide formula grants to states to establish and support state grant or loan programs.

Thank you for your consideration of our recommendations. Please do not hesitate to contact us if you need additional information.

Sincerely,



John Paul
President of ALAPCO



Eddie Terrill
President of STAPPA