



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

APR 30 2014

Mr. Arthur N. Marin  
Executive Director, NESCAUM  
89 South Street, Suite 602  
Boston, MA 02111

Dear Mr. Marin,

Thank you for your letter of February 20, 2014, about the challenges and opportunities before us in modernizing the nation's program for enforcing the laws that protect our nation's air quality. We appreciate the engagement, leadership and vision of your organization, the National Association of Clean Air Agencies (NACAA) and other states and local agencies on this vitally important work. Together we face the challenging dilemma of needing to modernize our data systems at the federal, state and local levels to make our work both more effective and much more efficient, during a time when resources are constrained. At the same time, we need to be vigilant in enforcing the law, so that we achieve our shared objective of protecting Americans from the health threats of unlawful air pollution, and make sure that we use our limited resources to make the most difference.

We have been working closely with state and local agencies to find reasonable approaches that build on the areas where we have widespread agreement, and that incorporate a range of views into a coherent national program that achieves the purposes of the Clean Air Act. Our partnership with state and local agencies has already produced what appears to be general agreement on a strategy for identifying high priority violators. We heard the strong views of many state and local agencies, and are in the process of finalizing a new High Priority Violator (HPV) Policy that streamlines reporting and focuses our joint resources on the most serious violations. We think the national discussion that led to this revision, and the close engagement of state and local agencies in drafting the new policy, provide a strong model for our work together.

We are making similar progress on the modernization of the air reporting system and the Federally Reportable Violators Policy, which are following close behind the HPV work we have

been doing together. We agree with you that changes to both are necessary and timely. I am looking forward to personally talking with states on these key issues at the upcoming meeting of NACAA in Atlanta, but wanted in advance of that meeting to get you a written response to the issues you raised in your correspondence and that EPA has been discussing with state and local agencies in depth.

### **Modernizing the Air Facility System**

Our joint efforts to modernize the Air Facility System (AFS) are built on the foundation of strong consensus that the existing system is now woefully out of date. We have long agreed that the national data system must be updated, and that modernization would provide efficiencies and save money for states and for EPA, and allow us all to focus our limited resources on the work that is most important to protect local agencies' air quality. The existing system is both expensive and increasingly unworkable, literally costing us all money every day that the update is delayed. The good news is that the necessity to update this system is reflected in EPA's FY14 budget; we have the funds to complete this modernization that we have all long needed.

There is a financial as well as a program imperative to move on this modernization now. In addition to the many shortcomings of the outdated AFS that interfere with effective management of the air program, it will shortly become so expensive to maintain that we will be unable to make funds available for modernization because of the expense of just keeping the legacy system alive. In FY15, AFS will be the only remaining large system on the mainframe and thus will be responsible for paying the entire \$2.6 million in mainframe costs. If we do not move quickly to use available funds to modernize AFS, we will end up being unable to afford modernization because we will have to use that funding to support the old system. We will then be in a Catch-22 problem of being unable to save money by having a modernized system because the outdated system consumes all available resources. I know you will agree that this is an untenable position. There unfortunately will never be a time that transition to a new system, no matter how profound our need for that system is, does not create some disruption. Our intention is to move quickly toward our shared modernization goal, while doing everything we can to minimize the cost and implementation challenges for state and local agencies.

As we have been saying since the summer of 2013, our goal is to realize our shared commitment to modernization by finishing basic development and migration of all state and local agencies to ICIS-Air as soon as possible. As you know, we had originally planned to implement ICIS-Air by the end of FY2014, but our schedule was delayed a month due to the unexpected October 2013 federal government shutdown. Our current plan is to have data migration and implementation of ICIS-Air occur in late October 2014. AFS will remain available in "read only" mode until late December 2014, when it will be retired.

We have been taking multiple steps to engage with state and local agencies to make this effort as smooth and easy as possible, and know that input at all stages is essential for that to happen. We

have multiple workgroups ongoing to make sure that there is active state and local agency engagement in all aspects of the modernization efforts. There are three groups: a Data Migration Workgroup, a Web Design workgroup, and an Electronic Data Transfer (EDT) Integrated Project Team. All three groups are open to all AFS user organizations. They collaboratively address all issues within the three key topic areas: preparing the AFS data to successfully migrate from AFS to ICIS-Air in October 2014; advising and testing the newly developed ICIS-Air user interface on the web; and, defining the formats and methods for data exchange between state and local data bases and ICIS-Air. We appreciate the involvement of representatives from many NESCAUM states in these groups to date.

We are aware that some state and local agencies will have challenges with this schedule and we are looking at a number of ways that EPA can assist in this transition. We are very encouraged that the data migration work is going well and it appears that most will be ready to migrate at the end of October with minimal problems. We will continue to work with state and local agencies on data migration concurrent with ICIS-Air development. We also will continue to provide access to and testing opportunities in ICIS-Air to state and local agencies participating in the web design workgroup as development progresses. This allows us to get real-time input into the development process and for users to get acquainted with the new system.

We are working closely with state and local agencies on the electronic data transfer process. We are aware of the challenges created by having a short time available to write software or deploy tools to map and transfer state and local system data to ICIS-Air using the new ICIS-Air XML schema. We have already engaged in a round of calls with states and local programs to discuss plans for data migration and reporting to ICIS-Air and to encourage participation in the workgroups so that we get the benefit of multiple perspectives as we proceed. These calls have been very helpful to get a more complete picture of where the states and local agencies are, and have informed our views about strategies for making the transition as smooth as possible. We will be conducting another round of calls to discuss assistance options and to get a better understanding of each state and local government's plan for the electronic transfer of data to ICIS-Air once data migration is complete. EPA is committed to working with states and local agencies to develop plug-in tools to make the mapping process easier, and to provide support to do this work. We know that the sooner we can make the XML schema available, the more time state and local entities will have to work on this task; we commit to moving as quickly as possible to achieve that end and hope to have the XML schema available on or before June of 2014. We are also setting aside funds to assist with data entry into ICIS-Air in case some states and local agencies are not ready to transfer data to the new system come November 2014. We hope that all of these strategies will help address the concerns that we have heard from some states and that you briefly outline in your letter.

We also acknowledge the importance of training on the new system to help states and local entities adapt to the new system and support the staff that will be making it happen. Training on ICIS-Air will be made available to states and local agencies during the summer of 2014, when it will be timely in view of the transition that will be happening a few months later, but not so early that it will need to be repeated. We agree that this is a vitally important task that is critical to the successful implementation of the new system and we are committed to providing useful and timely training.

Although all of these steps cannot eliminate the transition growing pains that will accompany the modernized system, we hope that they will make a significant dent in those problems. We know that the states and local agencies share our commitment to moving the air reporting systems into the current century, with all of the savings and the program efficiencies that will then be possible. We want to work with you and with all states to make this shared commitment a reality with the minimum possible aggravation. We hope that our shared vision for a better future, combined with constant communication about how we can do better, will make this transition as pain free as possible.

### **Federally Reportable Violations Policy**

Another area on which it appears we have substantial agreement is the need for revisions to the Federally Reportable Violations (FRV) Policy. We recognize that this has been a topic of concern in the past, and in response to those concerns we have had multiple discussions on specific aspects of the current policy with states and local entities. These conversations have been very helpful to us in gaining a better understanding of the agencies' problems in implementing the policy. We greatly appreciate the time and effort that states and locals have invested in these discussions. We have been working on how best to reconcile our shared commitment to transparency and sharing information with the public about pollution and violations that affect their communities, with the also strongly-held view that we need to reduce reporting burden.

For all the reasons outlined above, we believe that our current priority should be the modernization of the AFS. One thing EPA can do to reduce the burden imposed by modernization is to reduce burden elsewhere. For this reason, we agree that we should revise the FRV policy to limit FRV reporting to the Compliance Monitoring Strategy (CMS) universes of CAA Title V majors, synthetic minor sources that emit or have the potential to emit at or above 80% of the Title V major source threshold (SM-80s), or sources that are included in alternative CMS plans. We think this is responsive to the concerns that have been raised and that it will substantially reduce reporting burden, while maintaining the reporting that is most important for transparency and public accountability by polluting sources. We expect to be sharing with you soon for review and comment a draft revised FRV Policy along these lines.

We have also heard some concerns that states and local agencies fear EPA might increase the Minimum Data Requirements (MDRs) through the renewal of the CAA Stationary Sources Information Collection Request (ICR). That is not our intent; the ICR renewal process that will be initiated soon will only include changes necessary to address the reporting reductions caused by the revisions to the FRV and HPV Policies.

We hope that these actions demonstrate our commitment to working closely with state and local air agencies to implement a modern air pollution compliance program and to address problems and concerns. We look forward to engaging with your organization and others on the draft revised FRV Policy.

### **The Future**

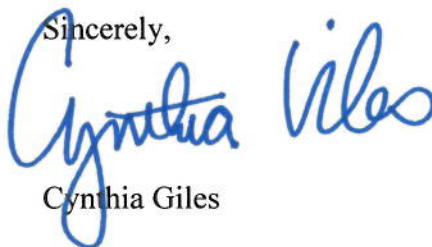
In addition to modernizing our infrastructure – like the information technologies and the policies discussed above – we also need to update our approaches to our shared environmental protection enterprise. The advances in both monitoring and information technologies, as well as what we have learned and are still learning about what drives better compliance and pollution reduction, help to provide new solutions to longstanding pollution and compliance challenges. As part of our discussion next week and in the coming months we would like to engage with the states and local air agencies on what that future vision of our air compliance program looks like.

We think that Next Generation Compliance can help transform how environmental programs are implemented at the federal, state and local level. From how we write rules with compliance built in, to using the latest in advanced monitoring technology, Next Gen will help us, and help companies, find and fix air pollution problems. Shifting to electronic reporting will save us all time and money, at the same time it increases our effectiveness in turning our attention to the most important air pollution problems. Another benefit of these strategies is how significantly they will allow us to increase transparency, and use the public accountability it provides to improve performance. We are implementing all of these strategies and using innovative enforcement approaches and better targeting and analyses to drive better compliance. We look forward to more robust engagement with states and local agencies about these strategies, to share ideas and to learn from your leadership, in the coming months.

E-Enterprise is a shared project of EPA and states to use Next Gen principles across the Agency. The shared EPA/state governance structure that we have jointly adopted for E-Enterprise is a promising model for our future work together. We would be very interested in talking with the air program managers about the implementation of these approaches in the CAA Stationary Sources Program. We think that there are many promising strategies to reduce pollution and improve compliance, and to be more accountable to the public in the process. The benefits of these strategies are available without changing the roles of EPA, states or local governments in implementing the CAA program.

We look forward to sitting down with states and local agencies to discuss all of these topics. We know that the transition to these improvements will be challenging, but are confident that our shared commitment to a stronger air compliance program will help us to find ways to achieve the many pollution and program gains that are possible while we minimize the transition burdens. We look forward to working with you to gain the benefits that these approaches can bring to implementing agencies, the public and the environment.

Sincerely,



Cynthia Giles

cc: Janet McCabe, Acting Assistant Administrator, Office of Air and Radiation  
Lisa Lund, Director, Office of Enforcement and Compliance Assurance  
William Becker, NACAA  
Lisa Rector, NESCAUM