

May 31, 2001

Mark Antell
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mark:

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 the opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA's) February 2, 2001 Source Compliance and State Action Reporting for Stationary Sources of Air Pollution Information Collection Request (ICR) (66 Fed. Reg. 8588), as well as the March 27, 2001 supporting technical information. The purpose of the ICR is to make adjustments to the Aerometric Information Retrieval System/AIRS Facility Subsystem (AIRS/AFS) for High Priority Violations (HPV) simplification and to address the proposed revised Compliance Monitoring Strategy (CMS). The technical documents provide the specific data changes that EPA intends to require based on the HPV and CMS guidance documents.

Although STAPPA and ALAPCO previously offered conditional support for the revised CMS policy, the associations are disappointed with the process EPA chose to develop the underlying CMS reporting requirements in the ICR. Over the past two years, STAPPA and ALAPCO have been actively engaged in EPA's CMS revision process. We have submitted numerous comment letters, participated in various conference calls and meetings and invited EPA to present its views on the proposed revisions at our semi-annual membership meetings, as well as our enforcement and compliance workshops. At each stage of the CMS revision process, we were greatly encouraged by EPA's willingness to seek our views.

However, that has not been the case with the ICR. While we understand that EPA was required to publish the ICR in the *Federal Register*, we are extremely disappointed that EPA did not engage the associations in any discussion regarding the development of these underlying reporting requirements for the CMS prior to the formal publication. We do not believe this is a very effective or efficient method for developing reporting requirements that will have a significant impact on state and local air agencies. Instead, we would have preferred to continue the cooperative process established during the CMS revision. We also disagree with EPA's timetable for finalizing the ICR before the scheduled July 2001 AIRS conference. We believe that the AIRS conference, as well as the upcoming annual EPA/STAPPA/ALAPCO Enforcement

Workshop, would have provided a perfect opportunity for EPA to work with state and local agencies on the AIRS data reporting changes before finalizing the document.

Despite our concerns, we continue to support EPA's efforts to revise both the 1999 HPV policy and the CMS and understand the need to reflect those revisions in associated data reporting. Moreover, we agree with many of the proposed changes in the ICR, specifically as they apply to the HPV policy. However, we are concerned that some of the proposed data elements for CMS, specifically the Minimum Data Requirements (MDR) established by the ICR, will impose additional, and in some instances, duplicative data-reporting requirements on state and local air agencies. Moreover, the value of some of the data generated by the requirements is unclear to us and, thus, we do not understand why the agency is seeking this information. Therefore, we offer the following comments and recommendations on specific elements of the ICR.

Partial Compliance Evaluations (PCEs) – MDR #31

We are particularly concerned with the Partial Compliance Evaluations (PCEs) reporting requirements as delineated in MDR #31. The PCE concept was developed to provide recognition of state and local agencies' various alternative compliance evaluation techniques that may not involve an on-site visit, such as stack tests, compliance report evaluations and parametric monitoring report evaluations. However, notwithstanding ongoing discussions with EPA to allow the use of such alternative evaluation techniques in completing full compliance evaluations, STAPPA/ALAPCO never agreed that every alternative technique would be reported. Moreover, all of our discussions with EPA on this issue took place within the context of existing EPA guidance, which only requires fully completed inspections to be reported. Since many state and local agencies do not currently collect, track or report the information outlined in MDR #31, this requirement will place an enormous burden on state and local agencies.

Moreover, we are concerned that rather than specifying what information must be entered, MDR #31 only lists a few examples. Without specific requirements, we believe there will be no national consistency and that any analysis of this data, whether by EPA or the public, will be inaccurate. This lack of specificity also makes it impossible for agencies to calculate the true reporting burden associated with this requirement. For example, depending on the definitional parameters of PCEs, a state or local agency could potentially be required to make thousands of additional data entries per quarter.

Finally, we question the usefulness of the information EPA is seeking under this new requirement. For example, the CMS clearly states that compliance is based on entire facilities, not emission points. Therefore, requiring state and local agencies to report data specific to emission points as PCEs is meaningless.

For these reasons, we recommend that, with the exception of mega-sites, the requirement to enter PCEs be eliminated. However, if EPA believes there is value to collecting such information, we recommend that this data field be optional, so that state and local agencies may choose to enter PCEs to show activity at a source when a Full Compliance Evaluation

(FCE) has not been completed. Furthermore, we recommend that entries be based on a results code (e.g., “in violation,” “in compliance,” “pending” etc.) related to each action. In summary, we support the practice of formally recognizing the array of available techniques for evaluating source compliance status. However, we do not support an onerous process of reporting the data associated with each PCE.

Resource Burden

It is clear that the resource burden for state and local agencies will increase substantially, especially if it includes the additional requirements to track the new items, change state and local systems to store the new items and revise electronic interfaces for transferring the data to AFS. For example, the new requirements will obligate state and local agencies to reassign already scarce staff from on-site enforcement activities to data entry. Additionally, many state and local agencies will have to modify their state systems in order to accommodate collection and transfer of the new data elements. Unfortunately, given both the short time frame EPA has allotted for comments on the proposed ICR and the imprecision of the PCE data element, it is impossible for us to survey all state and local agencies to evaluate this cost; however, we urge EPA to seek out and incorporate cost burden information in the ICR so that it accurately reflects the increased burden on state and local agencies. Toward this end, we have encouraged individual state and local agencies to submit resource burden estimates directly to EPA, and it is our understanding that some agencies have already forwarded that information. In addition, we also understand that the Northeast States for Coordinated Air Use Management (NESCAUM) has calculated resource burdens associated with complying with the proposed ICR, indicating that the NESCAUM states would have to more than double the amount of time and resources currently devoted to reporting information to AFS.

Relative to previous cost burden estimates, we believe that the information collected in the previous ICR did not establish an accurate baseline of data reporting costs. For example, EPA relied on information from three states to calculate the burden for all 21 small states. In addition, no local agencies were contacted. We believe it is impossible for EPA to accurately calculate cost and burden estimates based on such a small subset of data. Again, we urge EPA to ensure that the new ICR accurately reflects additional cost and burden estimates associated with the new reporting requirements.

Compliance Status

The compliance status is the key piece of information that EPA and the public want to know about a source. We believe a simple compliance status designation that indicates the overall substantial compliance status of a facility would be the information that would best satisfy the public’s inquiries. Currently, compliance status is tracked at the pollutant level under each air program code. However, this method is complicated and cumbersome to maintain, therefore, it is imperative that EPA takes this opportunity to simplify compliance status reporting requirements. Toward that end, we recommend that compliance status be maintained at the facility level, rather than at the pollutant level as currently proposed. We believe this approach is more consistent with the intent of the CMS policy that compliance determinations should be based on Full Compliance Evaluations (FCEs). Moreover, we understand that EPA has initiated

a process to simplify the current compliance tracking process. We urge EPA to accelerate this process based on the fact that the new CMS makes this current process even more cumbersome.

FCE Frequencies - MDR Item #25 through #26

We strongly believe that EPA should not be the only regulatory agency that has access to, and authority over, updating the FCE information, such as CMS source category, that is uploaded to AIRS. State and local agencies are primarily responsible for populating AIRS with Title V and synthetic minor sources. However, due to “shut-downs” and other events, this is a changing universe of sources. For this reason, it is critical that state and local agencies have the capacity to make changes to AIRS so that it accurately reflects the universe of Title V and synthetic minor sources in their jurisdictions.

However, we are sensitive to the fact that EPA will need time to stabilize the universe of affected sources during initial implementation of the policy. Therefore, we propose that EPA have exclusive control over data changes, with the caveat EPA clearly identify that state and local agencies have not had the opportunity to QA/QC the data. After that initial start-up period – not more than two years -- we recommend that state and local agencies that currently have the capacity to interface with AIRS should continue to have that option. To ameliorate EPA’s concerns, we further recommend that EPA have the opportunity to review any changes before the agency updates the AIRS data. We would welcome further discussion on this recommendation and look forward to working with EPA to develop procedures that will ensure the agency enters critical data in a timely and accurate manner.

Stack Test Action Pollutant - MDR #21, Table II

The ICR proposes a new MDR to track the pollutant of a stack test. It’s unclear to us why the pollutant associated with the air program code is not sufficient. It seems duplicative to add an associated pollutant when the air program code already has an associated pollutant. Therefore, we recommend that this requirement be removed from the final ICR.

We believe that a collaborative process to discuss the goals and desires of EPA relative to data analysis would have been a more effective way not only to ensure efficient data collection, tracking and reporting, but also to increase the data accuracy and analysis. However, while we are disappointed that EPA did not embrace such a process in its initial development of the proposed ICR, we would welcome an opportunity to work with the agency on these issues before the reporting requirements are finalized.

Thank you for the opportunity to comment on the February 2, 2001 ICR and the March 27, 2001 supporting technical documents. We look forward to working with EPA to implement our recommendations. If you have any further questions or desire additional information, please contact either of us or Geri O'Sullivan of STAPPA and ALAPCO.

Sincerely,

Felicia Robinson
STAPPA Chair
Enforcement and
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Curt Marshall
ALAPCO Chair
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Cc: Mike Alushin
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