

STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

March 7, 2005

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EXECUTIVE DIRECTOR

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Dear Sirs:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), we wish to express our serious concerns with the U.S. Environmental Protection Agency's (EPA's) "Supporting Statement for Source Compliance and State Action Reporting" (the "Supporting Statement") for the Information Collection Request ("the ICR"). Specifically, EPA has asked that the following data elements be added in the Air Facility System (AFS): Subpart Information; Stack Test Pollutants, High Priority Violator (HPV) Discovery Date, HPV Violation Type Code and Violating Pollutants, and On-Site Partial Compliance Evaluations (PCEs). The proposed time standard for reporting is every 60 days.

We are aware that EPA has modified its originally proposed request, eliminating permit information, the requirement for reporting all PCEs, and the 30-day time standard in response to comments received from state and local agencies. Nonetheless, the vast majority of state and local

agencies continue to believe that the modified ICR still fails to adequately take into account its escalating resource difficulties and ongoing struggles with the balky and antiquated AFS system.

Although the associations object to the outcome, we nonetheless wish to commend EPA's Office of Compliance (OC) for conducting an open and inclusive process with regard to these requirements. EPA/OC has participated in conference calls involving these issues and has been able to hear firsthand the viewpoints of the state and local agencies. This candid and direct communication is extremely important to us and greatly increases the chance that we will arrive at mutually supportable outcomes. Conversely, we understand that the Office of Civil Enforcement was instrumental in the decision regarding the three categories of HPV data, and we regret that no one from that office was able to hear the state and local agencies' serious concerns about these requirements.

We appreciate that EPA has made a good faith attempt to estimate the additional burden hours necessitated by the new data reporting requirements. It is difficult to put into context EPA's conclusion that at least 41,000 additional labor hours and \$1 million annually will be required by the ICR. These figures were calculated in a recent conversation with EPA/OC, based upon the total burden amount set forth in the Supplemental Statement. They encompass, however, a staggering number of variables involving both users of the system and the system itself, and the total labor-hour and monetary figures have been extrapolated from a subset of 12 state and local agencies examined by EPA. Although such extrapolation is not an unreasonable way for EPA to arrive at a burden estimate, we question whether the activities of 9 states and 3 local agencies can provide accurate figures for the country as a whole. In fact, the burden figures that were arrived at by the states that included such estimates in their docket submissions suggest that EPA's additional burden amount is significantly lower than state and local estimates.

Even assuming, for the sake of argument, that EPA's burden-hour figures are roughly accurate, we strongly disagree with EPA's conclusions that the additional data reporting can be easily absorbed into the state and local programs. In fact, we believe the converse: These burden hours will not only be difficult to absorb but will have an adverse impact on our ability to carry out our routine enforcement and compliance assessment activities.

Because burden analysis is inexact, it appears to us that the written and spoken statements—the direct testimony, as it were—of the state and local agencies should receive greater weight. A summary of the various ways that the state and local agencies have articulated their views on this ICR indicates that twenty-eight essentially negative comments were sent to EPA in response to the proposed ICR; eight states, one regional planning organization and several local agencies voiced strong opposition to the ICR in a February conference call; and 31 state and local agencies responded recently to a STAPPA/ALAPCO survey on the ICR, many expressing serious frustration with the revised ICR, the AFS data system, and their own resource constraints.

The severe problems with AFS, which we summarize in Attachment 1, have been acknowledged in conversations with Office of Compliance personnel and in the Supplemental Statement itself, which states “[i]n light of comments received concerning the antiquity of the system, several concessions have been made in the consideration and selection of any additional data elements to the [ICR]...” (Supplemental Statement at page 5). We now urge EPA to make further concessions in light of the ongoing and significant difficulties state and local agencies are facing with regard to these requirements.

Following the February conference call of STAPPA and ALAPCO's Enforcement and Compliance Committee, various discussions ensued among the members of the STAPPA and ALAPCO Enforcement & Compliance Committee. Out of these discussions emerged a strong and unified national consensus opposing all proposed additions to the existing minimum data requirements. In the spirit of

collaboration and compromise, however, the state and local agencies would not oppose an ICR that includes the Subpart Identifier and the 60-Day Time Standard. STAPPA and ALAPCO oppose an ICR that includes mandatory reporting of Stack Test Pollutants and mandatory reporting of On-Site or other PCEs. We also reiterate our previously stated opposition to reporting of the HPV Discovery Date, the HPV Violation Type Code, and HPV Pollutants. If this proposal is not accepted, state and local agencies will be forced to divert staff away from critical operating programs to perform data gathering, processing, and reporting tasks that do not further the goal of reducing air pollution. We believe that this would be an undesirable result.

We note as well that the statutory authority of EPA to collect this data has been questioned by the State of Ohio, the South Coast Air Quality Management District, the Ventura County Air Pollution Control District, and possibly others. Although STAPPA and ALAPCO currently do not take a position on the legal authority of EPA to impose these requirements, we believe that the questions raised about the regulatory underpinnings for these requirements may have merit and should be explored further. We will encourage our members to examine the provisions of 40 CFR part 51.323(c)(1) and (2); 40 CFR 51.324(a) and (b) and 40 CFR part 51.327, which sections of the Code of Federal Regulation are cited by EPA as authorization for these requirements.

Finally, although many states will face considerable challenges in adapting their data systems to meet the requirements of the Subpart Identifier, if finalized, it appears that California Air Districts may be disproportionately impacted. We urge that EPA meet with selected California air districts well before the rule takes effect in order to evaluate firsthand the limitations of existing local permitting data systems and, in particular, the impacts on the districts of this requirement.

Thank you for this opportunity to comment on this ICR. We look forward to working with you to implement data requirements that are acceptable to all and that enhance—rather than impede—the compliance and enforcement activities that will lead to cleaner air and improved public health nationwide.

Sincerely,

A handwritten signature in black ink that reads "Curt Marshall". The signature is written in a cursive, slightly slanted style.

Curt Marshall
Chair of Enforcement and Compliance Committee

c.c. Mamie Miller, EPA OECA

Attachment 1

Air Facility System (AFS)
Selected State and Local Agency Comments
Responses to ICR—Submitted July & August, 2004
All Comments Submitted to OECA Docket 2004-0024

- **Allegheny County, PA:** “AFS is an antiquated system that is difficult to understand, cumbersome to use, inflexible, and difficult to modify with changing needs. AFS makes no use of the last twenty years of development in personal computer operation (i.e. use of a mouse, hyperlinks, website links, etc.) and relational database design, and thus furthers the stereotype of governments being way behind when it comes to technology.”
- **Louisiana:** “We do not support the addition of any new mandatory requirements to AFS. In our opinion, Smart Enforcement dictates the replacement of the AFS data system prior to incorporating any content increases. AFS is dated, technologically challenged, and extremely rigid....”
- **Maine:** “EPA resources would be much better focused on producing a modern and “sophisticated” data system for stationary source facility and compliance data. Granted, this may not meet the immediate needs of OECA, but continued delay in converting to a modern data system will only hamper the needs of EPA, the States, and the public that we all serve.”
- **New York:** “EPA must improve or replace the antiquated [AFS] database rather than continually shift the burden by asking States and locals to format and reprocess data so that the [AFS] database can accept them...Batch updating...requires overnight processing [of each step]. Five files with 3 steps each involves 15 transactions over three days presuming there are no errors. This time-consuming and antiquated processing is ridiculous given the current state of art in information technology. To address this, we are involved in modifying our update process to use the Universal Interface. However, because of file transfer limits, we have found we need to create an intermediate processing database to overcome the [AFS] deficiencies. While we have a STAG grant to pay for the conversion to the UI, the development of an intermediate database was not anticipated. New York will end up footing the bill for any cost overrun. Unwarranted costs such as this continue to plague States with modern systems to interface with [AFS].”
- **Georgia:** “Georgia is concerned that the number of inspections conducted annually per compliance engineer has decreased over the past five years due to the increased complexity of the reporting, recordkeeping and monitoring required by the Part 70 Operating Permits, the complexity of the MACT standards, and the CMS strategy. Georgia requests that EPA carefully consider any request to report additional information concerning our delegated programs. A substantial amount of information is already reported to our EPA regional offices through regularly scheduled meetings and our Performance Partnership Agreement.

To require reporting of the same or similar information, in another format, to OECA is unnecessarily burdensome to the states and raises concerns about the dissemination of information within EPA.”

- **Michigan:** “It is the view of the MDEQ-AQD that the current information in [AFS] is of questionable quality and limited use. Increasing the volume of required information will not improve on this situation and may even result in a continued degradation of the data in the AFS and the Enforcement and Compliance History Online.”
- **Pennsylvania:** “Incorporation of the source test information into AIMS/eFACTS would be cumbersome and expensive and would be complicated by the requirement of a separate [AFS] inspection action number for each tested pollutant. A single cycle of source testing at a large facility could easily result in over 25 separate source test activities. The AFS computer is limited to less than one thousand of these actions. [OECA] has failed, and continues to fail to address the enhancement of the [AFS] System to allow the reporting of more than a thousand actions. All states will have severe coordination problems reporting additional source tests and Partial Compliance Evaluations as they run out of available numbers to assign. Most seriously affected will be Pennsylvania and other states that are not direct users of AFS and have their own computer systems that are not based on the architecture of the AFS computer system.”
- **Sacramento Air Quality Management District:** “AFS is a very old database that is not normalized and will require users to supply the requested data in a redundant, inefficient manner. The database’s other widely known shortcomings include a very poor user interface and broad lack of current database technologies, such as XML and SQL. AFS also lacks nationally applicable and clear data definitions and robust retrieval procedures from which to generate meaningful public participation.”
- **South Coast Air Quality Management District:** “While we applaud the goal of providing a system that accurately and efficiently delivers to the public timely compliance information on major sources, AQMD disagrees that AFS can ever be successfully modified to accomplish this goal. The AFS has become a complex, fragmented collection of data inputs that neither local nor federal personnel seem to understand completely. One needs to look no further than the 80-column requirement for batching data to realize this. Rather than spending more time, money, and effort in optimizing this system, a replacement for it should be EPA’s priority.”