

March 25, 2010

BOARD OF DIRECTORS

Co-Presidents

G. Vinson Hellwig
Michigan
Larry Greene
Sacramento, CA

Co-Vice Presidents

David Shaw
New York
Lynne A. Liddington
Knoxville, TN

Co-Treasurers

Mary Uhl
New Mexico
Merlyn Hough
Springfield, OR

Past Co-Presidents

Colleen Cripps
Nevada
Arturo J. Blanco
Houston, TX

Directors

Rick Brunetti
Kansas
Joyce E. Epps
Pennsylvania
Andrew Ginsburg
Oregon
Anne Gobin
Connecticut
Cheryl Heying
Utah
James Hodina
Cedar Rapids, IA
Cindy Kemper
Johnson County, KS
John S. Lyons
Kentucky
Richard Stedman
Monterey, CA

Executive Director

S. William Becker

Michael Hadrick
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Mr. Hadrick:

On behalf of the National Association of Clean Air Agencies (NACAA), thank you for this opportunity to provide comments on the *U.S. Environmental Protection Agency (EPA) Office of Air and Radiation Fiscal Year 2011 Draft National Program and Grant Guidance*, dated March 1, 2010. This guidance pertains to the President's budget request for FY 2011, which proposes to increase federal funding for state and local air quality grants by \$82.5 million over FY 2010 levels (from \$226.6 million to \$309.1 million).

We wish to thank the President and EPA for the proposed increases contained in the FY 2011 budget request. Even though this increase does not fully address the funding deficit that state and local air agencies have been facing for many years, it will be enormously helpful as we continue our existing programs and take on additional responsibilities in FY 2011. Such an increase, especially during difficult economic times, is recognition by the Administration that clean air is critically important to public health and the welfare of this country and that the benefits of protecting and improving air quality far outweigh the costs of the program. We appreciate the President and EPA's support of our efforts.

In particular, we commend the Administration for recognizing the importance of state and local agencies' core programs, as illustrated by the request for additional grant funds to support those activities. While new and innovative efforts are important and exciting, we can never forget how critical the core programs are for protecting public health and welfare, including the day-to-day activities that serve as the foundation of our programs.

NACAA was also very pleased by the tone of the draft program and grant guidance, including the repeated references to the importance of partnership and collaboration with state and local air agencies. We truly believe that as co-regulators and co-implementers of Clean Air Act programs, our relationship with EPA should be that of full partners. We were especially

grateful for the opportunity to participate in the EPA/NACAA retreat on February 4, 2010, during which the association's leaders and the EPA Office of Air and Radiation's upper-level management discussed a range of issues that are important to the effective implementation of Clean Air Act programs. We look forward to working together with EPA in the spirit of cooperation that was in evidence at the retreat and in the draft program and grant guidance.

NACAA has reviewed the draft grant guidance and appendices and would like to offer the following specific comments and recommendations.

Air Toxics in Communities (p. 3)

NACAA agrees that efforts to address children's exposure to hazardous air pollutants should extend beyond schools and include areas where the public lives, works and plays.

CAIR Seasonal NO_x Trading Program (p. 11)

The draft calls for Section 105 funds to be used for the CAIR Seasonal NO_x Trading Program. We believe EPA should fund the administration of the program in the same way that the agency funds administration of the Acid Rain program – through EPA's budget. In other words, the cost for administering CAIR's seasonal and annual trading programs should be absorbed by EPA's budget, not Section 105 grants.

NAAQS Program Strategy (p. 22)

We recommend that the priorities for regional offices in FY 2011 include addressing the backlog of SIP submittals and exceptional events submissions.

Multi-pollutant Efforts (p. 31)

In the Grant Assistance to Co-Implementers Section under Core Activities, the guidance discusses the multi-pollutant and regional nature of air pollution and the need to conduct increasingly complex analyses. NACAA agrees with this assessment and recommends that EPA fully endorse regional and multi-pollutant planning efforts. We encourage EPA to support consolidated efforts and ensure there are no impediments to efficient and effective efforts (e.g., through multi-jurisdictional organizations and regional planning organizations).

Allocation of Grant Funds (p. 32)

NACAA believes that it is important for EPA to develop an allocation of grant funds among activities and regions that is fair and equitable. We recognize that the formula EPA has used in the past for regional allocations is outdated and should be revised. The proposed increase in state and local air grants, assuming Congress appropriates it, provides an opportunity for EPA to begin distributing funds according to an updated formula while ensuring that state and local air programs are not disrupted by decreased grants as a result of the new allocation. The recommended level of funding should be sufficient to ensure that every region receives a fair and equitable increase in grants above its FY 2010 allocation. While the distribution of the

grant funds is ultimately EPA's responsibility, NACAA looks forward to continuing its discussions with EPA about the reallocation.

Diesel Emission Reduction Program (p. 32)

NACAA recommends that the funds to support the Diesel Emission Reduction (DERA) provisions of the Energy Policy Act of 2005 not be part of the STAG account, since many of the funds are not provided to state and local governments. We recommend that the funds be provided through one of EPA's other accounts.

With respect to the distribution of the DERA funds, NACAA hopes that EPA will continue to keep the program open to both attainment and 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.

Finally, NACAA is recommending to Congress that \$100 million be appropriated for DERA activities in FY 2011, which is \$40 million above the President's request of \$60 million for those programs. Of course, these additional funds should not come at the expense of Sections 103 and 105 grants.

Training (p. 33)

Throughout the draft document, EPA acknowledges the need for training for state and local air agencies as new programs and policies are introduced. We appreciate the recognition of the importance of training in the draft. Unfortunately, there appears to be a disconnect between the stated need for training and the level of funding provided within EPA's own budget. EPA notes that it is diverting approximately \$2 million from state and local air grants to fund training, but nowhere does it indicate how much the agency itself is proposing to spend on training. There is a need for core training support at the federal level, particularly for maintaining, updating and developing training courses and coordinating with the state and local training coordinators. For many years NACAA has recommended that EPA fund training from its own budget, and we have agreed to match EPA's expenditures for training from Section 105 grants during the transition to full EPA funding. Unfortunately, full EPA funding has not yet occurred. In recognition of the importance of training and the need for adequate funding, as in the past, NACAA recommends that EPA hold \$1,995,000 in Section 105 funds off the top for training and urges the agency to at least match the Section 105 grant funding for training from EPA's own budget. Further, NACAA recommends that adequate staffing support be allocated within EPA to provide necessary training services to state and local agencies.

Grant Competition (p. 34 and Appendix B, p. 4)

With respect to grant competition, EPA states that co-regulator status is no longer available as an exception to competition for grants for multi-jurisdictional organizations (MJOs). This change was made by the previous Administration. As we have commented in the past, NACAA disagrees with this view and believes that co-regulator organizations, such as NACAA and the MJOs, should continue to be treated under an exception to competition requirements. It

would be very inefficient for EPA and those organizations to undergo a competitive process when those entities are each uniquely qualified to perform their missions and were established by their members for this express purpose. There are no other organizations that directly represent their members and are able to carry out the national and regional environmental and public health objectives of their members.

Mandatory Greenhouse Gas (GHG) Reporting Rule (p. 45)

NACAA recommends that EPA coordinate closely with affected state and local agencies before initiating any technical assistance, compliance or enforcement activities with sources regulated by the state or local agencies. This is especially important with respect to state or local agencies with planned or existing GHG reporting regulations.

GHG Tailoring Rule (p. 47)

In the Tailoring Rule section, a priority of EPA headquarters is to develop guidance to assist permitting authorities. As with all federal programs, timely and detailed guidance is necessary and we encourage the agency to expedite the development of this guidance. There is also a commitment in this section for regions to work with states in evaluating and building permitting capacity. We are pleased that EPA is addressing this issue. We encourage the agency to assist actively with the development and delivery of necessary training as this process continues.

Renewable Fuel Standard Program (p. 48)

NACAA urges EPA to coordinate with or provide guidance to state or local air agencies that are pursuing low-carbon fuel standards in order to improve understanding and identify any overlap between the federal and state or local programs.

Potential New Source Performance Standards (p. 49)

The draft guidance does not include a list of potential New Source Performance Standards (NSPS) for GHG. If EPA is not able to include a list at this time, perhaps the grant guidance could indicate that the larger emitting source categories would be assessed as potential candidates for NSPS and provide a list of example categories, rather than a definitive list.

Voluntary Climate Protection Programs (p. 50)

The draft document implies, but does not clearly state, that the level of efficiency or performance required to receive the “Energy Star” label should be increased. This should be made more explicit in the final document.

Ambient Monitoring (Appendix C)

NACAA applauds EPA’s request for an additional \$15 million in FY 2011 Section 103 funds for the purchase of new monitoring equipment, which will greatly enhance the ability of

state and local agencies to implement new monitoring requirements for lead, nitrogen dioxide (NO₂) and ozone. However, the association is concerned that the requested \$15 million falls far short of the funding needed for new monitoring equipment over the next few years. As of March 2010, new and proposed changes to the monitoring networks for NO₂, lead, ozone, and sulfur dioxide (SO₂) would require hundreds of new monitors beginning in 2011, 2012, and 2013. Proposed revisions to the carbon monoxide (CO) and fine particulate (PM_{2.5}) monitoring networks are expected by the end of this year.

As state and local agencies prepare to implement new monitoring requirements, NACAA recommends that EPA work together with state and local agencies to develop a method for prioritizing new monitoring equipment purchases and implementation over the next several years. It may be necessary to develop a program for phasing in and funding new monitoring sites, including the expansion of the lead monitoring network in FY 2011. NACAA further recommends updating the National Monitoring Strategy to reflect changes in the monitoring network, include sustainable funding strategies, and address issues such as the importance of special field programs and monitoring to evaluate environmental successes (as recommended by the National Resource Council in its 2004 report, "Air Quality Management in the U.S."). NACAA also suggests allowing state and local agencies the flexibility to use some of the \$15 million for operating the monitors, rather than new-equipment purchases only, if that makes the most sense in their circumstances. Such decisions would be determined by the state or local agency and the regional office. The association looks forward to working with EPA to fully develop funding allocation plans for monitoring networks. This includes identifying opportunities for disinvesting in current monitoring activities, along with providing realistic estimates of the associated cost savings.

Collaboration regarding sustainable funding strategies should include proposed funding for photochemical assessment monitoring stations (PAMS), Interagency Monitoring of Protected Visual Environments (IMPROVE) sites and quality assurance. EPA is proposing to reserve 5 percent of FY 2011 PAMS funds for the purchase of new capital equipment, use \$3.8 million of FY 2011 funding for visibility monitoring at IMPROVE and Clean Air Status and Trends Network (CASTNET) sites, and allocate nearly \$3 million in FY 2011 funds for quality assurance programs, including the Performance Evaluation Program (PEP) and National Performance Audit Program (NPAP). While NACAA generally supports these efforts, the association encourages EPA to work with state and local agencies to discuss the ongoing implementation and future needs of these programs before allocating specific funds.

EPA is also proposing to transition funding for the PM_{2.5} monitoring network from Section 103 to Section 105, which requires matching funds from state and local agencies, over four years beginning in FY 2011. NACAA does not oppose this transition. However, in order to allow state and local agencies adequate time to make the necessary adjustments to their budgets and programs, particularly given the current challenges regarding state resources and the implementation of new monitoring requirements, NACAA recommends that EPA shift funding from Section 103 gradually. Specifically, the association suggests that funding be transitioned from Section 103 on the following schedule: 10 percent in FY 2011; 20 percent in FY 2012; 40 percent in FY 2013; and 60 percent in FY 2014, before the final shift to 100 percent funding

under Section 105 beginning in FY 2015. It is vital that funding levels not be decreased throughout the transition or thereafter.

Finally, NACAA encourages EPA's continued support for "hot-spot" community-scale air toxics monitoring. The association looks forward to working with EPA to meet the goals in the National Monitoring Strategy and continue to evaluate the expansion of the air toxics monitoring program.

Thank you for your consideration of our comments and recommendations. We look forward to discussing these issues with you. Please do not hesitate to contact us if you need additional information.

Sincerely,



G. Vinson Hellwig
Michigan
Co-President of NACAA



Larry Greene
Sacramento, CA
Co-President of NACAA

cc: Jerry Kurtzweg (kurtzweg.jerry@epa.gov)
William Houck (houck.william@epa.gov)
Daniel Hopkins (hopkins.daniel@epa.gov)
Stephanie Santell (santell.stephanie@epa.gov)