

March 18, 2009

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Ms. Elizabeth Craig
Acting Principal Deputy Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Ms. Craig:

On behalf of the National Association of Clean Air Agencies (NACAA), thank you for your letter of January 27, 2009 in which you invited NACAA to participate in a joint implementation workgroup that will develop a strategy and guidelines for the new allocation method for Section 105 grants. We accept your invitation to participate cooperatively on this important effort and appreciate the opportunity to work with you as we determine how best to implement an updated allocation strategy.

While NACAA agrees that the current allocation methodology is outdated, we are very concerned that implementing a revised formula carries the danger of disrupting existing state and local programs, particularly those that could receive decreased funding. As you know, NACAA did not participate in developing the reallocation because we knew it would shift resources among our members. By agreeing now to participate in the implementation group, NACAA is neither endorsing nor opposing the new allocation formula as proposed. Instead, we are prepared to work with you and provide input that will help ensure that its implementation will avoid or minimize disruption for state and local air programs.

A review of the allocation data indicates a substantial potential shift in grant allocation amounts with some regions possibly increasing 20-30 percent over their historical allocations and other regions possibly subject to losing 30-40 percent of their funds. Again, NACAA is neither endorsing nor opposing the new allocation formula. However, during these difficult economic times, few if any agencies can easily afford to withstand reductions in resources that reallocations might create, and certainly not of the size reflected in the information we reviewed. Since full and even moderate implementation of the revised formula could create unacceptable disruptions in certain regions, we believe that the most essential element of the implementation process

would be for EPA to make available grant increases sufficient to ensure that no agency suffers a decrease, while those that are slated for an increased share of the total can receive additional funds. At a minimum, the grant should be increased from \$220 million to \$270 million as previously requested by NACAA and ECOS.

We commend EPA for the tremendous amount of work that was required to develop the proposed revision to the allocation scheme. We sincerely appreciate EPA's attempt to address NACAA's Principles for Reallocating Section 105 Grants (October 24, 2006), and we note that such an undertaking was certainly difficult due to the complexity of the issues and the different points of view of the participants. Attached are NACAA's principles for your convenience.

While NACAA, as an association, is not requesting that EPA revisit the revised allocation scheme, we do wish to point out a few key areas where the scheme does not fully meet NACAA's principles so that these concerns can be addressed by the implementation workgroup. First, it is not clear that the formula fully addresses all three factors in Section 105 nor that it defines them broadly as requested in principle #3. The new formula appears to be driven mainly by factors that affect variable costs, but may be less sensitive to factors that affected fixed costs. The implementation workgroup should identify funding for the work that is not covered by the formula. Second, as we understand it, EPA plans to update the inputs to the formula to incorporate new work (e.g., the lead NAAQS), thereby effectively redistributing funds rather than providing new funding for new work as requested in principle #6. The implementation workgroup should evaluate how new work is incorporated into the formula. Finally, in contrast to principle #9, the formula could result in fluctuations in funding as nonattainment areas are redesignated and toxics risk is reduced. The implementation workgroup should evaluate ways to prevent these fluctuations so that maintenance activities can be adequately funded. Again, we believe that all of these implementation issues can be resolved by increasing the Section 105 grant levels to a degree that enables the new allocation to be implemented and provides, at a minimum, modest increases for all agencies.

We look forward to discussing these and other issues with you as part of the implementation effort. Attached is a list of the NACAA representatives who have agreed to participate on the workgroup, along with their contact information. Thank you again for your invitation to participate. If you have questions, please contact Bill Becker or Mary Sullivan Douglas of NACAA at (202) 624-7864.

Sincerely,



Andrew Ginsburg
Oregon
Co-Chair
NACAA Program Funding Committee



Bruce Andersen
Kansas City, Kansas
Co-Chair
NACAA Program Funding Committee

National Association of Clean Air Agencies Principles for**
Reallocating Section 105 Grants
October 24, 2006

Section 105 of the Clean Air Act provides for a program of matching grants that fund an essential portion of the budgets of state and local air quality agencies. We believe that this grant program should be adequately funded and responsibly allocated to support our work to protect public health and the environment.

Air pollution poses a very serious threat to public health and the environment. In fact, we are not aware of any other environmental problem that presents a *greater* risk. The benefits of air quality programs have been estimated to exceed their costs many times over. Accordingly, we believe adequate funding for all state and local air programs is essential and that federal grants to state and local air agencies should be increased substantially.

The total amount needed for state and local efforts to implement the Clean Air Act effectively is estimated to be in excess of \$1 billion each year. If EPA were to supply 60 percent of that amount, as the Clean Air Act envisions, federal grants would amount to close to \$600 million annually. This amount cannot be offset by Title V fee revenues because Title V fees cannot currently be used for grant-eligible activities. The FY 2007 budget request for state and local air quality grants under Sections 103 and 105 of the Clean Air Act was only \$185 million, which represents a \$35-million decrease from the previous year and is far short of the amount needed. Furthermore, over the past decade, federal grants for state and local air agencies to operate their programs (not including the Section 103 monitoring program) have decreased by 25 percent in terms of purchasing power.

The formula EPA uses to allocate Section 105 grants to state and local air quality agencies was developed in the early 1990s and reflects the conditions that existed at the time. Since then, the formula and the allocations that are derived from it have become outdated and should be reexamined and updated to reflect the current circumstances and true program costs. This document provides principles that NACAA believes EPA should follow in updating the allocation formula.

However, we are concerned that a reallocation of funds that causes shifts in grants from one region or agency to another could be very disruptive to state and local efforts to achieve and maintain healthful air quality. Certainly, the detrimental effects of such shifts would only exacerbate the funding shortfall that already exists. In fact, some agencies would not be able to withstand additional losses of funds and could cease to operate. For these reasons, we believe EPA should provide additional grant funds to ensure that no region or state or local air agency suffers a decrease in grants or experiences the disruptions that will accompany reallocations of grant funds. Clearly, the only way to prevent disruptions of air programs and the services they provide to the public is to increase allocations and not merely redistribute grants.

* Formerly STAPPA/ALAPCO

In addition to providing significantly increased grant funds to avoid the disruptions a reallocation could cause, NACAA believes EPA should make any adjustments to the allocation according to the following principles (which do not necessarily appear in order of priority):

1. **Develop a transparent, understandable and clear process:** Those affected by the formula and resulting allocation should understand how the formula was developed, how it will be implemented and how, specifically, it will apply to each recipient.
2. **Utilize these principles for national and regional allocations:** These principles should apply to regional allocations, as well as to the allocations from the regions to the individual state and local air agencies. In addition, these principles should apply to pass-through funded local agencies.
3. **Define broadly and utilize all three factors in Section 105 in designing an allocation formula:** The Clean Air Act identifies three factors that should be considered in allocating grants: (A) the population, (B) the extent of the actual or potential air pollution problem, and (C) the financial need of the respective agencies. EPA should define each of these factors broadly to fully characterize the diversity of conditions facing state and local agencies, and attempt, where possible, to include factors in the allocation formula that capture this diversity. For example:
 - A. **“Population”** can be used to capture a wide range of conditions. Total population can provide an indication of pollution, work load and financial need, since it is somewhat proportional to area/mobile emissions and ability to generate local revenue. Population density can provide an indication of cost as it is somewhat proportional to impacts and complaints and inversely proportional to efficiency of service delivery. Population growth can provide an indication of emerging air pollution problems and financial needs. EPA should consider a wide-range of population-related factors in designing an allocation formula.
 - B. The **“extent of the actual or potential air pollution problem”** should include factors that reflect the cost of attaining the National Ambient Air Quality Standards (NAAQS), not just the current attainment status. EPA should consider factors that address the costs of maintenance of NAAQS in former nonattainment areas because there are ongoing costs even in areas that successfully address air pollution. EPA should also consider factors that address the prevention of deterioration in attainment areas, the potential for more stringent standards and the need to protect air quality in all areas of the country. In addition, EPA should consider factors that capture the costs of protecting Class I areas; preventing impacts (e.g., deposition) on Air Quality Related Values and the environment; reducing risk from toxic air pollution and motor vehicles; assessing, analyzing and assuring that the impacts of transported air pollution from

upwind areas are reduced; and addressing other state and local priorities and innovations (e.g., activities in areas whose problems are not fully resolved through federal programs, environmental justice, promotion of emerging control technologies). EPA should also consider broad measures of air pollution-related health impacts (e.g., asthma rates and hospital visits related to pulmonary distress).

- C. The **“financial need”** factor should recognize the importance of funding core state and local air quality programs (i.e., “core” meaning those elements of the programs that most agencies must have regardless of the type of air quality in the area). EPA should also consider factors that capture the special needs of small air agencies that do not have the depth of staff to survive significant cuts and yet must still be able to serve their communities. However, EPA should not consider Title V fee revenues in allocating the grants.
4. **The grant should support, not drive, priorities:** Because air quality needs differ for each area of the country, priority work should be identified through negotiation between the regional offices and state and local agencies. National priorities should be addressed through – and influenced by – this regional priority-setting process. The Section 105 grant allocation process should not be used to drive or work around the negotiated priority-setting process by earmarking funds for specific purposes or forcing agencies to take on work they cannot afford, but rather should be used to adequately fund the negotiated priorities.
 5. **Fully distribute funds:** All grant funds should be distributed to the regions and then to the state and local air agencies. The only time grants may be held “off-the-top” (i.e., set-asides) at the national or regional levels is when the state and local air agencies have given their explicit approval (see directive in House Report 106-674 on this issue).
 6. **Provide new funding for new work:** New national or regional initiatives should be accompanied by increased grants to support the additional workload and ensure successful completion of those initiatives. The grant allocation process should not be used to cut funding for existing work in order to pay for new national or regional initiatives that EPA wishes state and local agencies to undertake. Such shifts would be problematic because the costs associated with the existing work would remain. (Reprioritization of existing work should be made according to Principle 4.)
 7. **Account for funds through grant work plans, not through per-pollutant expenditures:** Tracking of funds should not be tied to individual pollutants, since many state and local expenditures are multi-pollutant in nature (e.g., monitoring, emission inventory, non-Title V permitting, inspections, rulemaking, public education) and expenditures and results are tracked at the program level. While the extent of the actual or potential air pollution problem is a factor in allocating funds, the accounting system should encourage multi-pollutant work

as recommended by the National Research Council ("Air Quality Management in the United States", January 2004) and should be based on measurable functions that are tracked by state and local agencies. Therefore, accounting and accountability for funds should occur through grant work plans that are, in turn, based on negotiated priorities.

8. **Phase in changes to avoid disruptions:** In the event that implementation of the revised formula would result in any funding level changes to a region, such changes should be phased in as needed to minimize disruptions. State and local agencies operate on different budget planning cycles that may not coincide with the federal budget planning cycle, therefore, significant changes in allocations could cause major disruption. States and localities need to plan for increases to provide sufficient match. Decreases in the allocation to a state or local agency can cause loss of expertise, inability to respond to pressing public health problems and inability to meet local and federal commitments. Phasing in changes to the allocations will allow agencies to adequately plan for and avoid disruptions.
9. **Provide a stable allocation over time:** Once a new allocation scheme has been put into place, it is important that the proportion allocated to each region remain relatively stable and predictable for a period of time because state and local agencies are not able to accommodate wide fluctuations from one year to the next. For example, it would be disruptive if an agency's allocation fluctuates because the area goes in and out of attainment. For many agencies, planning and budgeting processes are multi-year efforts that do not have short-term flexibility. Additionally, some agencies operate on a different budget cycle from the federal government. Accordingly, the allocation scheme should include a mechanism to minimize large, short-term changes. However, there should be a way to recognize the incremental costs that will occur over time due to growth in an area. One possibility is to recalculate the inputs to the formula at regular intervals (e.g., every X years). These recalculations should be open and provide adequate time for state and local agencies to plan.

NACAA Grant Reallocation Workgroup

February 2009

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