

**American Lung Association * American Thoracic Society
Association of Local Air Pollution Control Officials *
Breakthrough Technologies Institute * Clean Air Task Force
Environmental Defense * Friends of the Earth *
Natural Resources Defense Council * Sierra Club
State and Territorial Air Pollution Program Administrators
Union of Concerned Scientists * U.S. Public Interest Research Group**

September 3, 2003

The Honorable Ted Stevens, Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Chairman Stevens:

We are very concerned that a rider included in the VA, HUD and Independent Agencies appropriations legislation would limit the ability of states to protect public health and the environment from harmful air pollution. We strongly urge you to remove the provision from the bill, and to oppose any other anti-environmental provision in the bill.

The severe impacts of soot and smog pollution on public health are well-documented and include premature death, as well as asthma attacks, heart disease, cancer, and a variety of other serious health problems.

The provision included in the appropriations bill would prevent states from controlling pollution from small- and medium- sized nonroad engines and impede efforts to achieve our nation's clean air goals. Under current law, states may not regulate pollution from new construction or agricultural engines under 175 horsepower or new locomotive engines. The appropriations rider, however, would expand that prohibition to include a much broader range of nonroad engines, including, among others, those used in forklifts, generators, backhoes, and lawnmowers, as well as ground support equipment, which is a pollution issue of emerging concern in many areas. The provision leads to the virtual exclusion of all of these engines from potential regulation, leaving the public exposed to substantial levels of harmful emissions.

The proposal also appears to preclude state actions to clean up older, dirtier engines through retrofit programs. The rider language is written so broadly that it may even preclude states from instituting voluntary retrofit programs.

A specific example of state action that would be preempted by this provision is a proposed program in California to reduce emissions from lawn and garden equipment. By 2010, the cumulative emission reduction impact of this measure would be equivalent to taking one million cars off the road. Attached is a fact sheet prepared by the California Air Resources Board detailing further the detrimental impacts of the VA/HUD appropriations provision.

A fundamental tenet of the Clean Air Act is that states and localities are best suited to determine what programs and measures are needed to achieve the health-based National Ambient Air Quality Standards in their jurisdictions. Revoking states' ability to achieve reductions from these nonroad engines will make it far more difficult provide safe air for Americans. At a time when

cities around this country are facing critical, intractable air pollution problems, we urge that Congress not limit the tools that will enable the effective reduction of emissions and the attainment and maintenance of health-based standards.

We further note that in the 2003 Omnibus Appropriations Congress adopted a study provision directing the National Academy of Science to research and report on how states set emission standards, such as those contemplated. Since work on this study has not yet begun, legislative action that would limit state flexibility is premature and, we believe, inappropriate..

We ask that you remove this language from the bill and preserve states' rights to protect air quality and public health. We also urge you to oppose any other anti-environmental provision in the bill.

cc: Members of the Senate Appropriations Committee