

STAPPA / ALAPCO

STATE AND TERRITORIAL
AIR POLLUTION PROGRAM
ADMINISTRATORS

ASSOCIATION OF
LOCAL AIR POLLUTION
CONTROL OFFICIALS

March 9, 2004

S. WILLIAM BECKER
EXECUTIVE DIRECTOR

The Honorable John Warner
Chairman
Armed Services Committee
U.S. Senate
228 Russell Senate Office Building
Washington, DC 20510

The Honorable Carl Levin
Ranking Member
Armed Services Committee
U.S. Senate
228 Russell Senate Office Building
Washington, DC 20510

Dear Senators Warner and Levin:

On behalf of the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO), the two national associations of state and local air pollution control officials in 53 states and territories and more than 165 major metropolitan areas across the country, I write to you today to urge against potential changes to Clean Air Act (CAA) provisions as they relate to activities of the U.S. Department of Defense (DOD).

It is our associations' understanding that DOD is, once again, seeking amendments to various environmental and public health statutes. These amendments would provide broad statutory exemptions for purposes of military readiness, including sweeping exemptions from the CAA. Our associations opposed these CAA exemptions when they were proposed last year and the year before, and we oppose them just as forcefully now. We are pleased that Congress has twice rejected adoption of the CAA exemptions and we urge you to do so again this year.

STAPPA and ALAPCO believe that the CAA exemptions DOD is seeking are unwarranted and will impede local, state and federal efforts to attain and maintain health-based National Ambient Air Quality Standards (NAAQS) and deliver healthful air to the citizens of our nation. Such exemptions would also interfere with efforts to protect air

quality in national parks and other important ecosystems. The CAA amendments sought would exempt air pollution caused by military readiness activities from state and federal implementation plans designed to meet the health-based NAAQS. For nonattainment areas, the exemption would last for three years, while for attainment and unclassifiable areas, the exemption appears to be permanent.

These exemptions would allow military readiness activities, alone among air pollution activities that our members regulate, to cause or contribute to violations of health-based NAAQS, increase the frequency or severity of such violations or delay timely attainment of the standards or interim milestones. Further, the proposed response to these impacts is to allow EPA to approve areas as being in attainment with the ozone, carbon monoxide and PM₁₀ air quality standards – even when those areas in fact are not in attainment with those standards – if the area would be in attainment but for air pollution from military readiness activities.

STAPPA and ALAPCO believe these exemptions and related provisions are unjustified and would improperly compromise the CAA's mission and the responsibilities of state and local officials to protect public health and safeguard air quality. We oppose any approach that would undermine the integrity of health-based air quality standards by designating air quality to be healthy when it is not. Moreover, this approach would impose inequitable burdens upon the industries our members regulate, as well as on the public. State and local air pollution control officials will still feel the responsibility to deliver truly healthful air to the public they serve and, therefore, will have no choice but to call upon other sectors in order to obtain the emission reductions that can no longer be secured from military facilities.

In addition, STAPPA and ALAPCO believe that such exemptions are unnecessary, in that the CAA already provides DOD ample flexibility to carry out its duties. Under Section 118 of the CAA, the President may exempt DOD from any requirements of the Act upon finding that it is of "paramount interest of the United States to do so." Further, the federal regulations implementing the CAA's "general conformity" provisions from which DOD specifically seeks exemption also allow DOD to suspend compliance in the case of emergencies (which, by definition, include terrorist activities and military mobilizations) and, additionally, permit DOD to conduct routine movement of material, personnel and mobile assets, such as ships and aircraft, provided no new support facilities are constructed.

In light of the broad statutory and regulatory flexibilities already provided, STAPPA and ALAPCO do not believe that additional CAA exemptions are necessary in order for DOD to conduct military readiness activities. Further, our associations believe the CAA exemptions sought by DOD would, essentially, serve only to allow routine, non-emergency activities that require the construction of additional support facilities to skirt important environmental requirements. The significant adverse air quality impacts that could result from such exemptions could unnecessarily place the health of our nation's citizens at risk. Accordingly, STAPPA and ALAPCO urge you and your colleagues to reject actions to exempt DOD from CAA requirements.

If you have any questions, or if STAPPA and ALAPCO can provide any further information, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, consisting of a stylized initial 'S' followed by a long horizontal line.

S. William Becker

cc: The Honorable John Ensign
The Honorable Daniel K. Akaka