



June 14, 2017

The Honorable John Shimkus
Chairman, U.S. House Energy and Commerce
Subcommittee on Environment
2217 Rayburn House Office Building
Washington, DC 20515

The Honorable Paul Tonko
Ranking Member, U.S. House Energy and
Commerce Subcommittee on Environment
2463 Rayburn House Office Building
Washington, DC 20515

Subject: Clean Air Act Modernization Principles

Dear Chairman Shimkus and Ranking Member Tonko:

Members of the Association of Air Pollution Control Agencies (AAPCA)¹ have responsibility for protecting and improving air quality in our states and local areas, which include more than 140 million Americans and over 60 percent of total energy production in the United States. We also have the responsibility of implementing many parts of the federal Clean Air Act. As you know, several state and local AAPCA members provided testimony during your Subcommittee's March 22 hearing.²

We are firmly committed to ensuring that our citizens have clean air, and we recognize that the Clean Air Act has been a remarkable success. Its model of cooperative federalism, which requires state and local governments and the U.S. Environmental Protection Agency (EPA) to work together to protect the air we breathe, has been responsible for dramatic improvements in air quality since it was adopted in 1970.

We note, however, that the Clean Air Act has remained essentially unchanged since 1990. Since that time, we have learned a great deal about the science of air pollution and the most effective ways of reducing it. We believe it is time for Congress to seek targeted approaches to modernize the Act in order to take advantage of the lessons we have learned over the last two and a half decades.

Although there is disagreement about many Clean Air Act issues, we all support commonsense modernizations to the Act that would simplify the process for state implementation plans, harmonize regulatory deadlines, and streamline programs that have become unnecessarily burdensome. These improvements would also clarify the roles and responsibilities of state and local governments and strengthen the model of cooperative federalism that is at the heart of the Clean Air Act. The principles outlined below reflect the consensus feedback of AAPCA members but they do not imply endorsement from all individual state and local agencies.

¹ AAPCA is a national, non-profit, consensus-driven organization focused on assisting state and local air quality agencies and personnel with implementation and technical issues associated with the federal Clean Air Act. AAPCA represents more than 40 state and local air agencies, and senior officials from 20 state environmental agencies currently sit on the AAPCA Board of Directors. AAPCA is housed in Lexington, Kentucky as an affiliate of The Council of State Governments. You can find more information about AAPCA at: <http://www.cleanairact.org>. In addition, more information on AAPCA agencies can be found in the recently released report, *The Greatest Story Seldom Told: Profiles and Success Stories in Air Pollution Control*.

² *H.R. 806, Ozone Standards Implementation Act of 2017*: Hearing before the Subcommittee on Environment of the Energy and Commerce Committee, House of Representatives, 115th Cong. (2017).

We would be very pleased to work with you and your colleagues to see that these principles be incorporated in any effort to update the Act:

National Ambient Air Quality Standards Reviews & State Implementation Plans

- Maintain health-based national ambient air quality standards (NAAQS) but harmonize planning and attainment deadlines to allow states to develop multi-pollutant State Implementation Plans (SIPs) for attaining and maintaining all NAAQS. As is the case today, there might be different attainment deadlines for different NAAQS, but deadlines must take feasibility into account.
- Consider a more realistic review cycle that reflects the rigor and time required to meaningfully evaluate and, if necessary, revise a NAAQS.
- Maintain EPA responsibility for reviewing and approving SIPs but require EPA to meet deadlines for approval or disapproval. Preserve state primacy by allowing EPA to disapprove SIPs only for clear and significant deficiencies that would have a meaningful impact on air quality, and provide that SIPs are approved unless EPA disapproves them by the current statutory deadlines.
- Maintain the current procedure for designating nonattainment areas but clarify that such designations must be made based on data from approved air quality monitors.

Ability of State and Local Agencies to Participate in Clean Air Act Suits and Settlements

- Maintain current provisions for citizen suits but ensure that, in any such suit, states, local governments, and affected businesses can participate as parties.
- Require any settlement agreement, consent decree or court order arising from such cases to consider resource constraints and the views of all parties.

Permitting

- Maintain permitting requirements but allow facilities to be built or expanded in any area of the country as long as: (1) state or local environmental officials determine that the facility will not have a meaningful adverse impact on human health or the environment; and (2) they employ the best available technology to control their emissions.
- Maintain state and local agency discretion in permitting decisions and clarify that permits may be challenged only for clear and significant deficiencies that would have a meaningful impact on air quality.
- Provide for a limited exemption from Prevention of Significant Deterioration/New Source Review permitting for projects that are determined to be environmentally beneficial based upon a cumulative impacts analysis.

Thank you for your consideration of these comments and principles. If you have any questions, please contact Clint Woods, AAPCA's Executive Director, at [REDACTED]

Sincerely,

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Sean Alteri
Director, Kentucky Division for Air Quality
President, AAPCA