

STAPPA / ALAPCO

STATE AND TERRITORIAL  
AIR POLLUTION PROGRAM  
ADMINISTRATORS

ASSOCIATION OF  
LOCAL AIR POLLUTION  
CONTROL OFFICIALS

S. WILLIAM BECKER  
EXECUTIVE DIRECTOR

**Testimony of**

**Annette Liebe**  
**Manager, Air Quality Planning**  
**Oregon Department of Environmental Quality**

**on behalf of the**

**State and Territorial Air Pollution Program Administrators**  
**and the**  
**Association of Local Air Pollution Control Officials**

**on Implementation of the CMAQ and Conformity Programs**

**before the**  
**Senate Environment and Public Works Committee**  
**Subcommittee on Clean Air, Climate Change and Nuclear Safety**

**March 13, 2003**

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Good morning, Mr. Chairman and members of the Subcommittee. I am Annette Liebe, Manager of the Air Quality Planning Section of the Oregon Department of Environmental Quality. I am testifying today on behalf of STAPPA – the State and Territorial Air Pollution Program Administrators – and ALAPCO – the Association of Local Air Pollution Control Officials – the two national associations of air quality officials in 54 states and territories and over 165 major metropolitan areas. The members of STAPPA and ALAPCO have primary responsibility under the Clean Air Act for implementing our nation's air pollution control laws and regulations and, moreover, for achieving and sustaining clean, healthful air for our citizens. Accordingly, we are pleased to have this opportunity to provide our perspectives on implementation of the Congestion Mitigation and Air Quality Improvement (CMAQ) program under the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) and the transportation conformity program under the Clean Air Act.

STAPPA and ALAPCO are acutely aware of the key role that transportation plays in our nation's economy. We endorse the fundamental principle that transportation and environmental goals need not be at odds with one another, but, rather, that our transportation system can flourish and our economy can grow without jeopardizing our environment. In fact, our transportation choices can contribute to environmental improvements.

Today, however, transportation remains a dominant source of air pollution across the country, contributing substantially to unhealthful levels of ozone, particulate matter (PM) and carbon monoxide (CO). In particular, according to the U.S. Environmental Protection Agency (EPA), these sources are responsible for over 40 percent of volatile organic compounds and more than 50 percent of nitrogen oxides – both of which are ozone precursors – more than 25 percent of fine particulate matter emissions and 70 percent of CO emissions. Transportation sources are also very significant contributors of greenhouse gases – including over a third of carbon dioxide emissions – and toxic air pollutants and play a role in the formation of regional haze. Although we continue to make great progress in reducing emissions from mobile sources, it is clear that the benefits of these technological advances can not keep pace with current and foreseeable trends of steadily increasing vehicle miles traveled (VMT).

STAPPA and ALAPCO firmly believe that the CMAQ and transportation conformity programs are critically important to our goal of achieving full integration of our environmental and transportation decision-making processes and ensuring that transportation choices do not undermine our efforts to achieve and sustain clean, healthful air throughout the country. For this reason, last fall, our associations adopted a set of CMAQ and transportation conformity principles for the reauthorization of TEA-21; a copy of our principles is attached.

#### CMAQ Program

STAPPA and ALAPCO strongly support the CMAQ program, which provides a discrete source of funding explicitly set aside for transportation projects that meet air quality objectives and for projects that result in sustainable air quality improvement. The CMAQ program appropriately reinforces the interrelationship between the transportation and air quality planning processes by specifically recognizing and seeking to ameliorate the transportation sector's impact on air quality. Over the past 10 years, it has been demonstrated that CMAQ can play a significant role in helping states and localities address transportation-related air quality problems. We believe, however, that this important program can be strengthened in several ways.

First, since CMAQ was originally established, the scope and magnitude of transportation-related emissions and their impact on air quality have expanded significantly. EPA has adopted new, health-based National Ambient Air Quality Standards (NAAQS) for fine particulate matter and eight-hour ozone, both of which will be implemented in the next few years. A National-Scale Air Toxics Assessment has concluded that motor vehicles are the largest source of hazardous air pollutants nationwide, producing nearly 1.4 million tons of air toxics each year. And we have gained an increased understanding of the phenomenon of transported pollution and precursors and its impact on the ability of many areas to attain and maintain clean air goals.

While STAPPA and ALAPCO believe CMAQ funds should be apportioned based on the severity of an area's air quality problem and its population, we urge that the areas eligible to receive CMAQ funding be expanded from one-hour ozone, PM<sub>10</sub> and CO nonattainment and maintenance areas, to also include PM<sub>2.5</sub> and eight-hour ozone nonattainment and maintenance areas; areas nearing nonattainment; areas whose transportation-related emissions have an impact on a nonattainment area; and areas that experience other air quality problems as a result of transportation-related emissions, including, but not limited to, hazardous air pollutants from mobile sources.

Accordingly, we believe that the historic allocation of CMAQ funds is inadequate. We strongly urge a substantially increased federal commitment of resources to the CMAQ program, to reflect the true and very significant impact of transportation-related emissions on air quality. This increase should be no less, proportionately, than that to be provided for highway investments.

In Oregon, CMAQ funds have been used to implement transportation control measure commitments in numerous maintenance plans. Some examples include expansion of transit service and programs, support of transit-oriented development, implementation of commuter trip reduction programs, expansion of bicycle and pedestrian facilities and the purchase of advanced equipment to remove winter road sand

that could contribute to PM<sub>10</sub>. In order to meet the challenges of implementing new standards to protect public health, it is necessary to increase the amount of funding available for these types of projects and assure eligibility for areas that are making progress to maintain healthful air.

With respect to project eligibility, we urge that greater emphasis be placed on projects that will result in direct, timely and sustained air quality benefits. Certain types of congestion mitigation projects, such as road and bridge construction and expansion, may have the long-term effect of promoting growth in VMT and urban sprawl, and of creating new congested corridors. CMAQ funding should be directed to projects that demonstrate sustained air quality benefits. STAPPA and ALAPCO also recommend that to qualify for CMAQ funds, a project should be required to demonstrate that a specified minimum air quality benefit threshold is met or exceeded, based on established criteria and supporting data, with such a threshold determined with the concurrence of the appropriate state and/or local air quality agency. Based on more clearly defined funding eligibility criteria and guidance, states and localities should have discretion in determining which qualifying projects receive funding.

Finally, STAPPA and ALAPCO recommend that state and local air quality agencies have a more defined and consistent role in the evaluation and selection of CMAQ projects. We believe the concurrence of state and local air quality agencies must be required for project selection, through a well-defined consultation and concurrence process. In Oregon, this concurrence has occurred through the ongoing interagency consultation process that we established under the conformity rule.

#### Transportation Conformity

STAPPA and ALAPCO remain firmly committed to the purpose of transportation conformity, which is to ensure that shorter-term Transportation Improvement Programs (TIPs) and long-term Regional Transportation Plans (RTPs) contribute to the timely attainment and maintenance of healthful air quality and are consistent with the motor vehicle emissions budgets contained in the State Implementation Plan (SIP) for air

quality; we believe that conformity can be implemented as intended, and that its purpose can be fulfilled with increasing success.

In numerous areas, the conformity process has improved working relationships between state and local air quality and transportation officials by requiring consultation and coordination among agencies. The process has made air quality and transportation planners more aware of each others' objectives; resulted in the inclusion in TIPs and RTPs of additional projects that benefit air quality; and opened up the SIP development process to more input from the transportation community. Clearly, this has been the case in Oregon. STAPPA and ALAPCO believe that we must continue to strive for such successes across the country. Moreover, our associations strongly believe that the purpose of conformity – to ensure that transportation plans and programs stay within the allotted mobile vehicle emissions budget – is absolutely crucial to achieving clean air goals, especially given the continued increase in motor vehicle use. While we understand that others seek changes to the conformity process, STAPPA and ALAPCO strongly endorse preserving the major conformity requirements and schedules that are now in place.

For example, we understand that some seek to shorten the planning horizon for the RTP, so that the plan's conformity determination would be based on a 10-year horizon versus the current 20-year horizon. STAPPA and ALAPCO strongly oppose such a change.

Long-term planning, over a 20-year horizon, is imperative to ensuring that the potential growth in mobile source emissions is identified, the impact on air quality is assessed and appropriate adjustments to transportation plans are made accordingly. In planning for clean air, state and local air agencies must not only chart a course for achieving healthful air quality, but also for maintaining it over the long term. Shortening the timeframe over which a transportation plan is required to demonstrate conformity is extremely troubling to us because it takes only the first part of our responsibility – attaining an air quality standard – into account, and ignores our responsibility to plan for maintenance over the subsequent 20 years. Major transportation investments can have

huge air quality impacts, much of which may not occur for several decades; these investments can also significantly induce growth. If we eliminate the responsibility to account for the impact of transportation investments beyond 10 years, then we eliminate the ability to hold these projects accountable for their air pollution, and severely compromise our ability to adequately protect public health.

We also understand that some are seeking to reduce the frequency of conformity determinations for transportation plans from every three years to every five years, and to eliminate the requirement for conformity determinations on the TIP, currently conducted every two years. STAPPA and ALAPCO oppose these changes, as well.

Regular and timely analyses to demonstrate compliance of financially constrained TIPs and RTPs with SIP motor vehicle emission budgets must be maintained. Such continued frequency will ensure that sound data is generated and allow for the timely improvement of motor vehicle emission estimates. The result will be improved air quality and timely progress toward attainment of health-based NAAQS and other air standards. However, in recognition of the desire of transportation officials to improve the alignment of conformity timelines, STAPPA and ALAPCO recommend that the frequency of the conformity analysis on the TIP and the RTP be synchronized and conducted no less frequently than once every three years.

A final example of a conformity requirement where change is being sought is the length of the grace period to be allowed before an area found to be in violation of an air quality standard for the first time must demonstrate conformity. We understand that some seek to extend the length of the grace period for such areas from the current one year to three years. First, we note that Congress has already addressed this issue. Just two years ago, statutory conformity provisions were amended to provide for a one-year grace period. Moreover, an extension of this period to three years is of significant concern to our associations. To allow transportation planning in an area with poor air quality to go unchecked for three years would be a substantial weakening of the conformity program and of public health protection. While both ozone and PM<sub>2.5</sub> pose dangerous health consequences, PM<sub>2.5</sub> is especially dire because of its potentially deadly

nature. We believe the one-year grace period following formal designation is sufficient in terms of allowing an area to ramp up to its responsibilities, even for areas that have never faced nonattainment and conformity before. Most, if not all, of these areas are already aware of their forthcoming nonattainment status. In addition, given all of the areas that already implement conformity, there is now a wealth of experience for new areas to draw on. At least part of the reason many areas across the country will become nonattainment for the new ozone and PM<sub>2.5</sub> standards is transportation-related sources. This being the case, postponing for three years efforts to address the impact of transportation plans and programs on air quality is highly imprudent.

STAPPA and ALAPCO believe conformity is working. We believe it is well worth the effort it requires, given the benefits that will follow in terms of public health and smart growth. In addition, we believe that conformity as it is currently structured provides ample flexibility to states to accommodate individual needs and circumstances, while maintaining the integrity of the program. Rather than statutory changes to such things as planning horizons, analysis frequency and grace periods, STAPPA and ALAPCO believe that state and local officials should retain the flexibility to resolve issues in the way that works best at the state and local level. This may involve revising the emissions budget in a SIP in one area, adding transportation control measures to a TIP in another area or extending the air quality planning horizon in yet another area. In each case, the state and local officials can develop the best solution for their jurisdictions through a strengthened interagency consultation process.

### Conclusion

At its Winter Meeting last month, the National Governors Association (NGA) reaffirmed its existing policy on "Transportation Conformity with the Clean Air Act." In that policy, the Governors state:

"With the enactment of the Clean Air Act Amendments of 1990, the Intermodal Surface Transportation Efficiency Act of 1991, and the Transportation Equity Act for the 21st Century, Congress took steps to advance two essential national goals: achieving air quality standards and providing for the transportation needs of the

American people. The Governors strongly support the attainment of both of these goals and believe that neither should be sacrificed in pursuit of the other.”

STAPPA and ALAPCO embrace this perspective, as well. To that end, we are very pleased to have the opportunity to participate with state environmental commissioners, and their transportation counterparts, in a dialogue initiated by the Environmental Council of the States and the American Association of State Highway and Transportation Officials at the request of NGA to explore potential areas of common-ground regarding CMAQ and transportation conformity. Likewise, we look forward to working with members of this Subcommittee, as well as with EPA, U.S. DOT and other stakeholders, as discussions regarding these two extremely important programs continue.

Thank you.

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S. WILLIAM BECKER  
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**STAPPA/ALAPCO  
CMAQ and Transportation Conformity  
Principles for Reauthorization of TEA-21**

**October 1, 2002**

Transportation is the dominant source of air pollution in our nation, posing a significant threat to public health. The State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO) endorse the fundamental principle that transportation and air quality goals should be harmonized to ensure that our transportation choices contribute to improving our environment. As we seek to reduce transportation-related emissions, we recognize the critical importance of the Congestion Mitigation and Air Quality Improvement (CMAQ) program, long-term air quality/transportation planning processes and close collaboration and cooperation between air quality and transportation agencies in harmonizing air quality and transportation goals. As the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) undergoes reauthorization, STAPPA and ALAPCO urge that opportunities for enhancing these programs and processes be explored.

**Congestion Mitigation and Air Quality Improvement Program**

STAPPA and ALAPCO strongly support the CMAQ program, which appropriately reinforces the interrelationship between the transportation and air quality planning processes by specifically recognizing and seeking to ameliorate the transportation sector's impact on air quality. Over the past ten years, it has been demonstrated that CMAQ – which provides a discrete source of funding explicitly set aside for transportation projects that meet air quality objectives and for projects that result in sustainable air quality improvement – can play a significant role in helping states and localities address transportation-related air pollution problems. As CMAQ undergoes review as part of the reauthorization of TEA-21, STAPPA and ALAPCO offer the following principles for enhancing the program:

**Role of Air Quality Agencies in CMAQ Project Selection**

- State and local air quality agencies must have a more defined and consistent role in the evaluation and selection of CMAQ projects.
- The concurrence of state and local air quality agencies must be required for project selection, through a well-defined consultation and concurrence process.

### **Increase in CMAQ Funds and Expansion of Areas Eligible to Receive Funding**

- The historic allocation of CMAQ funds is inadequate to address transportation-related air quality problems that exist now and that will exist in the future. Therefore, overall funding of the CMAQ program should be increased, to reflect the expanding scope and magnitude of transportation-related emissions and their impact on air quality, and in anticipation of new PM<sub>2.5</sub> and 8-hour ozone nonattainment areas.
- CMAQ funding should be apportioned based on the severity of an area's air quality problem and its population.
- The types of areas currently eligible to receive CMAQ funding (i.e., 1-hour ozone, PM<sub>10</sub> and CO nonattainment and maintenance areas) should be expanded to include PM<sub>2.5</sub> and 8-hour ozone nonattainment and maintenance areas.
- Areas eligible to receive funding should also include:
  - areas nearing nonattainment;
  - areas whose transportation-related emissions have an impact on a nonattainment area; and
  - areas that experience other air quality problems as a result of transportation-related emissions, including, but not limited to, hazardous air pollutants from mobile sources.

### **Project Eligibility**

- Greater emphasis should be placed on projects that will result in direct, timely and sustained air quality benefits; criteria for substantiating such benefits should be established and data to support the quantification of such benefits should be required.
- Certain types of congestion mitigation projects (e.g., road and bridge construction and expansion) may have the long-term effect of inducing growth in vehicle miles traveled and urban sprawl, and of creating new congestion corridors. CMAQ funding should be shifted away from such projects unless there is a demonstration that these projects will result in sustained air quality benefits.
- To qualify for CMAQ funds, a project should be required to demonstrate that a specified minimum air quality benefit threshold is met or exceeded, based on established criteria and supporting data; such a threshold should be determined with the concurrence of the appropriate state and/or local air quality agency.
- Funding eligibility criteria and guidance should be more clearly defined to meet the above objectives.
- To the extent that these project eligibility criteria are followed, states and localities should then have discretion in determining which qualifying projects receive funding.

### **Project Funding Beyond Three Years**

- Project funding beyond three years should be allowed and decided on a case-by-case basis and contingent on a demonstration of need and continuing air quality benefit.
- Such extended project funding should be phased out over time.

## **Transportation Conformity**

Implementation of transportation conformity as Congress envisioned it in Section 176(c) of the Clean Air Act Amendments of 1990 has only begun to occur within the last few years. Delays in establishing motor vehicle emissions budgets resulted in the unintended consequence of protracted use of the less-than-perfect build/no-build test for determining conformity. However, now that motor vehicle budgets are in place in nonattainment areas, STAPPA and ALAPCO firmly believe that conformity can be implemented as intended, and that its purpose – to ensure that shorter-term Transportation Improvement Programs (TIPs) and long-term Regional Transportation Plans (RTPs) contribute to the timely attainment of healthful air quality and are consistent with (i.e., conform to) the motor vehicle emissions budgets contained in the State Implementation Plan (SIP) for air quality – can be fulfilled with increasing success.

Because the conformity of transportation plans to air quality plans is critical to achieving clean air goals – particularly given the continued increase in motor vehicle use and vehicle miles traveled – preserving the conformity requirements and schedules now in place is crucial. Specifically, STAPPA and ALAPCO recommend the following:

### **Frequency of Conformity Determinations**

- Regular and timely analyses to demonstrate compliance of constrained TIPs and RTPs with SIP motor vehicle budgets must be maintained. Such continued frequency will ensure that sound data is generated and allow for the timely improvement of motor vehicle emissions estimates. The result will be improved air quality and timely progress toward attainment of the NAAQS and other air quality goals.
- To better harmonize timelines, conformity analyses on the TIP and the RTP should be synchronized and conducted no less frequently than once every three years.
- In addition, the 18-month SIP “trigger” for determining conformity must be maintained.

### **Planning Horizon**

- The 20-year planning horizon for transportation plans must also be retained. Such long-range planning is imperative to ensuring that the potential for growth in mobile source emissions is identified, the impact on air quality is assessed and adjustments to transportation plans are made accordingly.