

# AIR QUALITY

## State Air Pollution Control Programs

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From the lofty heights of Capitol Hill in Washington D.C., it may appear that the federal government makes all the important decisions about clean air policy. After all, US EPA regulations and the detailed provisions of the 1990 Clean Air Act regulate pollutants that float in the air, pollutants released by industrial and mobile sources (cars and trucks), and the type of fines and sanctions levied against violators. From the Capitol Hill perspective, all these national standards and regulations are absolutely necessary. According to the cynics, if left to their own devices the states would adopt weaker and weaker environmental protection laws, creating a “race to the bottom” in which states compete for economic growth by enticing industry with less stringent – and less costly – regulations.

Reality, however, is often at odds with popular perception. In 1998, the Environmental Policy Group at The Council of State Governments and the University of Kentucky Martin School of Public Policy and Administration conducted a survey to review state clean air programs, funding and regulations. Overall, the study found that the Capitol Hill perspective on clean air programs can be misleading. These days, the states conduct most of the important clean air activities, provide the bulk of air program funding and oversee a diverse array of air pollution control activities. Most importantly, despite perceptions to the contrary many states have adopted clean air standards and programs that are more stringent than US EPA requirements due to each state’s unique interests. So much for a “race to the bottom.”

The states and the US EPA share responsibility for nearly all air pollution control activities in the nation. Each state submits a State Implementation Plan (SIP) to the US EPA outlining its clean air program. For each major clean

air activity – setting air quality and emissions standards, monitoring emissions and ambient air, enforcing policy, and issuing permits – the US EPA sets minimum criteria for state programs. If the US EPA determines that a state’s program meets these standards, it approves the SIP and grants the state full regulatory authority. If the plan does not meet the minimum criteria, the US EPA can preempt the state program and create its own air pollution program for the state. The US EPA can preempt all or part of the state program, depending on how adequately it addresses the minimum criteria.

The CSG survey asked respondents to indicate whether their states’ clean air standards exceeded the US EPA minimum criteria in a variety of areas, from ambient air quality to emission limits for new sources. Ambient air quality standards are target levels which govern pollutant concentrations in the air that people breathe outdoors. The US EPA has set National Ambient Air Quality Standards for six “criteria” pollutants that pose significant health hazards if people breath enough of them. The NAAQS pollutants are ozone, particulate matter, carbon monoxide, sulfur dioxide, nitrogen dioxide and lead.

The states can expand on US EPA criteria by setting more stringent ambient standards for criteria pollutants and by establishing ambient standards for pollutants not listed in the NAAQS. Of the 38 states responding to the CSG survey, six (16 percent) reported that their standards for one of the NAAQS pollutants exceeded the US EPA’s minimum criteria, and six more (16 percent) reported that their standards exceeded the criteria for two or more pollutants. Only two states – Michigan and Illinois – indicated that they did not have US EPA authority to implement the NAAQS program, but they expected

authorization in the near future. Surprisingly, 24 of the 38 responding states (63 percent) have set ambient standards for pollutants other than those regulated by the US EPA's NAAQS standards. These states have set standards for pollutants such as hydrogen sulfide, calcium oxide and odors.

The survey shows that states are exceeding US EPA standards in other areas. Eight of the 38 responding states (21 percent) reported that their emissions standards for new sources were more stringent than the US EPA's New Source Performance Standards. And 25 states (66 percent) reported that their programs for monitoring ambient air quality exceeded federal minimum requirements.

The states have also made considerable progress regulating hazardous air pollutants, which are thought to pose public health risks. The US EPA has long sought to improve HAP regulations, and the 1990 Clean Air Act created an entirely new regulatory regime for 189 identified hazardous air pollutants. Thirty-three of the 38 responding states (87 percent) have received authority from the US EPA to administer the hazardous air pollutant program, with some states again exceeding federal requirements. Eighteen states (47.4 percent) regulate hazardous air pollutants in addition to those listed by US EPA and another 18 regulate additional sources of hazardous air pollutants.

In a true "race to the bottom," no state would voluntarily enact stricter NAAQS standards or regulate non-mandatory pollutants because doing so would risk losing economic growth to states with more lenient regulations. The CSG study, however, shows that in many different areas of clean air policy states have adopted standards and programs that are more stringent than what the US EPA requires for SIP approval.

Title V of the 1990 Clean Air Act mandated important changes in how states fund their clean air programs. Title V requires states to issue operating permits for every major emissions source specifying allowable levels of pollutant concentrations and the applicable emission control strategies. Title V also requires states to charge a fee of at least \$25 for each ton of pollut-

ants emitted to help states fund their clean air programs. The goal of Title V is to facilitate enforcement by centralizing regulations that apply to each source of pollution.

The major categories of funding sources for state air quality programs are state general funds, dedicated state funds (such as lottery proceeds or special environmental taxes), fees (including Title V permit fees), enforcement (fines and penalties), EPA/federal grants, and other (usually mobile source) income. Title V permit fees have become the most important source of state air program funding, accounting for 57 percent of the total. Overall, the states still rely on EPA/federal grants, at 22 percent of the total, the second largest funding category. State general funds are another major source of clean air funding at 12 percent of the total. The other budget source categories – dedicated state fund (7 percent), enforcement (2 percent) and other (1 percent), make up only a small percentage of state clean air funding.

The survey also investigated how states spend their air pollution control funds. On average, states spend 24.7 percent of their budgets on permitting activities, 15.8 percent on ambient air monitoring, 12.8 percent on enforcement, 12.1 percent on administration, 10.3 percent on source monitoring, 6.3 percent on technical assistance/industry outreach, 5 percent on policy analysis, 3.2 percent on environmental science research, 2 percent on community outreach, and 9.4 percent on other categories (usually mobile source issues). Many states estimated income and expenses, since they do not record the budget expenditures and sources in the categories listed in the survey.

The 1990 Clean Air Act contained a series of challenges for state clean air programs. The Title V permit section required many states to restructure their programs, including their regulatory structures and enforcement approaches. The HAP program expanded the scope of state clean air regulations to a vast new array of pollutants and sources. For the most part, states have met these challenges. Title V permit fees have become the most important source of state air program funding, as the 1990 Clean Air Act in-

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tended. By 1998, the US EPA had granted the states authority to administer the vast majority of air pollution control programs, including the expansive HAPs program.

Most importantly, however, is the obvious intent of the states to pursue their own environmental protection agenda according to their unique circumstances. The CSG study shows that in many policy areas the states have gone beyond minimum federal requirements to become leaders in establishing and implementing

clean air policy. Rather than racing to the bottom, the states seem to be vying for the lead in protecting the health of their citizens and ecological resources in a manner as unique and diverse as the states themselves.

Selected tables from the survey follow this article. Readers can get a copy of the complete report entitled *State Air Pollution Control Survey - 1999* by contacting CSG's States Information Center at 859-244-8253.