

July 19, 2016

Mr. Aaron Yeow
Designated Federal Official
U.S. Environmental Protection Agency
Science Advisory Board & Clean Air Scientific Advisory Committee
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Subject: Invitation for Public Comment on the List of Candidates for the U.S. Environmental Protection Agency's (EPA) Clean Air Scientific Advisory Committee (CASAC)

Mr. Yeow:

The Association of Air Pollution Control Agencies (AAPCA)¹ appreciates U.S. EPA's request for public comments on the list of candidates who represent state air pollution control agencies for service on EPA's chartered CASAC.²

EPA's list of qualified candidates includes several officials from AAPCA member agencies³ as well as from two partner multi-jurisdictional organizations which share state agency members with AAPCA. These individuals possess decades of experience in the technical aspects of National Ambient Air Quality Standards (NAAQS) and have demonstrated high levels of competence, knowledge, and expertise in fields relevant to air pollution and air quality issues. This on-the-ground experience would be indispensable to CASAC and EPA. The candidates also have impressive academic credentials in fields including toxicology, environmental science, zoology, geography, and engineering.

We strongly recommend that EPA's Science Advisory Board (SAB) Staff Office consider these experts in the current chartered CASAC selection process.

EPA should ensure the chartered CASAC and individual NAAQS review panels include significant state, local, or tribal participation and diverse geographic backgrounds of advisors. At present, this is not the case. To illustrate:

- According to a May 2015 letter from the Council of State Governments West: "For EPA's Clean Air Scientific Advisory Committee Ozone Review Panel, which provided the critical advice for Administrator Gina McCarthy's proposed ozone regulations, only one of the 22 panelists came from a state/local perspective."⁴

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. Eighteen state environmental agencies currently sit on AAPCA's 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>.

² U.S. EPA Science Advisory Board Staff Office, [Invitation for Public Comment on the List of Candidates For the Environmental Protection Agency's Clean Air Scientific Advisory Committee](#), June 20, 2016

³ These include the Arkansas Department of Environmental Quality, Georgia Department of Natural Resources, Ohio Environmental Protection Agency, and the Texas Commission on Environmental Quality.

⁴ The Council of State Governments West, [Letter to Senators Mike Rounds and Edward Markey](#), May 19, 2015.

- Historically, representation on CASAC committees and panels has been limited to specific regions and a handful of states.⁵
- A recent survey of twenty state air directors, including both AAPCA members and non-members, provides context for these concerns.⁶ The survey found:
 - A majority of respondents said state and local agencies are not adequately represented on CASAC and its subpanels, and that these panels are not sufficiently geographically diverse.
 - A majority of respondents agreed that the CASAC process for nominating and recommending expert candidates was transparent and clearly understood, but the top three barriers selected by respondents to state personnel serving on CASAC or its subpanels were lack of time to serve, low likelihood of being selected, and a perceived lack of expertise.
- Other EPA federal advisory committees have found avenues to expand membership for intergovernmental partners and co-regulators. For example, the recently constituted Assumable Waters Subcommittee of the National Advisory Council on Environmental Policy and Technology includes ten state and two tribal members, representing members from seven different EPA regions.⁷
- The Consolidated Appropriations Act of 2016, signed into law on December 17, 2015, was accompanied by a report directing the EPA Administrator to develop a policy statement on science quality and integrity for the Science Advisory Board. The report further directed that “EPA’s policy statement should include goals on increasing membership from States and tribes who are often underrepresented....”⁸

Statutory requirements and federal committee composition directives also suggest a robust role for geographically diverse state, local, and tribal experts in the scientific advisory process. CASAC’s charter and the Clean Air Act direct EPA to appoint *at least* one member of the National Academy of Sciences, one physician, and one person representing state air pollution control agencies. The most recent Membership Balance Plan for CASAC, last updated in 2015, states that “Geographic location may be considered” as the only other balance factor that “EPA identifies as important in achieving a balanced [Federal Advisory Committee].”⁹ The Federal Advisory Committee Act requires committees to be “fairly balanced in terms of the points of view represented and the functions to be performed.” The most recent edition of U.S. EPA’s Peer Review Handbook directs that the Agency “include a broad enough spectrum of other related experts to consider wider dimensions of the issue(s)” and “keep a balance by considering new individuals who bring fresh perspectives to the review of a work product.”¹⁰ Related policy from the National Academies argues that it may be critical to have a particular perspective on a panel, even though an individual is not a representative of their interests, “because such individuals, through their particular knowledge and experience, are often vital to achieving an informed, comprehensive, and authoritative understanding and analysis of the specific problems and potential solutions to be considered by the committee.”¹¹

⁵ Data collected from [CASAC entry](#) in the FACA database, which contains information on panelists back to FY1997.

⁶ Survey results and related presentation are available on AAPCA’s 2016 Spring Meeting [website](#).

⁷ U.S. EPA, [Assumable Waters Sub-Committee](#), June 2016.

⁸ [Explanatory Statement Submitted for Consolidated Appropriations Act, 2016](#), pg. H10220, December 17, 2015.

⁹ [CASAC 2015 Membership Balance Plan](#).

¹⁰ U.S. EPA, [Peer Review Handbook](#), 4th Edition, October 2015.

¹¹ The National Academies, [Policy on Committee Composition and Balance and Conflicts of Interest for Committees used in the Development of Reports](#), May 12, 2003.

AAPCA recognizes the distinction between technical advisory committees like CASAC, in which panelists serve as “Special Government Employees,” and representative advisory committees, but we believe that state, local, and tribal agency personnel possess particular knowledge and experience critical to providing informed, comprehensive, and authoritative understanding of the NAAQS.

Geographically diverse state, local, and tribal contributors provide unique, on-the-ground experience with the NAAQS, including expertise that could help CASAC carrying out the full responsibilities in its charter and Section 109(d) of the Clean Air Act. This includes advice on: “any adverse public health, welfare, social, economic, or energy effects which may result from various strategies for attainment and maintenance of such” NAAQS; “the relative contribution to air pollution concentrations of natural as well as anthropogenic activity”; “areas in which additional knowledge is required to appraise the adequacy and basis of” NAAQS; and “the research efforts necessary to provide the required information.” The Government Accountability Office (GAO) has determined that CASAC has not carried out its role in providing some of this advice related to the NAAQS “because EPA has never asked CASAC to do so.”¹² Communications from AAPCA Members suggest that state air pollution control agencies would benefit from the full suite of statutorily required advice.¹³

In light of this evidence on the potential benefits of expanding geographically diverse state, local, and tribal participation on CASAC and other advisory activities, AAPCA also suggests that EPA should encourage nominations of, and seriously consider, qualified state, local, and tribal environmental agency experts for future openings on the chartered CASAC (including for those openings not statutorily required to be filled by a representative of state air pollution control agencies) as well as individual CASAC NAAQS review panels.

Thank you for the opportunity to provide feedback on EPA’s excellent list of candidates for CASAC. If you have any questions regarding our comments, please contact cwoods@csg.org or (859) 244-8040.

Sincerely,



Clinton J. Woods, Executive Director
AAPCA

¹² U.S. GAO, [EPA’S SCIENCE ADVISORY BOARD: Improved Procedures Needed to Process Congressional Requests for Scientific Advice](#), June 2015.

¹³ In response to a May 2014 [letter](#) from members of the U.S. Senate Committee on Environment and Public Works, the [Louisiana Department of Environmental Quality](#), [Mississippi Department of Environmental Quality](#), [North Carolina Department of Environment and Natural Resources](#) (now Department of Environmental Quality), and [Texas Commission on Environmental Quality](#) provided feedback on the CASAC process. [Multi-state comments](#) on the proposed ozone NAAQS provide perspectives on the role of CASAC. The previously cited [survey](#) of state air directors found that more than 80 percent of respondents thought CASAC advice on the full suite of topics in the charter and Section 109(d) of the Clean Air Act, as part of the NAAQS review process, would be helpful.