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Docket ID No. EPA-HQ-OA-2017-0533
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Dear Sir or Madam:

The National Association of Clean Air Agencies (NACAA) is pleased to have this opportunity to comment on the U.S. Environmental Protection Agency's (EPA) *Draft FY 2018-2022 EPA Strategic Plan*, which was published in the *Federal Register* on October 5, 2017. Since this document will guide EPA's activities for the next four years, it could have a profound impact on our nation's efforts to protect public health and the environment. Therefore, we are eager to contribute our thoughts and recommendations as the agency develops the final document and appreciate EPA's consideration.

NACAA is a national, non-partisan, non-profit association of state and local air pollution control agencies in 41 states, including 116 local air agencies, and the District of Columbia and four territories. The members of NACAA have primary responsibility under the Clean Air Act for implementing our nation's clean air program. The air quality professionals in our member agencies have vast experience dedicated to improving air quality in the United States. These comments are based upon that experience. The views expressed in these comments do not represent the positions of every state and local air pollution control agency in the country.

A theme running throughout the document is the recognition of the essential part that state and local agencies play in our nation's environmental programs and the importance of federal efforts to collaborate with these organizations. Indeed, the Clean Air Act articulates the critical role of state and local air agencies as follows:

The Congress finds... (3) that air pollution prevention... and air pollution control at its source is the primary responsibility of States and local governments; and (4) that Federal financial assistance and leadership is essential for the development of cooperative Federal, State, regional, and local programs to prevent and control air pollution (Clean Air Act Section 101[a][3] and [4]).

State and local air pollution control agencies have tremendous experience and knowledge to contribute to our nation's efforts to obtain and maintain healthful air quality. EPA should rely on the expertise of state and local air agencies in developing and implementing national clean air programs. The draft Strategic Plan, in multiple passages, indicates that EPA plans to work in partnership with state and local governments and to "strengthen intergovernmental consultation" (p. 20). EPA should call upon state and local air agencies for input during every phase of rule, policy and guidance development, including the initial stages, in order to benefit from their real-world experience in developing programs, implementing and enforcing regulations and evaluating activities in practice.

EPA plays a critically important role in our nation's clean air efforts, since certain responsibilities must fall to the federal government. These include the development of federal regulations and guidance and ensuring that enforcement programs result in compliance with applicable requirements.

Criteria Pollutants

One of the six Priority Goals for FY 2018-2019 is to reduce the number of non-attainment areas and to "prioritize key activities to support attainment of the national ambient air quality standards (NAAQS) and implementation of stationary source regulations" (p. 6). This is a shared objective of the state and local members of NACAA as well. An important path for achieving this is stated in the draft Strategic Plan: "The Agency will address its Clean Air Act (CAA) responsibilities by collaborating with and providing technical assistance to states and tribes to develop plans and implement decisions that administer the NAAQS and visibility programs; taking federal oversight actions such as approving state implementation plan/tribal implementation plan (SIP/TIP) submittals consistent with statutory obligations; developing regulations and guidance to implement standards; and addressing transported air pollution. EPA will focus on ways to improve the efficiency and effectiveness of the SIP/TIP process, including the Agency's own review process, with a goal of maximizing timely processing of state/tribal-requested implementation plan actions to help states move more quickly to attainment" (p. 6). The local and state agency members of NACAA would welcome the opportunity to partner with EPA as it undertakes work to support attainment of current and new NAAQS.

Developing State Implementation Plans (SIPs) to attain and maintain the NAAQS is a challenge for state and local air agencies. However, we are committed to protecting public health and welfare by implementing the necessary air pollution control strategies that make the most sense for our communities and urge EPA to provide rules and guidance documents that will enable us to meet our statutory obligations under the Clean Air Act and attain the NAAQS as expeditiously as practicable. Toward this end, we look to EPA to provide all rules and guidance documents in a timely manner. Going forward, we urge that NAAQS implementation rules and guidance be proposed at the same time a final NAAQS is promulgated and finalized within a year after proposal.

Areas across the country continue to work to meet their statutory clean air obligations despite continuing challenges posed by transport. EPA should work with Eastern and Midwestern state and local air agencies to address transport in those regions with the goal of achieving attainment. EPA should also work closely with state and local air pollution control agencies to assess transport in the Western U.S. and put in place appropriate programs to address this problem.

With respect to the approval of SIPs, NACAA notes the collaborative work of the NACAA-ECOS-EPA SIP Reform Workgroup (SRWG) and, especially, the development of, and agreement on, a set of commitments and best practices to eliminate the SIP backlog and prevent it from recurring – the *NACAA-ECOS-EPA SIP Reform Workgroup Commitments and Best Practices for Addressing the SIP Backlog (February 2014)*. The key commitment of that agreement was that “EPA will clear the SIP backlog (as of October 1, 2013) by no later than the end of 2017, and manage the review of other SIPs consistent with Clean Air Act deadlines.” The NACAA-ECOS-EPA SRWG now meets annually to review progress that has been made under this agreement. To date, such progress has been impressive. We encourage EPA to continue to work with the SRWG to support and implement this agreement.

NACAA is also positioned to help realize EPA’s intent to “operate effective nationwide and multi-state programs” (p. 6), by collaborating with the agency as it develops data, analyses and technical tools and assistance to help states, communities and other stakeholders meet their Clean Air Act and other statutory obligations.

EPA plays the central and essential role of addressing sources that are nationally significant – those that represent a substantial portion of the emissions inventory, can be cost-effectively regulated at the national level and offer the potential to reduce emissions of numerous pollutants and precursors that cause or contribute to elevated criteria pollutant levels and numerous other public health and environmental problems. In addition to stationary sources, these also include mobile sources and fuels. As EPA acknowledges in the draft Strategic Plan, the agency “develops, implements, and ensures compliance with national emission standards to reduce mobile-source-related air pollution from light-duty cars and trucks, heavy-duty trucks, buses, nonroad engines and vehicles, and their fuels” (pp. 6-7).

As EPA works over the next four years to deliver cleaner air, and over the next two years to reduce the number of nonattainment areas, the agency should adopt national rules for source categories that will help all areas of the country attain and maintain existing and new NAAQS and also provide important co-benefits, including reductions of hazardous air pollutants. Among others these include timely development and adoption of a federal ultra-low nitrogen oxide emission standard for onroad heavy-duty vehicles and engines, more stringent federal standards for new and remanufactured locomotives and updated Architectural and Industrial Maintenance Coatings and Consumer Products standards, which are now nearly 20 years old.

Permitting

EPA states under Objective 3.4 – Streamline and Modernize – that accelerating permitting decisions by streamlining environmental permitting processes will be a top priority for the agency over the next four years. The state and local members of NACAA welcome opportunities to streamline and modernize air permitting processes and are ready to work with EPA to identify ways in which Clean Air Act permitting can be made more efficient. EPA states that any policy changes must be achieved “without sacrificing environmental results” (p.34). It is important that the agency not pursue any permit streamlining measures that would weaken public health protection.

Policy changes aimed at improving air permitting efficiency should be pursued utilizing an open, transparent process with full opportunity for public participation. EPA has identified an essential ingredient in the success of the plan by acknowledging that “[i]ncluding the public’s voice, particularly the voices of the most vulnerable to environmental and public health challenges among us...is essential to meeting their needs” (p. 18). Indeed, this is particularly true in air permitting decisions, which directly impact the health and well-being of communities surrounding the permitted facilities. EPA should be particularly attentive to meaningful public participation in communities that may be disproportionately burdened by air pollution. EPA can play an important role in this by developing and providing state and local agencies with effective outreach tools and materials, training and funding to improve public participation.

NACAA fully endorses EPA’s continued and increasing support for electronic processing of permits. There are tremendous efficiencies to be gained through electronic permitting and many state and local agencies are actively working to implement e-permitting systems in their air programs. We also welcome EPA’s plan to “work with states and use Lean techniques to streamline the review of state-issued permits” (p. 34), as many state and local agencies have achieved great success in improving the efficiency of their air permitting processes using techniques such as Lean, Kaizen and Six Sigma. NACAA members have specific expertise in this area that they are willing to share with EPA as it pursues efficiencies.

EPA indicates that it intends over the next four years to “systematically collect and report permitting data for each of its permitting programs” (p. 34). Areas of focus should be major source permitting and permitting programs that are already required to submit reports to EPA. To the extent this data collection effort may impose new reporting requirements on state and local permitting authorities, EPA should engage with and collaborate with these agencies early and often as it makes decisions about how the program will be designed and any reporting responsibilities to be imposed.

EPA should consider streamlining permitting oversight functions and permitting processes that are federal responsibilities. For example, Outer Continental Shelf permitting and EPA’s oversight of New Source Review and Title V permitting can often be drawn out and complicated.

Enforcement

The Strategic Plan notes that “[e]ven in states or tribes authorized to implement a program, EPA serves a critical role in addressing serious national noncompliance problems, such as those affecting multiple states. EPA also may assist a state or tribe in remedying noncompliance problems when it is unable to address the problem because it lacks the capability or resources, such as in actions against federal or state agencies. And for some serious violations, the Agency and states or tribes may decide that the best approach is a joint enforcement action” (p. 26). The federal enforcement role is very important and can be very helpful to state and local air agencies in their own enforcement and compliance activities. EPA should communicate and cooperate with state and local air agencies on enforcement activities and continue to take actions necessary to ensure compliance with our national clean air regulations and laws.

Training

Under Objective 3.5 – Improve Efficiency and Effectiveness – EPA indicates that it will “ensure its workforce is positioned to accomplish the Agency’s mission effectively by providing access to quality training and development opportunities that will improve staff’s and managers’ skills, knowledge, and performance, and prepare them to capitalize on opportunities that advance progress. EPA will improve its workforce planning and management strategies, strengthen its Senior Executive Service, and focus on developing and maintaining a highly-skilled technical workforce” (p. 36). Training is critically important, not just for EPA, but for state and local agency staff as well. The need for training is especially strong in the face of evolving federal environmental requirements and, even more significantly, of ever-increasing retirements of seasoned staff and the loss of institutional memory that accompany them. EPA should not only ensure that federal staff are adequately trained, but it should also support critical training needs for state and local agency staff. At a minimum, this should include continued EPA staff and funding support for the existing EPA training curriculum and course management program. EPA should also direct additional resources to enhance the frequency of classroom course material updates and to expand the number of e-learning opportunities. Maintaining and improving EPA’s core training capacities for state and local officials is an essential component of the cooperative federal-state partnership set out in the Clean Air Act.

Funding

Since EPA plans to enhance its reliance on state and local air quality programs through cooperative federalism, it is more critical than ever that these agencies receive adequate federal funding. The level of federal support to state and local agencies that are implementing federal programs, policies and standards should be calibrated to the scope and complexity of federal requirements that state and local governments must achieve in order to assume or continue implementation responsibility. The investment of federal dollars in state and local agency activities enables us to be effective in work of vital importance to Americans.

The Clean Air Act's Section 105 envisioned federal grants covering up to 60 percent of the cost of state and local air programs and states and localities contributing a 40-percent match. In reality, however, state and local air agencies provide over 75 percent of their budgets (not including permit fees under the federal Title V program). State and local agencies are being asked to do more with diminishing funding – taking inflation into consideration, the purchasing power of the funding from EPA to our agencies has actually decreased by nearly 17 percent since 2000.

State and local air quality programs carry out a host of essential activities to attain and maintain healthful air quality for Americans. These include ongoing, day-to-day responsibilities that constitute the foundation or core of air pollution control in the United States, as well as additional efforts designed to address new problems and changing regulatory requirements. Examples include many resource- and labor-intensive activities, such as air quality planning, compiling comprehensive emission inventories, carrying out complex modeling, analyzing extensive data, adopting regulations, inspecting facilities and enforcing regulations, addressing complicated transport issues, issuing permits and informing and involving the public in air quality decisions and issues.

State and local air agencies are EPA's "on-the-ground" partners in Cooperative Federalism, and it is essential that they be have the funding necessary to do their part. Supporting commensurate funding for the increasing federally delegated state and local agency workload will assure they have sufficient resources to accomplish their requirements and mission, which will not only protect the health of Americans, but will also allow them to continue to provide services to the public and the regulated community.

Conclusion

NACAA shares EPA's overall five-year Strategic Plan goal: "deliver real results to provide Americans with clean air, land and water." EPA recognizes that there has been enormous progress "yet we still have important work to do." We look forward to working closely with the agency as it seeks to fulfill its intent that "together with our partners, we will continue making progress in protecting human health and the environment" (p. 5).

On behalf of NACAA, we thank you for this opportunity to provide these comments. If you have any questions please feel free to contact us, or Mary Sullivan Douglas of NACAA at (202) 624-7864.

Sincerely,



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