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February 18, 2011

Cynthia Giles
Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington, DC 20460

Dear Assistant Administrator Giles:

On behalf of the National Association of Clean Air Agencies (NACAA), we are writing to express our concerns with certain proposed changes to the Air Facility System (AFS). While we support efforts to modernize AFS, we have significant concerns with EPA's proposal to mandate start to finish reporting of Federal Reportable Violations (FRVs) and the addition of a number of mandatory and non-mandatory data requirements. NACAA is the association of air pollution control agencies in 51 states and territories and over 165 major metropolitan areas across the country.

During the most recent AFS National Webinar in January, we received an overview of the proposed system changes from Betsy Metcalf of the Office of Enforcement and Compliance Assurance (OECA). State and local agencies very much appreciate the opportunity to participate in these monthly webinars and receive the latest information on efforts to modernize AFS. We continue to support AFS modernization and look forward to working with OECA to ensure that the best possible system is in place to improve data collection and quality. With this in mind, we provide the following comments on the proposed AFS changes.

First, NACAA was pleased to hear that OECA plans to eliminate compliance status from AFS data requirements. The accuracy of the compliance status data in AFS has long been a concern for state and local agencies. As compliance status is constantly changing, it is extremely difficult to maintain real time data, which provides an inaccurate picture of compliance to the public. Removing this data element will ensure the availability of more accurate and less confusing information.

However, NACAA has a number of concerns regarding other aspects of the proposed AFS changes, specifically the proposal to require start to finish tracking of FRVs and the inclusion of additional mandatory and non-mandatory data requirements. We continue to stress that policy should drive data collection; the collection of data should not drive policy. The need for any additional data requirements should be clearly explained and demonstrated. This includes non-mandatory data elements, which can lead to the perception of incomplete or missing data even when clearly marked as optional. Overall, NACAA encourages OECA to move towards activities tracking rather than focusing on violation flagging. Doing so will provide the public and environmental agencies with a much clearer picture of facility compliance.

NACAA recommends that OECA rethink its proposal to require start to finish reporting of FRVs. Mandating this data would place a huge resource burden on state and local agencies, without adding significant value to data collection efforts. In addition to staff resources required for this extra tracking, which would be enormous, many state and local agencies would need to redesign their data systems in order to accommodate the new reporting requirements. The lack of resources to report all the required information would lead to an inaccurate and confusing data set, resulting in concerns similar to those expressed by state and local agencies regarding the current data on compliance status.

Such complete tracking of FRVs would also fail to provide beneficial information. Many of the violations reported would be small, insignificant violations, the tracking of which would take away from accurate accounting of more significant violations. Tracking should focus scarce state and local resources on the most important violations, such as those identified as High Priority Violations (HPVs), in order to provide complete and accurate data about a subset of the most environmentally significant violations, rather than flooding the data set with information from an overbroad violations universe.

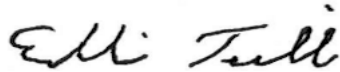
NACAA also encourages OECA to work closely with state and local agencies as it develops capabilities for electronic data submittal in AFS. While electronic data submittal may be a useful tool in reducing burdens on state and local agencies, care must be taken to ensure that such data are accurate and complete, and that violations are not automatically flagged based on information submitted electronically. Many state and local agencies must follow regulations that require a specific review and determination process before a violation is found to have occurred.

Finally, we continue to stress the need for regional consistency in all aspects of EPA's enforcement and compliance programs. This is as important with regard to AFS as with other enforcement and compliance activities. As the modernized AFS system is finalized, and before the new system structure is in place and operational, it is important to address any inconsistencies and ensure that all EPA regional offices are on the same page.

Thank you for this opportunity to provide feedback on the proposed changes to AFS. NACAA stands ready to work with OECA to ensure that AFS modernization proceeds in a manner that is beneficial to state and local agencies and the reporting community. If you have

any questions or would like further information, please do not hesitate to contact one of us or Misti Duvall of NACAA.

Sincerely,



Eddie Terrill
Oklahoma
Co-Chair, NACAA Enforcement &
Compliance Committee



Richard Stedman
Monterey Bay, California
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cc: Lisa Lund, Director, Office of Compliance
Adam Kushner, Director, Office of Civil Enforcement