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November 8, 2021

U.S. Environmental Protection Agency
Docket Number EPA-HQ-OA-2021-0403
1200 Pennsylvania Avenue, NW
Washington, DC 20460

To Whom It May Concern:

On behalf of the National Association of Clean Air Agencies (NACAA)¹, thank you for this opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA's) Draft FY 2022-2026 Strategic Plan. As you continue developing this plan, we urge you to consider the recommendations NACAA made to the Biden-Harris Administration on January 15, 2021 entitled, *Improving Our Nation's Clean Air Program: Recommendations from the National Association of Clean Air Agencies to President-Elect Biden's and Vice President-Elect Harris' Administration*.² NACAA's recommendations cover many of the issues you are addressing in the strategic plan and will provide valuable input as you continue your process.

Before commenting on any of the specifics of the draft strategic plan, there are two important overarching points we wish to make. First, while many of the goals and strategies in the plan are laudable, their success will be in jeopardy if EPA's co-regulators, including state and local air quality agencies, do not have adequate funding to carry out their part. State and local air agencies have faced inadequate funding for many years, while their responsibilities have continued to grow. Federal grants to state and local air quality agencies (under Sections 103 and 105 of the Clean Air Act) were \$229 million in FY 2021, which is about the amount they received over 15 years ago, in FY 2004. If the FY 2004 figure is adjusted for inflation, level funding is approximately the amount the Administration has requested – \$321.5 million in FY 2022 (\$92 million more than the current grant amount). But this merely accounts for inflation and does not

¹NACAA is the national, non-partisan, non-profit association of air pollution control agencies in 41 states, including 115 local air agencies, the District of Columbia and four territories. The air quality professionals in our member agencies have vast experience dedicated to improving air quality in the U.S. 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.

²<http://www.4cleanair.org/sites/default/files/Documents/NACAA2021PresidentialTransitionDocument-01152021.pdf>

take into consideration the vast increase in responsibilities these agencies have undertaken over the last 15 years.

EPA must ensure that the resources necessary for its strategic plan to be successful are in place, including significant increases in federal grant funding – above and beyond mere inflationary corrections – for its state and local partners.

The second overarching comment relates to EPA’s engagement with state and local co-regulators. NACAA supports the inclusion of the cross-agency strategy (number 4) intended to “Strengthen Tribal, State, and Local Partnerships and Enhance Engagement.” In EPA’s own words, “[p]rotecting human health and the environment is a shared responsibility of EPA and its Tribal, state, and local government partners. State and local governments provide the majority of on-the-ground environmental protection in this country, implementing federal environmental laws as well as their own” and “... the early, meaningful, and substantial involvement of EPA’s co-regulator partners is critical to the development, implementation, and enforcement of the nation’s environmental programs.” The significant mutual value of EPA reaching out to NACAA in the initial stages of any national air-quality- or climate-related rulemaking or guidance-development effort and continuing to work cooperatively throughout the process cannot be overstated. NACAA’s members are not mere stakeholders, but are hardwired into the language and architecture of the Clean Air Act (CAA) as the primary implementers and co-regulators and deserve special consideration in the development of any clean air or climate program. These agencies have tremendous expertise in all disciplines – in some cases greater than EPA’s – and the agency’s success depends upon collaboration with and reliance on its co-regulators.

Cross-Agency Strategy 4 simply does not go far enough to ensure state and local engagement in developing and shaping EPA clean air and climate programs during their development. EPA should include NACAA members in its early engagement at the design phase of programs. Using design charrettes, workshops and other contact, EPA should not only provide opportunities to hear NACAA’s perspectives and learn from our experience, but leverage those in a way that is useful and impactful to the outcome in ways that have not been demonstrated in years.

In addition, given the importance of training and technical assistance to the advancement of our shared goals, it is important that the strong work that has been started to modernize training in EPA’s AirKnowledge program be referenced in this section with language assuring its continued advancement and, where possible, acceleration. Finally, this section would be improved with a discussion of how EPA will enhance the mechanisms for strengthening the federal-state-local-tribal partnership and co-regulatory model, and a description of strategies to make our engagement occur earlier, more effectively, and with a greater impact on the outcome.

We wish to offer the following comments on specific elements of the draft strategic plan, especially as they correspond to NACAA’s recommendations in the transition document provided to the new Administration and in recent correspondence to EPA.

Goal 1: Tackle the Climate Crisis

In general, this section is consistent with NACAA’s transition recommendation number 4, “Advance New EPA Programs to Protect Public Health and the Environment and Address Climate Change.” Specifically, the hydrocarbon phase-down (referenced on page 9 of the draft plan) is consistent with NACAA’s July 2, 2021 comments on EPA’s hydrofluorocarbon (HFC) drawdown proposal of May 19, 2021.³ Additionally, we support the proposals to issue rules for oil and gas facilities, which are consistent with NACAA’s recommendations.

This section also calls for working closely with state and local agencies to develop and implement power plant greenhouse gas (GHG) rules under Section 111(d) of the CAA, which is an approach we support. However, EPA should go beyond the usual role offered stakeholders in this arena and enhance the design-stage input opportunities for co-regulators.

Objective 1.2: “Accelerate Resilience and Adaptation to Climate Change Impacts” calls for increasing resilience in tribes, states and communities. EPA should ensure that funding, training and technical assistance in this area is sufficient for NACAA members and our partners and stakeholders to successfully advance this shared goal.

Goal 2: Take Decisive Action to Advance Environmental Justice and Civil Rights

NACAA applauds EPA’s inclusion of a central principle to address environmental justice and equity and urges EPA to ensure that this topic remains a priority. Specifically, the draft strategic plan states that, “[t]he Agency also adds a fourth foundational principle: advance justice and equity. We add this principle to infuse the consistent and systematic fair, just, and impartial treatment of all individuals into all EPA policies, practices, and programs. These principles form the basis of the Agency’s culture and will guide our operations and decision making now and into the future.” NACAA agrees on the critical importance of ensuring that justice and equity considerations are part of EPA’s mission. In NACAA’s recommendations to the Administration, the association stated: “EPA should make the consideration of racial justice and protection of overburdened communities from the impacts of pollution and climate change a central focus across all its activities, as well as exploring ways to involve overburdened communities in environmental regulatory decisions that affect their residents. Environmental Justice (EJ) should not be just a single program within EPA, it should be integrated prominently into every program across EPA.”

In Objective 2.1, EPA expresses an intent to require commitments in state and local grant work plans to address disproportionate impacts. EPA should lead by example, establishing commitments and metrics, and set transparent reporting on outcomes. State and local leadership in this area is more advanced than EPA’s, so the agency should seek lessons learned from these agencies to inform its own efforts. Finally, in advance of its 2026 goals, EPA should coordinate closely with the affected agencies at the design stage to leverage that expertise and to create

³ https://www.4cleanair.org/wp-content/uploads/resources-member-only/Final-NACAA_7_2_21_Comments_HFC_AIM_ACT.pdf

program features that successfully advance this shared goal while reflecting on-the-ground conditions and opportunities.

Goal 3: Enforce Environmental Laws and Ensure Compliance

Meeting this goal would reverse the unfortunate trend in enforcement and compliance assurance at EPA from recent years. NACAA supports the objectives in this goal, as they align with the association's recommendations to the Administration. While several of the efforts described in the draft plan imply expansions into new areas, including addressing HFCs, limiting emerging contaminant issues and creating close linkages to Clean Water Act compliance in environmental justice communities, EPA must also fulfill its enforcement and compliance assurance obligations within its existing responsibilities. These include tackling with greater seriousness the sale of noncompliant wood heaters, tampered vehicles and other problem areas that undermine the effectiveness of state and local programs. Additionally, as EPA expands its enforcement capabilities, closer coordination with state and local enforcement efforts will be necessary, and additional funding, training and technical support for state and local co-regulators will be essential.

Goal 4: Ensure Clean and Healthy Air for All Communities

This goal is NACAA's central concern and we believe it should have the utmost emphasis and priority. Premature mortality from air pollution is measured in at least tens of thousands of lives per year in the United States and, despite the success of our country's implementation of the CAA, mitigating the harms of pollution remains urgent. EPA can expand its own capacity but also must ensure its co-regulators have sufficient support and resources to perform their roles and meet their obligations.

In Objective 4.1: Improve Air Quality and Reduce Localized Pollution and Health Impacts, EPA states: "The Agency will develop the next round of multi-pollutant emission standards for light-duty and highway heavy-duty vehicles, which will improve air quality and reduce pollution near roads and other areas of high truck activity, such as warehouses and ports." NACAA supports additional rounds of increasingly rigorous federal emission standards for light-duty vehicles (LDVs) and highway heavy-duty vehicles (HDVs).

With respect to LDVs, EPA should follow the final rule it will issue by the end of 2021, revising GHG emission standards for model year (MY) 2023-2026, with 1) a rule based on the goal of 50 percent of all new passenger cars and light trucks sold in 2030 being zero-emission vehicles, including battery electric, plug-in hybrid electric or fuel cell electric vehicles, consistent with President Biden's August 5, 2021, Executive Order 14037, "Strengthening American Leadership on Clean Cars and Trucks," and 2) a subsequent rule based on the goal of achieving, nationwide, 100 percent zero-emission new car and light truck sales by 2035.

With respect to highway HDVs, EPA should follow the final rule it will issue by no later than the end of 2022, setting significantly lower federal NO_x emission standards to take effect

with MY 2027 (see NACAA’s September 27, 2021 letter to Administrator Regan⁴ for NACAA’s position), with another rule that continues to cut highway HDV emissions – including GHG emissions – beginning with MY 2030, as called for by President Biden in his August 5, 2021 Executive Order 14037.

NACAA also urges EPA to look beyond LDVs and highway HDVs and commence further rulemakings to establish more stringent public health and environmental protections for other important source categories within the mobile source sector, including locomotives, oceangoing vessels and aircraft (including, for the latter sector, GHG standards beyond those established by the International Civil Aviation Organization).

Goal 4 also included several measures related to air toxics. Specifically, EPA stated its intention to implement its Air Toxics Strategy to address existing, emerging and future air toxics issues, work with air agencies to develop improved measurement methods for air toxics and revisit the latest Mercury and Air Toxics Standards. NACAA supports these efforts to address air toxics and suggests the plan include additional actions to attain those goals. Specifically, these include: 1) ensuring that the new “Air Toxics Data Update” provides state and local agencies with the same type of information that was available to them as part of the National Air Toxics Assessment; 2) increasing the focus on air quality as it relates to per- and polyfluoroalkyl substances (PFAS) and including additional PFAS-related action on air emissions and research to develop health-related reference concentrations; 3) seeking the best options for addressing the unacceptable risks related to exposure to ethylene oxide (EtO) and continuing to rely on the Integrated Risk Information System (IRIS) estimates for EtO that were updated in 2016; 4) continuing to take steps to reduce emissions from diesel engines and establish a cancer unit risk estimate for diesel exhaust; 5) completing the listing process for 1-bromopropane and consulting with state and local air agencies that have addressed this pollutant when conducting rulemaking; and 6) working with state and local agencies to address fumigation sources.

Goal 6: Safeguard and Revitalize Communities

This goal mentions that EPA works directly with communities to, among other things, plan for and respond to environmental emergencies. NACAA recommends this goal include expanding technical assistance and support to state and local air agencies during smoke conditions, which arise during wildfires and other fire events. This support is critically important considering the tremendous impact these situations have on public health and welfare.

Cross Agency Strategy 1: Ensure Scientific Integrity and Science-Based Decision-Making

NACAA’s recommendations to the Administration state: “Scientific and technical integrity must be the core principle underpinning all federal, state and local air and climate rules and programs. It is imperative that EPA restore its commitment to this principle within the agency and revoke or repair policies that are contrary to it. NACAA remains committed to science- and technology-based decision-making and has a shared interest with EPA in reaffirming scientific integrity as the foundation of our collective work to protect public health

⁴ https://www.4cleanair.org/wp-content/uploads/NACAA-Comments_on_EPA_LDV_GHG_Stds_NPRM-092721lh.pdf

and the environment.” We are pleased that EPA has included a cross-agency strategy intended to ensure scientific integrity and science-based decision making and encourage the agency to continue to place the highest priority on developing and relying on the highest quality scientific information and data.

Thank you for seeking our comment and for considering our recommendations. If you have questions, please contact us or Mary Sullivan Douglas of NACAA at mdouglas@4cleanair.org.

Sincerely,



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