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August 8, 2023

Environmental Protection Agency  
Office of Enforcement and Compliance Assurance  
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Washington, DC 20460

Re: State Review Framework “Plain Language Guide” for Metrics

Dear Colleagues:

The National Association of Clean Air Agencies (NACAA) appreciates this opportunity to comment on the U.S. Environmental Protection Agency’s (EPA) *Clean Air Act Metrics Plain Language Guide: State Review Framework -Round 5*. Since this document will help guide EPA’s State Review Framework (SRF) assessments of NACAA agency programs for the next SRF round, we are eager to contribute our thoughts and recommendations as the agency develops the final document.

NACAA is the national, non-partisan, non-profit association of 157 state and local air pollution control agencies in 40 states, including 117 local air agencies, the District of Columbia, and four territories. The members of NACAA have primary responsibility under the Clean Air Act (CAA) 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 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 clean air agency in the country.

Clear, consistent, and transparent SRF reviews are critical to benefit the relationship between states and local agencies and EPA, and to uphold the integrity of enforcement programs. State and local agencies operate under ever-increasing pressures with little or no funding expansion to meet these challenges. A review that provides useful and actionable feedback should be the goal of the SRF.

The document is rich with technical detail and policy implementation specifics. However, it would benefit in its opening paragraphs with a clearer delineation of who the intended reader is and what the intended use is. “Plain

language” implies its use by the general public. However the content and tone seem directed at an agency preparing for its programs and actions to be reviewed, or toward an EPA official preparing to conduct a review of a state program. In either case, if the intended user is not the public, it should be made clear who the core reader population is intended to be.

Introductory language should be included in the document that connects it to the Plain Language SRF Reviewers Guide<sup>1</sup> and to the SRF CAA Metric Reference Guide<sup>2</sup> to clarify its intended use and audience.

Whether or not the public is an intended core audience, if the document is readable by the public numerous terms and processes should be better described (for example, “Frozen Data”, on Page 1) and the tone should be scrubbed for this use. In addition, if the general public is a potential reader, the document should be revised to better articulate the overall structure of the SRF, its purpose and goals, and the implications of a review that either meets those objectives or warrants continued action. Also, terms of art should be explained for a vernacular audience, even if the core audience is a professional, or the document’s “Plain Language” title should be renamed to clarify the document’s purpose and objectives.

Past SRF reviews have raised concerns among state and local agencies that findings have shifted to data and reporting issues, and EPA must clearly indicate the difference between a reporting-based SRF-finding and a true programmatic shortfall. These two situations should not be conflated as EPA findings have impact to the implementing agency’s operations, requiring detailed responses both to EPA and to stakeholders in their respective communities.

Where the document references national goals, the goals are not identified, creating some confusion about whether these are stand-alone goals (like the National Enforcement and Compliance Initiatives), or other goals. They should be identified to eliminate this confusion. “Findings” should also be defined. As a term of art in accounting, “findings” identify process shortfalls or material deficits in controls. As goals are articulated, more detail should be given about the implications of meeting different levels in terms of implications, sanctions, penalties, or necessary commitments that an agency may face. More detail about the meaning of different levels would also be valuable – for example, if the target for meeting a national goal is set at 100%, how would an agency achieve a finding of “exceeds expectations”?

Particularly if this document is intended as a resource for agencies seeking to be ready for an SRF Review, improved links should be provided to information about Federally Reportable Violations (FRVs) and High Priority Violations (HPVs) in the document. In the past there has been considerable confusion and conflicting policy

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<sup>1</sup> Available at [https://www.epa.gov/sites/default/files/2019-11/documents/srf\\_round\\_4\\_reviewers\\_guide\\_final\\_7-31-18.pdf](https://www.epa.gov/sites/default/files/2019-11/documents/srf_round_4_reviewers_guide_final_7-31-18.pdf)

<sup>2</sup> The Round 4 guide is available at [https://www.epa.gov/sites/default/files/2019-11/documents/caa\\_metric\\_reference\\_guide\\_round\\_4.pdf](https://www.epa.gov/sites/default/files/2019-11/documents/caa_metric_reference_guide_round_4.pdf)

information regarding FRVs and HPVs, and agencies attempting to comply with EPA guidance have received reviews indicating a need for improvement.

The August 25, 2014 Revision of the U.S. Environmental Protection Agency's Enforcement Response Policy for High Priority Violations of the Clean Air Act: Timely and Appropriate Enforcement Policy to High Priority Violations<sup>3</sup> – 2014 (HPV Policy) states that “The enforcement agency should attempt to address an HPV within 180 days of Day Zero.” It then states that the response to the violation will be deemed untimely unless “it has a case-specific development and resolution timeline”, a Case Management Plan. This modification, the addition of the Case Management Plan, occurred in the 2014 revision to the HPV Policy. Despite this change, EPA continues to mark states down if a certain percentage of HPVs are not addressed within 180 days even if Case Management Plans are in place. EPA should modify their SRF metric to match the Policy.

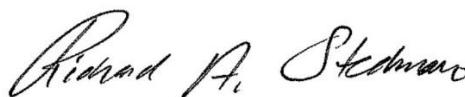
If the intended audience is the agencies being reviewed, there could also be information included about concluding or advancing the review, and what the next steps are, for example, the process if an agency disagrees with EPA's findings and next steps. A “plain language” document could describe the overall process, along with opportunities for an agency to review draft documents and file appeals, if warranted.

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 Miles Keogh, Executive Director of NACAA at 571-970-6795.

Sincerely,



Michael Dowd  
Virginia DEQ  
Co-Chair, NACAA Enforcement Committee



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Co-Chair, NACAA Enforcement Committee

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<sup>3</sup> Available online at <https://www.epa.gov/sites/default/files/2015-01/documents/hvpolicy2014.pdf>