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DELIVERED ELECTRONICALLY

RE: Draft National Water Program Guidance FY 2018-2019

The Association of Clean Water Administrators (“ACWA”) is the independent, nonpartisan, national organization of state, interstate, and territorial water program managers, who on a daily basis implement the water quality programs of the Clean Water Act (“CWA”). ACWA appreciates the opportunity to comment on the Environmental Protection Agency’s (“EPA”) draft National Water Program Guidance for Fiscal Years 2018-2019 (the “Guidance”). Due to the nature of ACWA’s comments, ACWA felt it necessary to draft a letter rather than simply submit comments via the provided template.

General Comments

ACWA is concerned with the uncertainty of EPA’s budget relative to the contents of the Guidance. As explained by EPA representatives on the July 20, 2017 conference call, EPA drafted the Guidance to reflect the Administration’s FY 2018 budget proposal. As the budget passed by Congress may be significantly different than the Administration’s proposal, the contents of the Guidance, including the measures, will not accurately reflect the final budget reality, causing significant confusion among state and interstate water managers. ACWA hereby requests that EPA address this uncertainty by revising the Guidance after a final budget is approved so that states can better understand what actions EPA will require states to perform and track.

Draft Guidance Language

Regarding the contents of the Guidance as currently written, ACWA is concerned that EPA, despite proposed funding cuts to key environmental programs, such as STAG grants, expects states to prioritize all the actions expressed in the Guidance. States are responsible, under the CWA and under each state’s own laws and regulations, to advance the attainment of

clean and safe waters and to prevent violations of the requirements designed to support these goals. States rely on federal funding through the STAG grant program to support state water programs and ensure that public health and the environment are protected while also supporting economic growth. The obstacles that states and EPA face to improve water quality in our nation's waterways are both complex and cost-intensive and reductions to critical funding will make joint prioritization essential. States will need flexibility to prioritize efforts with the highest return to implement regulations in a cost-effective and efficient manner.

The Guidance also makes several references to EPA providing states with technical assistance and support. ACWA recommends EPA perform a comprehensive analysis of state resources and support needs to more effectively and efficiently allocate such assistance and support.

Section 9 in the Water Quality chapter of the Guidance, *Managing Nonpoint Source Pollution*, states that "EPA has no direct regulatory authority over the discharge of non-point sources". However, CWA § 319 funds are essential to states and are used for vital restoration efforts in waterbodies primarily impaired by nonpoint sources. Given that most of the waterbodies on the impaired waters list are impaired due to nonpoint source pollution, this funding source remains critical to restoring beneficial surface water uses and safe water supply sources for drinking water utilities through strategic placement of land management improvements in targeted areas identified through scientific data and planning.

Outside of funding concerns, ACWA takes issue with EPA's inconsistencies with regard to addressing nutrient pollution. Section 4 in the Water Quality chapter of the Guidance, *Nutrient Reduction Partnership*, lists "State priority actions" explaining that these are actions that states "may" take. Adoption of numeric criteria for nitrogen and phosphorus is included as one of these actions. However, Section 12 of that same chapter, *Water Quality Standards Program*, explains that EPA will use adoption of numeric water quality standards for total nitrogen and total phosphorous as a performance measure. ACWA encourages EPA to remove or revise this performance measure, as even EPA acknowledges (in Section 4) that there are many actions states may take to reduce nutrient pollution, including but not limited to, adoption of numeric criteria for nitrogen and phosphorous.

Specific Performance Measures

ACWA also wishes to comment on three specific performance measures located in Appendix A of the Guidance. The measures are WT-04, WQ-34, and WQ-35 (FY 2019). ACWA takes issue with the lack of specifics on how these measures will be tracked and the amount of undefined subjective language. Regarding WT-04, ACWA seeks further explanation as to the definition of "Actions...to build programs in four area of wetland management..." and information on how this information will be collected. Regarding WQ-34, ACWA seeks further explanation as to the definition of "specific high priority nutrient reduction actions" and what constitutes "strong, incremental progress". Regarding WQ-35, EPA should continue to work with states in the development of ATTAINS to ensure the population of representative datasets.

Conclusion

While ACWA's process to develop comments is comprehensive and intended to capture the diverse perspectives of the states that implement these programs, EPA should also seriously consider the recommendations that come directly from organizations, states, interstates, and territories. Please contact ACWA's Executive Director Julia Anastasio at janastasio@acwa-us.org or (202) 756-0600 with any questions regarding ACWA's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter LaFlamme". The signature is fluid and cursive, with a large initial "P" and "L".

Peter LaFlamme
ACWA President
Director, Watershed Management Division
Vermont Department of Environmental Conservation