

May 3, 2019

Ms. Beth Burchard
Ms. K. Blair Budd
Office of the Chief Financial Officer (OCFO)
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Ms. Burchard and Ms. Budd:

The Association of Air Pollution Control Agencies (AAPCA)¹ appreciates the opportunity to comment on the U.S. Environmental Protection Agency's (EPA) draft Fiscal Year (FY) 2020 – 2021 National Program Guidances.² Specifically, AAPCA members are providing input regarding the draft Guidances for the Office of Air and Radiation (OAR) and the Office of Enforcement and Compliance Assurance (OECA).³

EPA Chief Financial Officer Holly Greaves indicated in her June 29, 2018 memorandum that “The National Program Guidances provide operational priorities and strategies to protect human health and the environment, consistent with priorities in the President’s Budget and EPA’s Strategic Plan. The FY 2020 – 2021 National Program Guidances are the first issued under the *FY 2018 – 2022 EPA Strategic Plan*.”⁴

AAPCA members appreciate the overarching goals in the *FY 2018 – 2022 EPA Strategic Plan*, which emphasize the Agency’s Core Mission (Goal 1), Cooperative Federalism (Goal 2), and Rule of Law and Process (Goal 3). Recognizing that strategies defined in the draft OAR and OECA guidances are intended to meet the Agency’s strategic goals based on the President’s budget request for U.S. EPA, AAPCA members would like to stress the need for stable and adequate funding to fulfill their obligations under the Clean Air Act (CAA). With appropriate resources, clear priorities, and early engagement with U.S. EPA, state and local air agencies directly responsible for implementing CAA regulations can continue the significant air quality improvements that have been achieved in the United States.⁵

Currently, Congress is reviewing the President’s budget request and beginning to undertake the appropriations process for the next fiscal year. While the congressional appropriations process will set U.S. EPA’s FY 2020 funding levels, including for state and local air quality management grants under the State and Tribal Assistance Grant (STAG) program, AAPCA members are concerned that the Agency is proposing to “transition the funding authority for PM_{2.5} monitoring from section 103 to section 105”

¹ AAPCA is a national, non-profit, consensus-driven organization focused on assisting state and local air quality agencies and personnel with implementation and technical issues associated with the federal Clean Air Act. AAPCA represents more than 40 state and local air agencies, and senior officials from 20 state environmental agencies currently sit on the AAPCA Board of Directors. AAPCA is housed in Lexington, Kentucky as an affiliate of The Council of State Governments (CSG). You can find more information about AAPCA at: www.cleanairact.org.

² <https://www.epa.gov/planandbudget/national-program-guidances>.

³ See: [Draft FY 2020-2021 OAR National Program Guidance](#) and [Draft FY 2020-2021 OECA National Program Guidance](#).

⁴ <https://www.epa.gov/sites/production/files/2018-07/documents/cfo-memo-fy-2020-2021-np-guidance.pdf>.

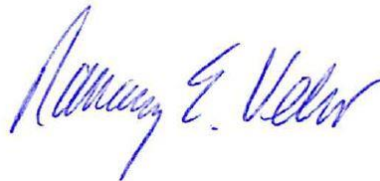
⁵ AAPCA, [State Air Trends & Successes: The StATS Report](#), April 22, 2019.

starting in FY 2020.⁶ Grants to state and local agencies for monitoring fine particulate matter (PM_{2.5}) have historically been funded under CAA Section 103, which has not required the same funding match as CAA Section 105. Moving the funding authority for PM_{2.5} monitoring to CAA Section 103 could adversely impact the budgets of some state and local agencies.

As requested by U.S. EPA, AAPCA has provided comments regarding specific priorities and strategies in the draft OAR and OECA National Program Guidances for FY 2020 – 2021 in the attached comment template. Overall, AAPCA's members support emphasis on training assistance and development, technical support, reduction of the state implementation plan (SIP) backlog and the timely processing of SIPs, and early engagement and collaboration in planning, regulatory, and enforcement decisions. AAPCA members look forward to continuing to engage with U.S. EPA, OAR, and OECA, and believe that, generally, these guidances set a framework that will help meet the goals set in the *FY 2018 – 2022 EPA Strategic Plan*.

Thank you for the consideration of these comments. If you have any questions, please contact Mr. Jason Sloan, Executive Director, at jsloan@csgr.org or (859) 244-8043.

Sincerely,



Nancy Vehr
Administrator, Air Quality Division
Wyoming Department of Environmental Quality
2019 President, AAPCA

cc: Marc Vincent
Margaret Walters
Michele McKeever

⁶ U.S. EPA, "[FY2020 National Program Manager Guidance Monitoring Appendix](#)," March 2019. DRAFT.

**Comments of the Association of Air Pollution Control Agencies (AAPCA) on
U.S. EPA’s FY 2020-2021 NATIONAL PROGRAM GUIDANCE**

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>States expend significant resources developing plans to meet national ambient air quality standards (NAAQS). AAPCA members agree that early engagement with U.S. EPA Regional Offices during the development of state implementation plans (SIPs) is a key component of improving the SIP process. A collaborative approach that recognizes state expertise on localized issues could lead to a streamlined process resulting in SIPs being approved in a timelier manner.</i></p>	<p><i>Page 2</i></p> <p><i>A.1 National Ambient Air Quality Standards (NAAQS)</i></p>	<p><i>OAR</i></p>	<p><i>Association of Air Pollution Control Agencies (AAPCA)</i></p>
<p><i>U.S. EPA Regional Office assistance and technical support is important to SIP development and should recognize the primary role of states in developing these plans. Working to reduce the current SIP backlog and improve the approval process should be a priority for U.S. EPA and U.S. EPA Regions in order to help states in meeting attainment deadlines.</i></p> <p><i>In this draft Guidance, U.S. EPA OAR indicates that an Expected Regional Activity will be to “Assist air agencies in the revision of startup, shutdown, and malfunction [SSM] regulations, as appropriate.” AAPCA members are interested in more information from U.S. EPA regarding expectations for revisions to SSM regulations, and the necessary changes for approval.</i></p>	<p><i>Page 3</i></p> <p><i>A.1 National Ambient Air Quality Standards (NAAQS)</i></p> <p><i>A.1.1 Expected Regional Activities</i></p> <p><i>A.1.1.2 SIPs</i></p> <p><i>---</i></p> <p><i>Also: Page 18</i></p> <p><i>A.1 Continuing Air Program</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

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<p><i>Early and collaborative engagement with state and local air agencies in the development of guidance and regulations can bring important on-the-ground expertise to the process as well as provide vital information to U.S. EPA regarding unique social factors. AAPCA members appreciate U.S. EPA's recognition of the need for engaging air agencies early in the FY 2020 OAR National Program Guidance.</i></p> <p><i>Exceptional events demonstrations require air agencies to utilize significant resources to exclude data that may have an adverse regulatory impact. Agencies have commented in the past that demonstrations are often not acted on by U.S. EPA. OAR prioritization of improving the process for exceptional events demonstrations, including acknowledgement and timely review by EPA, is appreciated.</i></p>	<p><i>Page 4</i></p> <p><i>A.1 National Ambient Air Quality Standards (NAAQS)</i></p> <p><i>A.1.1 Expected Regional Activities</i></p> <p><i>A.1.1.3 Other</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>AAPCA members recognize U.S. EPA's recent work with states to replace regional haze federal implementation plans (FIPs) with state implementation plans (SIPs) and look forward to continued collaboration to improve the development and approval process under the Regional Haze Rule.</i></p>	<p><i>Page 5</i></p> <p><i>A.2 Regional Haze</i></p> <p><i>A.2.1 Expected Regional Activities</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>U.S. EPA OAR indicates that an Expected Regional Activity is to "Review states' annual network plans and act on requests for changes in state and local monitoring plans within 120 days." Appropriately timed approval of these plans, and related changes, will help air agencies fulfill Clean Air Act obligations.</i></p>	<p><i>Page 8</i></p> <p><i>A.4 Ambient Air Monitoring for Criteria Pollutants</i></p> <p><i>A.4.1 Expected Regional Activities</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

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<p><i>The timing of U.S. EPA's release of the 2017 National Air Toxics Assessment (NATA) created communication difficulties for several state and local air agencies. U.S. EPA should continue to coordinate with air agencies on the 2017 NATA data review and development.</i></p>	<p>Page 9 A.5 Air Toxics Program Implementation A.5.1 Expected Air Agency Activities</p>	<p>OAR</p>	<p>AAPCA</p>
<p><i>AAPCA members remain concerned that heavy and light-duty diesel vehicle emission control systems tampering significantly impacts air quality. U.S. EPA OAR should work with air agencies to prioritize curtailing the manufacture and installation of these devices, particularly in areas that do not currently meet the NAAQS for fine particulate matter and ozone.</i></p>	<p>Page 11 A.8</p>	<p>OAR</p>	<p>AAPCA</p>
<p><i>U.S. EPA's acknowledgement of potential changes in budgetary circumstances, including the impact of court decisions, and the willingness to work with air agencies to continue meeting air quality priorities is appreciated by AAPCA members. Flexibility in the planning process due to budget issues allows state and local air agencies to be creative and best utilize funding.</i></p>	<p>Page 17 Section III. Flexibility and Grant Planning</p>	<p>OAR</p>	<p>AAPCA</p>
<p><i>AAPCA members are concerned with U.S. EPA's proposal to "transition the funding authority for PM_{2.5} monitoring from section 103 to section 105" in FY 2020. This proposed transition could adversely impact the budgets of some air agencies due to the fact that Clean Air Act (CAA) Section 105 requires a funding match by air agencies, whereas CAA Section 103 does not. This concern is further compounded by the potential lowering of the fine particulate matter NAAQS pursuant to a current review (scheduled to be completed in late-2020), which may initiate additional monitoring requirements.</i></p>	<p>Page 18 A.1 Continuing Air Program --- Also: U.S. EPA's Draft FY2020 National Program Manager Guidance Monitoring Appendix (Page 3)</p>	<p>OAR</p>	<p>AAPCA</p>

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<p><i>State and local air agencies must not only ensure that staff are provided opportunities for continuing education at advancing levels and kept up-to-date on technical air pollution control developments, but plan for the growing percentage of employees able to retire.</i></p> <p><i>U.S. EPA's support and leadership through the funding, development, and support of training and training materials for air agency personnel is critical to air improvement efforts.</i></p>	<p><i>Page 19</i></p> <p><i>A.1 Continuing Air Program</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>U.S. EPA OAR indicates under <u>Future Refinements to the Allocation of §105 Grants</u> that "EPA remains interested in moving toward a more up-to-date allocation methodology. OAR will share any proposed refinements to the allocation methodology with interested parties for review and public comment prior to making any changes." U.S. EPA OAR should engage and inform state and local air agencies early in this review and potential revision of the allocation methodology.</i></p>	<p><i>Page 20</i></p> <p><i>B. Allocation of §105 Grants</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

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<p><i>AAPCA members support U.S. EPA OECA in efforts regarding “Other ongoing collaborative efforts with ECOS [that] include: producing webinars to help us identify new compliance approaches that we could then pilot and evaluate; developing smart mobile tools to make our inspectors more efficient and effective; increasing availability of training; preparing for advances in pollution monitoring technology.”</i></p>	<p><i>Page 4</i></p> <p><i>A. OECA’s Key Activities to Promote Environmental Compliance through Cooperative Federalism</i></p> <p><i>2. Collaboration with States, Territories, and Tribes</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>
<p><i>U.S. EPA OECA prioritization of training opportunities and capacity building for air agency personnel is vital to appropriate and fair compliance and enforcement efforts at the state and local levels.</i></p>	<p><i>Page 5</i></p> <p><i>A. OECA’s Key Activities to Promote Environmental Compliance through Cooperative Federalism</i></p> <p><i>4. State and Tribal Capacity building</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>

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<p><i>U.S. EPA OECA work regarding compliance monitoring and enforcement activities under the Clean Air Act to reduce the number of nonattainment areas should be done in collaboration with state and local air agencies.</i></p>	<p><i>Page 7</i></p> <p><i>B. OECA's Key Activities to Meet Strategic Measure Targets</i></p> <p><i>3. OECA Activities Supporting Other Core Strategic Measures</i></p> <p><i>a. Reduce the number of Clean Air Act nonattainment areas</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>

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<p><i>AAPCA members directly support the co-regulator activities identified by U.S. EPA OECA regarding compliance monitoring field activities that recognize the appropriate and critical role of state and local air agencies.</i></p>	<p><i>Page 12</i></p> <p><i>C. Key Programmatic Activities</i></p> <p><i>1. Cross Program Activities</i></p> <p><i>f. Field Activities: Inspector Credentialing, QAFAP, and Interim Policy on Inspection Report Timeliness and Standardization</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>

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<p><i>AAPCA members appreciate U.S. EPA OECA's efforts to engage and collaborate with air agencies early in compliance and enforcement activities. U.S. EPA OECA should also ensure consistency in compliance assurance work across regions, states, and localities.</i></p>	<p><i>Page 15</i></p> <p><i>C. Key Programmatic Activities</i></p> <p><i>2. Statute/Program-specific Activities</i></p> <p><i>b. Clean Air Act (CAA) Program for Compliance Assurance and Enforcement</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>
<p><i>AAPCA members have previously expressed concern to U.S. EPA OECA about emission systems tampering. Tampering with these systems has the potential to significantly increase emissions of criteria air pollutants, directly impacting air quality. U.S. EPA OECA should work with air agencies to prioritize curtailing the manufacture and installation of these devices, particularly in areas that do not currently meet the NAAQS for fine particulate matter and ozone.</i></p>	<p><i>Page 16</i></p> <p><i>C. Key Programmatic Activities</i></p> <p><i>2. Statute/Program-specific Activities</i></p> <p><i>b. Clean Air Act (CAA) Program for Compliance Assurance and Enforcement</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>U.S. EPA OECA indicates in the draft Guidance that the Agency will “Hold the federal government accountable to the same standard of environmental compliance as other members of the regulated community” and that “Except where EPA directly implements a regulatory program, work with state, local and tribal partners to address noncompliance at federal facilities, and when appropriate, collaboratively work towards coordinated compliance monitoring and response actions, or the assignment of appropriate roles for each entity.” U.S. EPA OECA’s acknowledgement is shared by AAPCA’s state and local members.</i></p>	<p><i>Page 32 – 33</i></p> <p><i>C. Key Programmatic Activities</i></p> <p><i>2. Statute/Program-specific Activities</i></p> <p><i>j. Federal Facilities</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>