



July 14, 2022

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

Dear Ms. Budd and Ms. Burchard:

The Association of Air Pollution Control Agencies (AAPCA)¹ submits these comments regarding the U.S. Environmental Protection Agency's (EPA) draft Fiscal Years (FY) 2023 – 2024 National Program Guidances (NPGs).² AAPCA's comments directly address the draft Guidances for the Office of Air and Radiation (OAR), the Office of Enforcement and Compliance Assurance (OECA), and the Office of Environmental Justice (OEJ) and External Civil Rights Compliance Office (ECRCO).

State and local air agencies³ serve as co-regulators with U.S. EPA under the federal Clean Air Act, and AAPCA appreciates the opportunity to convey member priorities and feedback during the Agency's development of FY 2023 – 2024 NPGs, the first under the *FY 2022–2026 EPA Strategic Plan*.⁴ As indicated in a June 10 memorandum, U.S. EPA is currently using "regular channels to communicate their program priorities" for FY 2022 and the "The FY 2023-2024 NPGs will be issued in Spring 2022 and will communicate programs' operational priorities, strategies, and performance measures."⁵ Air agencies stress the importance of having NPGs in place as U.S. EPA's strategic plan and budget priorities are implemented.

AAPCA's detailed input is provided in the attached FY 2023 – 2024 NPG Comments Template, as directed by U.S. EPA. Generally, AAPCA members support Agency efforts to engage air agencies early in regulatory and planning processes, improve the timeliness of state implementation plan (SIP) approval and reduce the SIP backlog, provide technical support, expand grant flexibility, ensure quality and up-to-date training, and effectively coordinate with state and local agencies on compliance and enforcement activities. The Association hopes that U.S. EPA references the attached comments to improve the FY 2023 – 2024 NPGs for OAR, OECA, and OEJ/ECRCO.

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. Created in 2012, AAPCA represents 48 state and local air pollution control agencies, and senior officials from 21 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](#). You can find more information about AAPCA at: www.cleanairact.org.

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

³ AAPCA, *State Air Trends & Successes: The StATS Report*, April 19, 2022.

⁴ <https://www.epa.gov/planandbudget/strategicplan>.

⁵ Memorandum from David Bloom, Acting Chief Financial Officer, "[Development of the FY 2023-2024 National Program Guidances](#)," June 10, 2022.

Here, AAPCA does highlight one concern from the draft OAR Guidance: the proposal “to transition the funding authority for [fine particulate matter (PM_{2.5})] monitoring from section 103 to section 105.”⁶ In response to request for early engagement comments when developing the FY 2023 – 2024 OAR NPG, AAPCA reaffirmed the importance of maintaining the granting authority for PM_{2.5} monitoring under Clean Air Act Section 103, which does not require a 40-percent funding match and allows state and local agencies to best allocate resources for air quality planning and programs while continuing PM_{2.5} monitoring.⁷ Distributing funds for PM_{2.5} monitoring under Section 105 of the Clean Air Act could adversely impact state and local air agency budgets.

Thank you for your consideration of these comments. AAPCA’s state and local agency members look forward to working with U.S. EPA and their EPA Regions as the Agency implements the FY 2023 – 2024 NPGs. If you have any questions, please contact Mr. Jason Sloan, Executive Director, at jsloan@csg.org or (859) 244-8043.

Sincerely,

A handwritten signature in black ink that reads "Bryce Bird". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Bryce Bird
Director, Division of Air Quality
Utah Department of Environmental Quality
2022 President, AAPCA

cc: Mr. Marc Vincent, EPA OAR
Mr. Michael Wolfe, EPA OAR
Ms. Michele McKeever, EPA OECA
Ms. Elizabeth Ragnauth, EPA OECA
Mr. Matthew Tejada, EPA OEJ
Ms. Lilian Dorka, EPA ECRCO

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

⁷ AAPCA’s comments to U.S. EPA OAR for the FY 2023 – 2024 early engagement period are available [here](#).

**Comments of the Association of Air Pollution Control Agencies (AAPCA) on
FY 2023-2024 NATIONAL PROGRAM GUIDANCE (NPGs)**

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>State and local agencies and the jurisdictions that they serve are unique and differ socially, geographically, and economically. AAPCA members appreciate EPA’s encouragement of flexibilities and tailored expectations in the work and grant planning processes.</i></p>	<p><i>Page 3</i></p> <p><i>Section 1. Introduction</i></p> <p><i>---</i></p> <p><i>Also: Page 30</i></p> <p><i>Section IV. Flexibility and Grant Planning</i></p>	<p><i>Office of Air & Radiation (OAR)</i></p>	<p><i>Association of Air Pollution Control Agencies (AAPCA)</i></p>
<p><i>The draft Guidance states that a key identified process improvement for improving EPA’s review and approvals of State Implementation Plans (SIPs) is “early engagement between EPA and air agencies during the air agencies’ SIP development process, as well as early coordination among EPA offices during EPA’s review and action on submitted SIPs.”</i></p> <p><i>AAPCA members agree that deep coordination with air agencies is critical to successful implementation of the NAAQS and underscore the Agency’s primary goal to efficiently and timely process SIPs in this effort.</i></p>	<p><i>Page 8</i></p> <p><i>B.1 National Ambient Air Quality Standards (NAAQS)</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>EPA OAR has outlined expected Regional Office activities under the 2015 Startup, Shutdown, and Malfunction (SSM) SIP Call.</i></p> <p><i>This rule is still in litigation in the U.S. Court of Appeals for the D.C. Circuit, and EPA should withhold any actions under the 2015 SSM SIP Call until the D.C. Circuit issues an opinion.</i></p>	<p><i>Page 9</i></p> <p><i>B.1 National Ambient Air Quality Standards (NAAQS)</i></p> <p><i>B.1.1 Expected EPA Regional Office Activities</i></p> <p><i>B.1.1.2 SIPs</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>EPA has proposed to deny 23 state implementation plans (SIPs) addressing interstate transport for the 2015 ozone NAAQS. Prior to finalizing these actions, AAPCA recommends that EPA prioritize and seriously consider state comments on their proposed SIP denials.</i></p> <p><i>Concurrently with taking comment on the proposed SIP denials, EPA accepted comment on a proposed interstate transport federal implementation plan (FIP) for 26 states that would significantly increase the scope of the Cross-State Air Pollution Rule (CSAPR). Here, too, AAPCA recommends priority consideration of comments from impacted air agencies.</i></p>	<p><i>Pages 9 – 10</i></p> <p><i>B.1 National Ambient Air Quality Standards (NAAQS)</i></p> <p><i>B.1.1 Expected EPA Regional Office Activities</i></p> <p><i>B.1.1.2 SIPs</i></p> <p><i>---</i></p> <p><i>B.1.2 Expected Air Agency Activities</i></p> <p><i>B.1.2.1 SIPs</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>AAPCA members support the Expected EPA Regional Office Activities to:</i></p> <ul style="list-style-type: none"> <i>• Take final rulemaking actions on any remaining SIP submittals for all NAAQS.</i> <i>• Work to reduce backlogged SIP submissions in accordance with agency performance measures and the SIP management plans negotiated with states.</i> <i>• Work with states to ensure early engagement between states and EPA.</i> <i>• Collaborate with EPA HQ to ensure early engagement on novel and unique issues of national significance.</i> <p><i>Key examples of novel and unique issues include: wildfires; ethylene oxide (EtO); exceptional events; air quality impacts of per- and polyfluoroalkyl substances (PFAS); and, monitoring challenges.</i></p>	<p><i>Page 9</i></p> <p><i>B.1.1 Expected EPA Regional Office Activities</i></p> <p><i>B.1.1.2 SIPs</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 EPA OAR recognizes in this draft NPG.</i></p> <p><i>AAPCA reasserts that receiving and incorporating input from stakeholders is a core component of rulemaking, and sufficient time should be provided for state and local agencies charged with Clean Air Act implementation.</i></p>	<p><i>Page 9</i></p> <p><i>B.1.1 Expected EPA Regional Office Activities</i></p> <p><i>B.1.1.3 Other</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>Developing exceptional events demonstrations are time- and resource-intensive activities for air agencies, which can cost an estimated \$20,000 to \$40,000 to produce and sometimes exceed 200 pages in length.</i></p> <p><i>This is an important Clean Air Act provision for addressing air quality impacts outside of regulatory control. With a lengthened wildfire season and likely more stringent NAAQS for PM2.5 and ozone, agencies will need to develop demonstrations more often. EPA OAR should work with state and local agencies to improve the process for drafting and reviewing exceptional event demonstrations.</i></p>	<p><i>Page 10</i></p> <p><i>B.1 National Ambient Air Quality Standards (NAAQS)</i></p> <p><i>B.1.1 Expected EPA Regional Office Activities</i></p> <p><i>B.1.1.3 Other</i></p> <p><i>---</i></p> <p><i>B.1.2 Expected Air Agency Activities</i></p> <p><i>B.1.2.2 Designations</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>Generally, states continue to work toward submittal of Regional Haze SIPs for the second planning period ahead of EPA’s updated deadline of August 15, 2022, to avoid findings of failure to submit.</i></p> <p><i>EPA OAR indicates that the Agency will “continue to address any relevant legal challenges” regarding the Regional Haze program. EPA should ensure appropriate state consultation on Regional Haze SIPs, including on any potential consent decrees.</i></p>	<p><i>Page 11</i></p> <p><i>B.2 Regional Haze</i></p> <p><i>B.2.1 Expected EPA Regional Office Activities</i></p> <p><i>B.2.2 Expected Air Agency Activities</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>The draft OAR NPG states, “EPA will emphasize environmental justice considerations in all aspects of implementing permit programs,” including setting as a Regional Office activity to “Advance environmental justice and Title VI civil rights considerations in air agency permitting for major stationary sources and major modifications, as well as for minor sources” and “Provide training and technical guidance and support to permitting authorities and the public.”</i></p> <p><i>AAPCA welcomes clear communication from EPA HQ and OAR regarding expectations for permitting and community outreach involving defined environmental justice communities. Training and technical support may be appropriate. AAPCA also stresses the need for EPA to effectively partner with state and local agencies when engaging communities on environmental issues.</i></p>	<p><i>Pages 12 – 13</i></p> <p><i>B.3 Title V and New Source Review Permitting</i></p> <p><i>B.3.1 Expected EPA Regional Office Activities</i></p> <p><i>B.3.2 Expected Air Agency Activities</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>Agencies have recently expressed concerns that there is not consistency across EPA Regional Offices during technical reviews, including reviews of annual network plans. To ensure standard review of technical systems associated with the ambient network, EPA OAR may consider adding direction for Regional Offices.</i></p>	<p><i>Pages 13 – 14</i></p> <p><i>B.4 Ambient Air Monitoring for Criteria Pollutants</i></p> <p><i>B.4.1 Expected EPA Regional Office Activities</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>EPA OAR, in consultation with state and local agencies, has recognized that continuous PM2.5 or Federal Equivalent Method (FEM) monitors tend to show higher concentrations than filter-based or Federal Reference Method (FRM) monitors. EPA OAR is considering technical improvements, including working to develop FEM method calibrations, but this could impact area designations under current or future NAAQS.</i></p> <p><i>EPA’s ambient air monitoring modernization plan should take into account potential challenges and discrepancies that incorporating new technology could pose to this infrastructure. In modernization plans, EPA might also consider improvements to the method designation process.</i></p>	<p><i>Pages 14 – 15</i></p> <p><i>B.4 Ambient Air Monitoring for Criteria Pollutants</i></p> <p><i>B.4.2 Expected Air Agency Activities</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>Ethylene oxide (EtO) continues to pose technical challenges for EPA OAR and air agencies, in particular monitoring and modeling at the risk level. Air agencies have asked for early and close collaboration ahead of public data releases, including support with risk communication efforts.</i></p>	<p><i>Page 15</i></p> <p><i>B.5 Air Toxics Program Implementation</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>AAPCA members appreciate EPA’s willingness to work with air agencies to adjust resources to meet needs, including the commitment “to working collaboratively with air agencies to resolve issues that may arise during work planning.”</i></p>	<p><i>Page 30</i></p> <p><i>Section IV. Flexibility and Grant Planning</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

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<p><i>EPA OAR states that the President’s FY 2023 Budget requests \$322.2 million for “continuing air programs carried out by states/locals” that “will help expand the efforts of air pollution control agencies to implement their programs” toward meeting the Administration’s priorities.</i></p> <p><i>AAPCA stresses that the President’s FY 2023 Budget request is more than \$90 million above the enacted appropriations levels for both FY 2021 and FY 2022.</i></p> <p><i>In early engagement comments, AAPCA spotlighted the need for providing maximum grant flexibilities to state and local air agencies to best address air pollution control needs.</i></p>	<p><i>Page 31</i></p> <p><i>A.1 Continuing Air Program</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i><u>Core Activities.</u> AAPCA members do support EPA OAR’s commitment to assisting state and local agencies meet the listed core activities for FY 2023 and FY 2024, including “working with states to reduce the SIP backlog as well as improving the timeliness of SIP action.”</i></p>	<p><i>Page 31</i></p> <p><i>A.1 Continuing Air Program</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i><u>Ambient Monitoring.</u> AAPCA members <u>do not</u> support EPA OAR’s proposal “to transition the funding authority for PM2.5 monitoring from section 103 to section 105.” AAPCA has previously noted the importance of maintaining the granting authority for PM2.5 monitoring under Clean Air Act Section 103, which does not require the 40-percent funding match of Section 105.</i></p>	<p><i>Page 31</i></p> <p><i>A.1 Continuing Air Program</i></p> <p><i>---</i></p> <p><i>Also: U.S. EPA’s FY2020 National Program Manager Guidance Monitoring Appendix (page 3)</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

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<p><i>Clean Air Act Training.</i> EPA’s commitment to support air pollution control agencies through the funding and development of training programs and materials for personnel is critical to air improvement efforts. EPA’s coordination with the Joint Training Committee is important to this work and provides EPA an important resource for understanding the training needs and priorities of state and local air agencies. Air agencies recognize the importance of both training for new personnel and continuing education for professional development.</p>	<p>Page 33 A.1 Continuing Air Program</p>	<p>OAR</p>	<p>AAPCA</p>
<p><i>Future Refinements to the Allocation of Section 105 Grants.</i> State and local agencies should be engaged early in any EPA plans to update allocation methodology.</p>	<p>Page 34 B. Allocations of CAA Section 105 Grants</p>	<p>OAR</p>	<p>AAPCA</p>
<p>AAPCA members appreciate EPA OECA’s commitment to state and local government collaboration in compliance monitoring and enforcement programs, in particular efforts to build state capacity and support state actions.</p>	<p>Page 5 Section I. Introduction</p>	<p>Office of Enforcement and Compliance Assurance (OECA)</p>	<p>AAPCA</p>
<p>AAPCA continues to support the FY 2020 – 2023 National Compliance Initiatives (NCI) for air. State and local agencies are vital partners as EPA evaluates the current NCIs and potential new ones beginning in FY 2023.</p> <p>EPA OECA also notes that “EPA and the states should discuss work-sharing and how to make the best collective use of EPA and state resources and expertise to achieve the goals of the NCIs.” Additional information would be helpful as agencies evaluate resources in support of EPA’s NCIs.</p>	<p>Pages 10 – 12 C. FY 2020 – 2023 National Compliance Initiatives --- Also: Pages 24 – 25 CAA Title II, Vehicle and Engine Enforcement Program</p>	<p>OECA</p>	<p>AAPCA</p>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>AAPCA and state and local agencies are providing key direction and input as EPA undertakes modernization of the Integrated Compliance Information System (ICIS). The transition to ICIS/ICIS-Air created difficulties for agencies, and EPA OECA should consistently engage and take feedback from agencies during the next transition.</i></p>	<p><i>Pages 17 – 18</i></p> <p><i>Section IV. Implementing Other Core Work</i></p> <p><i>A. Cross-program Activities (3. Data Reporting)</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>
<p><i>EPA OECA states that an Agency activity for FY 2023 – 2024 will be to “Support and encourage states, territories, and tribes to support inspector training development.”</i></p> <p><i>Additional clarification from EPA OECA is needed in the final NPG. State and local agencies have previously stressed the importance of EPA taking a primary role in the development of training materials, courses, and other learning opportunities.</i></p>	<p><i>Page 20</i></p> <p><i>Section IV. Implementing Other Core Work</i></p> <p><i>A. Cross-program Activities (6. Field Activities)</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>
<p><i>EPA OECA’s draft Guidance indicates that in Authorized Programs, the Agency will negotiate compliance monitoring strategy (CMS) and alternative compliance monitoring strategy (ACMS) plans with states, which will include an effort to “Maximize the flexibilities by considering each agency’s unique situation.” AAPCA members support this commitment and suggest that OECA consider off-site compliance monitoring.</i></p>	<p><i>Pages 22 – 23</i></p> <p><i>Section IV. Implementing Other Core Work</i></p> <p><i>B. Program-specific Activities (1. Clean Air Act)</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>The draft Guidance states that “OEJ and ECRCO are working with EPA’s regions and programs to determine how best to integrate these measures and take advantage of every opportunity to advance EJ and civil rights compliance in light of each region and program’s financial, capacity, and statutory limitations.”</i></p> <p><i>The final OEJ/ECRCO NPG should also consider the financial, other resource/capacity, and statutory limitations of state and local agencies.</i></p>	<p><i>Section I. Introduction</i></p> <p><i>Page 4</i></p>	<p><i>Office of Environmental Justice (OEJ) and External Civil Rights Compliance Office (ECRCO)</i></p>	<p><i>AAPCA</i></p>
<p><i>EPA states that “As EPA reviews such state issued permits, we will work to ensure the permits are responsive to EJ and civil rights concerns that have been made clear through engagement, the use of tools, or the performance of an EJ and civil rights analyses, consistent with federal law and our underlying authorities.”</i></p> <p><i>State and local agencies are interested in more information, including potential training, regarding EPA’s expectations for state and local-issued permits.</i></p>	<p><i>Section II. Program Priorities, Strategies, and Activities</i></p> <p><i>Objective 1. Promote EJ and Civil Rights at the Federal, Tribal, State, Local, and Community Levels (Strategy 2)</i></p> <p><i>Page 9</i></p>	<p><i>OEJ/ECRCO</i></p>	<p><i>AAPCA</i></p>
<p><i>State and local agencies should be engaged early as EPA begins “delineating the responsibilities of programs and regions towards meeting their objectives, identifying data gaps, building tracking systems, and putting in place any needed policy, guidance, or regulatory changes.”</i></p>	<p><i>Section II. Program Priorities, Strategies, and Activities</i></p> <p><i>Objective 2. Embed EJ and Civil Rights in EPA Policies, Programs and Activities</i></p> <p><i>Page 13</i></p>	<p><i>OEJ/ECRCO</i></p>	<p><i>AAPCA</i></p>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>AAPCA appreciates ECRCO's commitment to provide technical assistance and training for state and local agencies to better understand civil rights compliance, including procedural safeguards and best practices.</i></p>	<p><i>Section II. Program Priorities, Strategies, and Activities</i></p> <p><i>Objective 3. Strengthen Civil Rights Enforcement in Communities with Environmental Justice Concerns</i></p> <p><i>Pages 21 – 22</i></p>	<p><i>OEJ/ECRCO</i></p>	<p><i>AAPCA</i></p>
<p><i>EPA's draft OEJ/ECRCO Guidance sets as a program priority "Meaningful and regular opportunities to converse with and listen to communities," indicating in the Agency's strategy that "Increased information sharing and outreach will establish and imbed a continuous and transparent pathway for open dialogue between EPA and communities."</i></p> <p><i>As co-regulators responsible for Clean Air Act implementation, air agencies are critical partners in this outreach. State and local air agencies can bring important details and history as well as gain insight that could inform environmental decision-making. AAPCA underscores that working together to provide meaningful and consistent communication from federal, state, and local partners is crucial for effective public outreach efforts.</i></p>	<p><i>Section II. Program Priorities, Strategies, and Activities</i></p> <p><i>Objective 3. Strengthen Civil Rights Enforcement in Communities with Environmental Justice Concerns</i></p> <p><i>Page 22</i></p>	<p><i>OEJ/ECRCO</i></p>	<p><i>AAPCA</i></p>