



June 18, 2024

Ms. Beth Burchard
Mr. Dominic Nelson
Office of the Chief Financial Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Ms. Burchard and Mr. Nelson:

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) 2025 – 2026 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 and External Civil Rights (OEJECR).

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 2025 – 2026 NPGs, the second under the *FY 2022–2026 EPA Strategic Plan*.⁴ As indicated in U.S. EPA's Overview to FY 2025 – 2026 NPGs, the Agency engaged with tribes, states, and territories from June through October 2023 to gather priority inputs to "inform joint work planning, including work under EPA grants."⁵ AAPCA urges U.S. EPA to continue to commit to early, frequent, and substantive engagement with state and local air agencies as co-regulators, and stresses the importance of having NPGs in place in a timely manner.

AAPCA's detailed input is provided in the attached FY 2025 –2026 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 2025 – 2026 NPGs for OAR, OECA, and OEJECR.

Here, AAPCA highlights one aspect of the draft OAR Guidance: "Funding of air monitoring, including a proposed transition in funding authorities for PM2.5 monitoring and associated program

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 51 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*, May 2, 2024.

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

⁵ U.S. EPA, "[Draft FY 2025-2026 Overview to the National Program Guidances](#)" April 2024.

support for ambient monitoring,” which is addressed in greater detail in National Program Guidance – Monitoring Appendix. U.S. EPA’s latest FY23 and FY24 National Program Manager (NPM) Guidance – Monitoring Appendix indicates that “EPA intends to continue to make grants available under §103 of the Clean Air Act to support [fine particulate matter (PM_{2.5})] monitoring activities,” but revisit if appropriations language should change.⁶ Historically, appropriations since the beginning of the PM_{2.5} monitoring program have maintained funding authority under Clean Air Act (CAA) Section 103. AAPCA reaffirms the importance of sustaining the granting authority for PM_{2.5} monitoring under CAA 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 CAA Section 105 would 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 2025 – 2026 NPGs. If you have any questions, please contact Ms. Morgan Dickie, Interim Executive Director, at mdickie@csg.org or (859) 244-8042.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Morgan Dickie". The signature is fluid and cursive, with a large initial "E" and a long, sweeping underline.

E. Morgan Dickie
Interim Executive Director, AAPCA

cc: Mr. Michael Wolfe, EPA OAR
Mr. Grant Peacock, EPA OAR
Ms. Michele McKeever, EPA OECA
Ms. Aimee Hessert, EPA OECA
Ms. Rebecca Huff, EPA OEJECR
Mr. Kurt Temple, EPA OEJECR

⁶ U.S. EPA, “[FY2023 and 2024 National Program Manager Guidance Monitoring Appendix](#),” February 2023.

⁷ See also AAPCA’s [June 2024 letter](#) to U.S. Senate Committee on Appropriations Leadership for FY 2025 Appropriations for the U.S. EPA State and Local Air Quality Management Grants.

**Comments of the Association of Air Pollution Control Agencies (AAPCA) on
FY 2025-2026 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, as well as EPA's commitment to work collaboratively with air agencies to meet priorities under the Clean Air Act (CAA).</i></p>	<p><i>Page 2</i></p> <p><i>Section 1. Introduction</i></p> <p><i>---</i></p> <p><i>Also: Page 33</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 continuing to improve the efficiency of EPA's review and action on State Implementation Plans (SIPs) is "early engagement between EPA and air agencies during the air agencies' SIP development process and early coordination among EPA offices during EPA's review and action on submitted SIPs."</i></p> <p><i>AAPCA members agree that early and continuous coordination with air agencies is critical to successful implementation of the NAAQS and emphasize the Agency's primary goal to efficiently and timely process SIPs in this effort.</i></p>	<p><i>Page 7</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 anticipates being in the process of designating areas of the country for the revised 2024 PM_{2.5} NAAQS during FY 2025.</i></p> <p><i>AAPCA members express their willingness to work with EPA throughout the designation process so that attainment/nonattainment designations are made with the best available data, including: providing feedback on EPA's update of PM_{2.5} data from T640/T640X PM Mass Monitors and submission of exceptional events demonstrations.</i></p>	<p><i>Page 7</i></p> <p><i>B.1 National Ambient Air Quality Standards (NAAQS)</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

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<p><i>EPA OAR has outlined expected Regional Office activities under the 2015 Startup, Shutdown, and Malfunction (SSM) SIP Call.</i></p> <p><i>On March 1, 2024, the U.S. Court of Appeals for the D.C. Circuit issued an order in the consolidated challenges to U.S. EPA’s 2015 SSM SIP Call for 35 states, vacating the SIP Call order: “As to the calls based on automatic exemptions, director’s discretion provisions, and affirmative defenses that are functionally exemptions, we grant the petitions and vacate the SIP-call order. We deny the petitions as to the calls based on the enforcement-discretion provision and affirmative defenses against specific relief.”</i></p> <p><i>AAPCA members request that the Expected EPA Regional Office Activities be updated to reflect the U.S. Court of Appeals for the D.C. Circuit order vacating the SSM SIP call.</i></p>	<p><i>Page 8</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>
<p><i>AAPCA members support the Expected EPA Regional Office Activities to:</i></p> <ul style="list-style-type: none"> <i>• Provide support to assist states in developing attainment plans for any applicable NAAQS.</i> <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: EPA’s update of PM2.5 data from T640/T640X PM Mass Monitors; wildfires/smoke impacts; and exceptional events.</i></p>	<p><i>Page 8</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>EPA OAR indicates supporting emissions data collection, including “state point source emissions submissions for the 2023 and 2024 emissions years and implementing revisions to the Air Emissions Reporting Requirements (AERR) and voluntary use of the Combined Air Emissions Reporting System (CAERS).”</i></p> <p><i>AAPCA members appreciated the opportunity to comment on EPA’s proposed revisions to the AERR, as well as the comment period extension request EPA granted to allow for more substantive comments from state and local air agencies. In its comments, AAPCA stressed that the overall scope of EPA’s final rule for the AERR must align with their co-regulators ability to implement it and take into consideration the operational challenges that state and local air agencies face, including ensuring adequate funding for implementation such that existing programs are not adversely impacted.</i></p> <p><i>AAPCA also commented in support of EPA maintaining the capacity and flexibility for state and local agencies to continue to use existing methods that best serve their unique reporting needs. Here, AAPCA recognizes EPA’s reaffirmation that use of CAERS will remain voluntary.</i></p>	<p><i>Page 8</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>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 8</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>

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<p><i>Following the final 2024 PM2.5 NAAQS, air agencies will be providing recommendations for area designations and boundaries during FY 2025. As part of the designations process, air agencies may submit exceptional events (EE) demonstrations for events that have regulatory significance for the 2024 revised primary annual PM2.5 NAAQS initial area designations.</i></p> <p><i>This is an important Clean Air Act provision for addressing air quality impacts outside of regulatory control. However, developing EE demonstrations are time- and resource-intensive activities for air agencies. With intensifying wildfire seasons, agencies will need to develop demonstrations more often. EPA OAR should continue to work with state and local agencies to improve the process for drafting and reviewing exceptional event demonstrations – particularly for EE demonstration submissions for the purpose of initial area designations recommendations.</i></p> <p><i>EPA’s February 2024 memorandum on “Initial Area Designations for the 2024 Revised Primary Annual Fine Particle National Ambient Air Quality Standard” indicates that “If the Administrator has insufficient information to make initial designations decisions in the 2-year time frame, the EPA may take up to 1 additional year to make initial area designations decisions.” EPA should consider the extended timeline to allow adequate time for EE demonstration submissions so that attainment/nonattainment designations are made with the best available data.</i></p>	<p><i>Page 9</i></p> <p><i>B.1 National Ambient Air Quality Standards (NAAQS)</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>
<p><i>Generally, AAPCA supports EPA’s priorities to review and take timely action on submitted regional haze SIPs.</i></p> <p><i>AAPCA also encourages EPA to work with air agencies on the development of any guidance or rulemaking for future Regional Haze planning periods.</i></p>	<p><i>Pages 10-11</i></p> <p><i>B.2 Regional Haze</i></p> <p><i>B.2.1 Expected EPA Regional Office Activities</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>

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<p><i>The draft OAR NPG states, “EPA expects to emphasize environmental justice considerations, as appropriate, in all aspects of implementing permit programs,” including setting as a Regional Office activity to “Advance environmental justice and federal 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 11 – 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>
<p><i>AAPCA urges EPA to issue timely and detailed draft Ambient Monitoring Guidance for FY 2025 and FY 2026.</i></p> <p><i>Additionally, any efforts by EPA to modernize ambient air monitoring should consider potential challenges and discrepancies that incorporating new technology could pose to the monitoring network’s infrastructure. In modernization plans, EPA might also consider improvements to the method designation process.</i></p>	<p><i>Pages 13</i></p> <p><i>B.4 Ambient Air Monitoring for Criteria Pollutants</i></p>	<p><i>OAR</i></p>	<p><i>AAPCA</i></p>
<p><i>AAPCA members appreciate EPA’s willingness to “work collaboratively with air agencies to adjust resources to meet changing priorities.”</i></p> <p><i>AAPCA again emphasizes 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 33</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><u>Core Activities.</u> AAPCA members support EPA OAR’s commitment to assisting state and local agencies meet the listed core activities for FY 2025 and FY 2026, including “working with states to reduce the SIP backlog as well as improving the timeliness of SIP action.”</i></p>	<p>Page 34 Section IV. Flexibility and Grant Planning A.1 Continuing Air Program</p>	<p>OAR</p>	<p>AAPCA</p>
<p><i><u>Ambient Monitoring.</u> It should be noted that AAPCA members <u>would not</u> support any proposed transition of funding authorities for PM_{2.5} monitoring and associated program support for ambient monitoring that would move funding from CAA Section 103 to Section 105. AAPCA has previously noted the importance of maintaining the granting authority for PM_{2.5} monitoring under CAA Section 103, which does not require the 40-percent funding match of Section 105.</i></p>	<p>Page 35 Section IV. Flexibility and Grant Planning A.1 Continuing Air Program</p>	<p>OAR</p>	<p>AAPCA</p>
<p><i><u>Clean Air Act Training.</u> 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.</i></p>	<p>Page 36 Section IV. Flexibility and Grant Planning A.1 Continuing Air Program</p>	<p>OAR</p>	<p>AAPCA</p>
<p><i><u>Future Refinements to the Allocation of Section 105 Grants.</u> State and local agencies should be engaged early in any EPA plans to update allocation methodology.</i></p>	<p>Page 38 Section IV. Flexibility and Grant Planning B. Allocations of CAA Section 105 Grants</p>	<p>OAR</p>	<p>AAPCA</p>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<i>AAPCA members appreciate EPA OECA's commitment to state and local government collaboration in compliance assurance work and enforcement programs, in particular efforts to build state capacity and support state actions consistent with the updated 2023 Guidance on Effective Partnerships Between EPA and the States in Civil and Compliance Assurance.</i>	<i>Page 5 Section I. Introduction</i>	<i>Office of Enforcement and Compliance Assurance (OECA)</i>	<i>AAPCA</i>
<i>AAPCA continues to support the FY 2024 – 2027 National Enforcement and Compliance Initiatives (NECIs) for air. State and local agencies are vital partners as EPA evaluates the current NECIs and potential new ones beginning in FY 2028.</i>	<i>Pages 11 – 15 Section II. Key Programmatic Priorities C. FY 2024 – 2027 National Enforcement and Compliance Initiatives (NECIs)</i>	<i>OECA</i>	<i>AAPCA</i>
<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.</i>	<i>Page 18 Section IV. Implementing Other Core Work A. Cross-program Activities (3. Data Reporting)</i>	<i>OECA</i>	<i>AAPCA</i>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>AAPCA welcomes EPA’s continued engagement with states to identify and implement updates and improvements to the State Review Framework (SRF) program as EPA starts its fifth round of SRF reviews in FY 2024, which will continue through FY 2028.</i></p>	<p><i>Page 19</i></p> <p><i>Section IV. Implementing Other Core Work</i></p> <p><i>A. Cross-program Activities (5. State and Direct Implementation Program Oversight and Improvement)</i></p>	<p><i>OECA</i></p>	<p><i>AAPCA</i></p>
<p><i>EPA OECA states that an Agency activity for FY 2025 – 2026 will be to “Support and encourage inspector training and development at EPA and in authorized states, territories, and Tribes.”</i></p> <p><i>To clarify, AAPCA notes that 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 21</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>Page 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>AAPCA supports the Agency’s continued work to investigate and prosecute violations of prohibitions in CAA Section 203(a), which should continue to be prioritized even though “Stopping Aftermarket Defeat Devices for Vehicles and Engines” is no longer an NECI as it was for FY 2020 through FY 2023.</i></p>	<p><i>Page 24</i></p> <p><i>Section IV.</i> <i>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>
<p><i>The draft Guidance states that “OEJECR continues to partner with the 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, considering each region and program’s financial, capacity, and statutory limitations.”</i></p> <p><i>EPA’s OEJECR NPG should especially consider the financial, other resource/capacity, and statutory limitations of state and local agencies. AAPCA recognizes that EPA incorporated and maintained this feedback from previous comments on FY 2023 and FY 2024 NPGs from the Association.</i></p>	<p><i>Page 4</i></p> <p><i>Section I.</i> <i>Introduction</i></p>	<p><i>Office of Environmental Justice and External Civil Rights (OEJECR)</i></p>	<p><i>AAPCA</i></p>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>EPA's draft OEJECR Guidance states, "The EPA and other governmental partners must include the principles of meaningful involvement and equity in their work with underserved and overburdened communities," and "A fundamental element of achieving this is to strengthen the capacity of community members to meaningfully engage and provide input to government programs on the decisions that may affect them."</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>EPA should also acknowledge the financial, other resource/capacity, and statutory limitations of governmental partners that may exist, and continue to support co-regulators by providing technical support and maximum flexibility to conduct meaningful engagement in their jurisdictions.</i></p>	<p><i>Page 6</i></p> <p><i>Section II. Strategic Plan Implementation</i></p> <p><i>A. Objective 1: Promote EJ and Civil Rights at the Federal, Tribal, State, Local, and Community Levels</i></p>	<p><i>OEJECR</i></p>	<p><i>AAPCA</i></p>

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<p><i>AAPCA appreciates OEJECR's commitment to provide technical assistance and training for state and local agency recipients of EPA's financial assistance to better understand civil rights compliance, including procedural safeguards and best practices.</i></p>	<p><i>Page 9</i></p> <p><i>Section II. Strategic Plan Implementation</i></p> <p><i>A. Objective 1: Promote EJ and Civil Rights at the Federal, Tribal, State, Local, and Community Levels</i></p> <p><i>--</i></p> <p><i>Also: Page 16</i></p> <p><i>C. Strengthening Civil Rights Enforcement in Communities with Environmental Justice Concerns</i></p>	<p><i>OEJECR</i></p>	<p><i>AAPCA</i></p>