



October 25, 2018

Ms. Michele McKeever
Ms. Kimberly Chavez
U.S. Environmental Protection Agency
Office of Enforcement and Compliance Assurance
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Ms. McKeever and Ms. Chavez:

On behalf of the National Association of Clean Air Agencies (NACAA), thank you for this opportunity to provide early input on EPA's upcoming FY 2020-2021 National Program Guidance (NPG) for the Office of Enforcement and Compliance Assurance (OECA), which you solicited on August 23, 2018. NACAA is a national, non-partisan, nonprofit association of 153 air pollution control agencies in 40 states, the District of Columbia, four territories and 116 metropolitan areas. 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 air pollution control agency in the country.

As EPA's co-regulators, we believe it is essential that state and local air quality agencies and EPA work cooperatively on enforcement and compliance activities. Indeed, EPA has indicated that it plans to enhance its reliance on state and local air quality programs through cooperative federalism. Therefore, it is more critical than ever that state and local air quality agencies receive adequate federal funding to be able to carry out this important work. The level of federal support to state and local agencies that are implementing federal programs, policies and standards should reflect the scope and complexity of the responsibilities that these agencies are undertaking. Unfortunately, federal funding to state and local air agencies has not been adequate; in fact it has not even kept pace with inflation. In order to continue to carry out our responsibilities and perhaps take on additional work under cooperative federalism, significant increases in federal grants are required. We believe the investment of federal funds in state and local agency activities enables us to be effective in work of vital importance to this country.

In addition to the need for increased federal grants, we have several overarching recommendations that we believe should be reflected in EPA's NPG. We have provided these suggestions in previous correspondence, including our August 2, 2017 comments on EPA's Draft National Program Manager (NPM) Guidance for FY 2018-2019 for the Office of Enforcement

and Compliance Assurance (June 29, 2017)¹ and our October 31, 2017 comments on EPA's Draft FY 2018-2022 EPA Strategic Plan (October 5, 2017).² Our recommendations include:

- To the extent possible, EPA should treat states in a consistent manner. While some flexibility is called for to reflect different circumstances, as a general matter it makes sense to strive for national consistency. This is especially true when addressing issues with larger companies that have a presence in multiple jurisdictions. In order to move toward greater consistency, headquarters should work closely with regional offices to implement new guidance.
- EPA should continue to work toward global-sector settlements where appropriate, in conjunction with state and local agency input. This would include continued pursuit of global settlements already in progress.
- EPA should use settlement monies to advance the objectives of the *environmental* statute(s) that is the basis of the enforcement action in partnership with state and local air pollution control agencies.
- It is very important that, when requested, EPA provide an environmental presence to aid state and local agencies in enforcement activities. Even in state or local areas that are authorized to enforce clean air requirements, EPA serves a critical role in addressing serious national noncompliance problems, such as those affecting multiple jurisdictions. EPA should also assist state and local agencies with enforcement issues when the agencies request support due to a lack of resources or capability. Joint enforcement action may, at times, be the best option when EPA and the appropriate agency are in agreement.

We thank you for this opportunity to provide early input into the development of the NPG for FY 2020-21 and we look forward to continuing to work with EPA as the agency develops the final document.

Sincerely,



Michael G. Dowd
Virginia
Co-Chair
NACAA Enforcement Committee



Richard A. Stedman
Monterey, California
Co-Chair
NACAA Enforcement Committee

¹ http://www.4cleanair.org/sites/default/files/Documents/NACAA_NPM_Comments-FY18-19-8-2-17.pdf

² http://www.4cleanair.org/sites/default/files/Documents/NACAA_Strategic_Plan_Comments_10-31-17.pdf