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July 12, 2022

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U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
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To Whom It May Concern:

On behalf of the National Association of Clean Air Agencies (NACAA), thank you for this opportunity to provide comments on the U.S. Environmental Protection Agency (EPA) FY 2023-2024 Draft National Program Guidances (June 1, 2022) for the Office of Air and Radiation (OAR), the Office of Enforcement and Compliance Assurance and the Office of Environmental Justice/ External Civil Rights Compliance Office. NACAA is a national, non-partisan, non-profit association of air pollution control agencies in 40 states, including 117 local air agencies, the District of Columbia and five territories. The air quality professionals in NACAA's member agencies have vast experience dedicated to improving air quality in the United States. These comments are based upon that experience. The views expressed in this document do not represent the positions of every state and local air pollution control agency in the country.

The draft guidance documents are reflective in part of the Administration's FY 2023 budget request, which calls for \$322.2 million in grants for state and local air pollution control agencies under Sections 103 and 105 of the Clean Air Act (CAA). While this would represent an increase over the FY 2022 budget, NACAA is very concerned that this is not nearly enough. NACAA recently surveyed state and local air agencies about the funding that will be needed to meet their current and expected obligations and, based upon the responses, NACAA is recommending that federal grants under Sections 103 and 105 be increased to \$500 million annually, beginning in FY 2023. This is \$178 million above the President's proposed budget for FY 2023 and an increase of \$269 million over the FY 2022 appropriation of \$231 million.

In NACAA's survey, many agencies reported inadequate funding for basic responsibilities that are the very foundations of their programs. These include monitoring, permitting, enforcement, wildfire response, staffing, training, planning, regulatory development, public outreach and community support. Increases in funding would provide for continuation of these essential tasks. Additionally, state and local air agencies face increasing responsibilities in the future that will require more funding resources.

We believe it is critically important that state and local air quality programs receive the funding necessary to continue their efforts to protect public health. Therefore, NACAA urges EPA and the Administration to do whatever it must to ensure that federal air grants to state and local air pollution control agencies in FY 2023 are increased above current levels, as we are recommending.

NACAA has reviewed the draft NPM guidance documents and is providing comments on the attached template that EPA has provided. Thank you for your consideration of our comments and recommendations. We look forward to having the opportunity to discuss these issues with you. Please do not hesitate to contact Mary Sullivan Douglas (mdouglas@4cleanair.org) or Miles Keogh (mkeogh@4cleanair.org) of NACAA, or either of us, if you need additional information.

Sincerely,



Kelly Crawford
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Co-Chair
NACAA Program Funding Committee



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cc: Beth Burchard (OCFO)
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**Comments of the National Association of Clean Air Agencies' Comments on
EPA's Draft FY 2023-2024 National Program Guidances
July 12, 2022**

Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
<p>The following comments pertain to the Office of Air and Radiation's (OAR) draft available at: https://www.epa.gov/system/files/documents/2022-06/fy23-24-oar-draft-npg.pdf</p>			
<p>EPA appropriately acknowledges that there will not be sufficient resources for all activities and that priorities may vary throughout the nation. NACAA supports EPA's plan to work with state and local air agencies "to adjust resources to meet changing priorities," to work collaboratively with state and local air agencies to resolve planning issues and to provide flexibility in developing workplans.</p>	<p>Page 3 (Introduction) Page 30 (Flexibility and Grant Planning)</p>	<p>Office of Air and Radiation (OAR)</p>	<p>National Association of Clean Air Agencies (NACAA)</p>
<p>NACAA's January 15, 2021 transition letter urged the Federal Government to take action to address the climate crisis, calling for "The new Administration [to] make a strong and urgent effort to lead the nation and global community towards comprehensive, inclusive and economically sound climate change mitigation and adaptation policies and regulations. In the last four years, state and local agencies in NACAA have implemented programs that made meaningful progress towards reducing GHGs, but a strong, comprehensive federal approach is essential for providing lasting nationwide reductions, regulatory certainty and a more protective baseline for all states to meet."</p> <p>As NACAA stated in that letter, "EPA should work closely with state and local agencies as it develops federal rules responsive to the 2009 Endangerment Finding to limit emissions of the six identified GHGs. As a part of the federal government's leadership on climate mitigation, adaptation and justice, EPA and other relevant federal agencies should also encourage, support (and, when necessary, require) state and local actions to reduce GHG emissions."</p>	<p>Page 4 (Implementing Goal 1, Objective 1)</p>	<p>OAR</p>	<p>NACAA</p>

Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
<p>With respect to “Reduce Emissions That Cause Climate Change,” NACAA urges EPA to take note of recommendations embodied in the January 15, 2021 Transition Letter and on comments the association has offered in response to proposed EPA rules related to these implementation steps:</p> <p>Final Rule to Rive Light Duty Vehicles through MY 2026: https://www.4cleanair.org/news/nacaa-comments-on-epas-proposed-revisions-to-ldv-ghg-emission-standards/</p> <p>NSPS for the Oil and Gas Sector: https://www.4cleanair.org/wp-content/uploads/NACAA-Oil-and-Gas-NSPS-Comment-Letter-01_28_2022.pdf</p> <p>HFC Phasedown Implementing the 2021 AIM Act: https://www.4cleanair.org/wp-content/uploads/Final-NACAA_7_2_21_Comments_HFC_AIM_ACT-1.pdf</p>	Page 4 (Implementing Goal 1, Objective 1)	OAR	NACAA
<p>NACAA supports the stated intent that, “In FY 2023 and 2024, EPA will work with air agencies to achieve and maintain compliance with the NAAQS, including the ozone standards established in 2015, 2008, 1997, and 1979; particulate matter (PM_{2.5}) standards established in 2012, 2006, and 1997...” and also urges EPA to begin now to substantially increase its engagement with NACAA on this. With respect to stationary sources, EPA, working with its state and local partners, should reimagine and recreate its role in and approach to nationwide attainment and maintenance of the NAAQS. The State Implementation Plan process is something of an “all-or-nothing” tactic that should be augmented with a stationary-source strategy similar to EPA’s strategy for its mobile source program, built on long-term visions of reducing emissions from each source category; innovative and collaborative technology testing and development; and successively more stringent standards and requirements. Further, NACAA must emphasize that key to state and local air agencies’ success in achieving and maintain the ozone and PM NAAQS will be timely EPA development and adoption, in collaboration with air agencies and NACAA, of stringent regulations for “federal” sources of air pollution, including for mobile sources, particularly locomotives, aircraft and oceangoing vessels.</p>	Page 8 (National Ambient Air Quality Standards)	OAR	NACAA

Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
<p>NACAA supports the stated intent that, “EPA will continue its periodic reviews of the NAAQS as required by CAA, including the reconsideration of the 2020 decisions to retain the 2012 PM_{2.5} standards and the 2015 ozone standards, which EPA expects to complete by the spring of 2023 and by the end of 2023, respectively. EPA will continue to work closely with air agencies on all aspects of implementing the NAAQS” and urges EPA to ramp up such efforts and take advantage of the ability of NACAA to bring together its large membership of state and local air agencies to engage with EPA.</p>	<p>Page 8 (National Ambient Air Quality Standards)</p>	<p>OAR</p>	<p>NACAA</p>
<p>In the May 2022 Final <i>Policy Assessment for the Reconsideration of the National Ambient Air Quality Standards for Particulate Matter</i> (Final PM PA), EPA staff report that the risk assessment for PM_{2.5} revealed that Black populations experience significantly higher mortality risk when compared to other racial groups, even at the recommended lower standard. With respect to this finding, NACAA urges EPA to engage in the next critical steps of examining the root of this disparity, evaluating opportunities to resolve it and taking meaningful action to close the gap. Final PM PA: https://www.epa.gov/system/files/documents/2022-05/Final%20Policy%20Assessment%20for%20the%20Reconsideration%20of%20the%20PM%20NAAQS_May2022_0.pdf (see pp. 3-150 to 3-164 and, especially, p. 3-162)</p>	<p>Page 8 (National Ambient Air Quality Standards)</p>	<p>OAR</p>	<p>NACAA</p>
<p>NACAA supports these stated EPA efforts and, with respect to B.1.1.3.5 (“Engage air agencies as early as possible in guidance and regulation development processes.”), we emphasize the critical importance of beginning engagement at the very start of the process and continuing it throughout.</p>	<p>Pages 9-10 (National Ambient Air Quality Standards, Other)</p>	<p>OAR</p>	<p>NACAA</p>

Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
EPA emphasizes activities to “support and assist air agencies in addressing air toxics” and calls upon the regional offices to “delegate and assist air agencies with Section 111, 112, and 129 standards.” Additionally, the draft includes activities related to the National Air Toxics Monitoring Network. These activities are certainly necessary, but if EPA intends to rely on state and local air agencies to implement the air toxics program it is equally important that the agency provide adequate resources in the form of increased federal grants.	Page 15 (Air Toxics Program Implementation) Page 16-17 (Ambient Air Monitoring for Toxics)	OAR	NACAA
NACAA is concerned that the draft NPG does not include specific OTAQ regulatory initiatives for FY 2023-2024 and urges OAR and OTAQ to engage with NACAA prior to finalizing the NPG to discuss EPA’s plans for federal regulatory initiatives for mobile sources during FY 2023-2024.	Pages 18-19 (Mobile Sources Program)	OAR	NACAA
See comment above, related to NPG NAAQS discussion on p. 8, regarding the need for stringent federal regulations for additional heavy-duty mobile source categories, including locomotives, aircraft and oceangoing vessels.	Pages 18-19 (Mobile Sources Program)	OAR	NACAA
In addition to Regional Office activities on DERA and Clean School Bus Grants, NACAA urges EPA OAR and headquarters to work with the Departments of Energy and Transportation to gain a meaningful role in the development of rules, policies and guidance on grants and grant eligibility for EV infrastructure, to ensure the achieving meaningful air quality benefits is among the highest priorities.	Pages 18-19 (Mobile Sources Program)	OAR	NACAA

Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
<p>The FY 2023 Administration budget request calls for \$322.2 million in grants for state and local air quality agencies under Sections 103 and 105. While NACAA appreciates the recognition that additional funds are needed, NACAA believes that is still not sufficient. NACAA recommends that federal grants under Sections 103 and 105 be increased to \$500 million annually, beginning in FY 2023. This is \$178 million above the President’s proposed budget for FY 2023 and an increase of \$269 million over the FY 2022 appropriation of \$231 million. Such increases are necessary if state and local air agencies are to continue to fulfill their current responsibilities and take on new and high-priority programs to reduce air pollution and address climate change.</p>	<p>Page 30 (Grant Assistance to Co-Implementers)</p>	<p>OAR</p>	<p>NACAA</p>
<p>The FY 2023 Administration budget request appropriately calls for funding for the Diesel Emission Reduction Act (DERA) program. This is an important program to address emissions from the large legacy fleet of diesel engines. However, it is important that DERA not be funded at the expense of the Section 103/105 grants, and NACAA strongly urges that any future funding for DERA not be in lieu of increases to state and local air grants. Additionally, since many of the DERA funds are not provided to state and local governments, future DERA activities should not be funded through the STAG account. Instead, the grants should be provided through one of EPA’s other accounts.</p>	<p>Page 30 (Grant Assistance to Co-Implementers) Page 33 (DERA Diesel Emissions Reduction Act (DERA) Grants)</p>	<p>OAR</p>	<p>NACAA</p>

Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
<p>The draft mentions “a proposed transition in funding authorities for PM_{2.5} monitoring” and refers to the current NPG Monitoring Appendix. The posted document is for FY 2020, so it is unclear if there is a more recent version. Page 3 of that document indicates that EPA plans to transition the funding authority for PM_{2.5} monitoring from Section 103 to Section 105. This would require state and local agencies to provide matching funds. The PM_{2.5} monitoring program has long been funded under Section 103 and this arrangement has worked very well. NACAA recommends that it continue and, therefore, opposes the transition of the program to Section 105 authority. The proposed shift would require state and local agencies to provide a 40-percent match, which not all agencies can afford. Those agencies that are unable to provide matching funds could not accept the grants for these important monitoring programs. As a result, these agencies could be forced to discontinue required monitoring at existing sites. Since these are nationwide monitoring efforts, NACAA believes the funding should be provided under Section 103 authority so it is accessible to all, regardless of their ability to match the grants.</p>	<p>Page 31 (Continuing Air Program, Ambient Monitoring)</p>	<p>OAR</p>	<p>NACAA</p>
<p>The draft acknowledges EPA’s responsibility to provide training. Adequate high-quality training is especially critical now due to the large number of retirements and the associated loss of institutional knowledge that federal, state and local air agencies are experiencing. EPA should work with state and local air agencies through the Joint Training Committee Steering to ensure such training.</p>	<p>Page 33 (Continuing Air Program, Clean Air Act Training)</p>	<p>OAR</p>	<p>NACAA</p>
<p>EPA discusses the development of an updated methodology for allocating Section 105 grants among agencies. If the agency is to do this, any reevaluation of the allocation methodology should include early collaboration with affected state and local agencies to inform the proposal. Those agencies should be involved in the process well before a refinement in the allocation methodology is released for public comment.</p>	<p>Page 34 (Future Refinements to the Allocation of Section 105 Grants)</p>	<p>OAR</p>	<p>NACAA</p>

Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
<p>The following comments pertain to the Office of Enforcement and Compliance Assurance’s (OECA) draft available at: https://www.epa.gov/system/files/documents/2022-06/fy23-24-oeca-draft-npg.pdf</p>			
<p>In its introduction, OECA says that it “supports EPA’s FY 2022-2026 principles of following the science, following the law, being transparent, and advancing justice and equity. OECA’s priorities, policies, and practices will focus on being consistent and systematically fair, just, and impartial in our treatment of all individuals.” NACAA supports these underpinning principles, consistent with NACAA’s early input on the FY 22-26 NPGs and previous comments on earlier guidances (for example, https://www.4cleanair.org/wp-content/uploads/Documents/NACAANPMComments-FY20-21-05022019.pdf).</p>	<p>Page 5 (Introduction)</p>	<p>Office of Enforcement and Compliance Assurance (OECA)</p>	<p>NACAA</p>
<p>Section 1 A also calls for “This work [to] include targeting and screening to prioritize inspections and enforcement cases in overburdened and vulnerable communities.” This aligns with the first recommendation in NACAA’s January 15, 2021 Transition Letter to the Biden-Harris Administration, that “EPA should make the consideration of racial justice and protection of overburdened communities from the impacts of pollution and climate change a central focus across all its activities, as well as exploring ways to involve overburdened communities in environmental regulatory decisions that affect their residents. Environmental Justice (EJ) should not be just a single program within EPA, it should be integrated prominently into every program across EPA.” It continues that “EPA’s permitting and enforcement efforts should be among the first areas of focus for these activities. When EJ is placed as a central concern in permitting and enforcement, it creates immediate opportunities for reducing harms to the communities most heavily burdened by pollution impacts. EPA should consider the permitting and enforcement models of NACAA member agencies that have centered disproportionately affected communities.” As a community of agencies, NACAA continues to be involved in the modernization of the Integrated Compliance Information System (ICIS) and OECA should continue to make NACAA a central partner in that effort. As OECA develops new tools to assist in targeting and screening, it should involve the NACAA community of agencies at every stage.</p>	<p>Page 5 (Introduction)</p>	<p>OECA</p>	<p>NACAA</p>

Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
<p>The draft states that “OECA will address climate change by establishing a new hydrocarbon enforcement program...” On July 2, 2021, NACAA supplied comments to the EPA regarding its AIM Act implementation rule, (https://www.4cleanair.org/wp-content/uploads/Final-NACAA_7_2_21_Comments_HFC_AIM_ACT-1.pdf) and in those comments identified areas where EPA should coordinate with state and local programs on issues such as enforcement. For example, NACAA’s comments noted that “EPA should coordinate with those agencies that have programs to facilitate multijurisdictional consistency surrounding labelling, recordkeeping, tracking, reporting, verification, and enforcement. Tracking programs should allow for terminological flexibility around issues such as labeling and disclosure to enable consistency with, and take advantage of lessons learned from, the variety of existing local and state programs. In addition, authorized by statues and regulations in their jurisdictions some local and state programs emphasize GHG reductions over a period that prioritizes some HFCs with longer or shorter persistence longevity.” Also, NACAA’s July 2, 2021 comments noted that “As it finalizes its proposal, EPA should also detail how it will coordinate with state and local recovery, reclamation and reuse programs.”</p> <p>State and local agencies have existing programs and EPA should make every effort to coordinate with these agencies and leverage their experience, widespread presence, institutional strengths, and expertise.</p>	Page 5 (Introduction)	OECA	NACAA
<p>The sentence referenced in the previous comment continues “...directing enforcement resources to ensure effective enforcement against noncompliant emissions of greenhouse gases...”</p> <p>As reflected in NACAA’s response to OAR, EPA should work to assure that state and local enforcement efforts have sufficient resources from the federal government to accomplish their role as enforcement co-regulators. In addition to grant funding, key areas that EPA can facilitate are the provision of technical assistance and training.</p>	Page 5 (Introduction)	OECA	NACAA

Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
<p>EPA’s discussion of state and local collaboration includes mention of “building state capacity, supporting state actions...” etc. As noted above, EPA needs to be more active and effective at assuring that its state and local partners are resourced, trained, and have effective coordination and technical assistance from EPA in their role as co-regulators.</p> <p>Enforcement of new rules will not keep pace without additional resources to effect data gathering and action taken to support compliance and address violations. In NACAA’s January 28, 2022 comments on the EPA’s proposed NSPS for the Oil and Gas Sector (https://www.4cleanair.org/wp-content/uploads/NACAA-Oil-and-Gas-NSPS-Comment-Letter-01_28_2022.pdf), NACAA noted that “all agencies face inadequate resources to meet their existing and emerging Clean Air Act responsibilities. For agencies that have a daunting number of sources and already-stretched funding, human resources, and equipment, the rule will create implementation challenges if EPA does not become a more effective advocate for fully funding these agencies, and matching the regulatory responsibilities assigned to these agencies with the resources to carry them out. “New EPA rules will overburden agencies with many new sources requiring new inspection and enforcement actions with unchanged funding, resources and support. The Agency has a responsibility to address this issue.</p>	<p>Pages 5, 6, 7 (Introduction)</p>	<p>OECA</p>	<p>NACAA</p>
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Comment	Location in Draft Guidance	Office Issuing NPG	Commenter
<p align="center">The following comments pertain to the Office of Environmental Justice’s (OEJ) and the External Civil Rights Compliance Office’s (ECRCO) draft National Program Guidance available at: https://www.epa.gov/system/files/documents/2022-06/fy23-24-oej-ecrco-draft-npg.pdf</p>			
<p>NACAA applauds EPA’s commitment to the Strategic Plan goal to “provide a cross-cutting foundation for integrating [environmental justice] EJ and civil rights considerations into the fabric of work across the Agency.” Air pollution continues to be a significant problem in this country, threatening public health and welfare, especially in overburdened environmental justice (EJ) communities that disproportionately suffer adverse human health and environmental impacts. On January 15, 2021, NACAA provided recommendations and priorities for clean air and climate program to the Biden-Harris Administration. This document, <i><u>Improving Our Nation’s Clean Air Program: Recommendations from the National Association of Clean Air Agencies to President-Elect Biden’s and Vice President-Elect Harris’ Administration</u></i> (January 15, 2021), calls upon EPA to center EJ in its work. Please see the specific recommendations in this document pertaining to EJ.</p>	Page 4 (Introduction)	Office of Environmental Justice (OEJ) and External Civil Rights Compliance Office (ECRCO)	NACAA
<p>EPA appropriately recognizes the importance of working closely with state and local agencies on EJ activities. Those agencies are more than stakeholders, they are co-regulators. As such, it is imperative that EPA work collaboratively and in concert with state and local governments, many of which can make valuable contributions, based on their tremendous experience and expertise with EJ issues. EPA should work to blend federal activities with existing state and local programs that have been successful.</p> <p>In order to carry out this critical EJ work, state and local air quality agencies require sufficient funding. Unfortunately, grants to state and local agencies have been inadequate for many years. Accordingly, NACAA is recommending that federal grants under Sections 103 and 105 be increased to \$500 million annually, beginning in FY 2023. Such increases will help to support agencies in fulfilling their current responsibilities and taking on new and high-priority programs, which include additional activities and programs to address EJ more effectively.</p>	Page 5 (Promote EJ and Civil Rights at the Federal, Tribal, State, Local, and Community Levels)	OEJ/ECRCO	NACAA