



October 17, 2017

Ms. Vivian Daub, Director, Planning Division
Office of the Chief Financial Officer
U.S. Environmental Protection Agency
Docket ID No. [EPA-HQ-OA-2017-0533]
Mail Code 28221T
1200 Pennsylvania Ave, N.W.
Washington, D.C. 20460

RE: Comments from the National Tribal Air Association’s Executive Committee and the Tribal Air Monitoring Support Center’s Steering Committee on the Environmental Protection Agency’s Draft FY 2018-2022 EPA Strategic Plan - Docket ID No. [EPA-HQ-OA-2017-0533]

Dear Ms. Daub:

The Tribal Air Monitoring Support Center Steering Committee (“TAMS SC”), and the National Tribal Air Association’s Executive Committee (“NTAA EC”), are pleased to provide comments on U.S. Environmental Protection Agency’s (EPA) request for public comments on the Draft FY 2018-2022 EPA Strategic Plan (“Draft Strategic Plan”). Our comments will concern how the Draft Strategic Plan addresses air quality and Indian Tribes, which is the focus of the NTAA EC and TAMS SC missions.

The NTAA is a member-based organization with 124 principal member Tribes. The organization’s mission is to advance air quality management policies and programs that are consistent with the needs, interests, and unique legal status of Indian Tribes. As such, the NTAA uses its resources to support the efforts of all federally recognized Tribes in protecting and improving the air quality within their respective jurisdictions. Although the organization always seeks to represent consensus on any given issue, it is important to note that the views expressed by the NTAA may not be agreed upon by all Tribes. In addition, it is also important that EPA understands interactions with the organization do not substitute for government-to-government consultation, which can only be achieved directly between the federal government and Indian Tribes.

The TAMS Center represents a collaborative effort among Tribes from across the nation, the Institute of Tribal Environmental Professionals (ITEP), and the EPA to address environmental program development needs. The TAMS Center offers training courses that focus on a variety of topics related to ambient and indoor air quality monitoring. To date, over 1,100 Tribal professionals have utilized the services offered by the TAMS Center, representing more than 185 Tribes. A Steering Committee, comprised of Tribal air quality professionals, helps the center to provide timely guidance and information to help Tribal programs succeed.

NTAA EC and TAMS SC General Comments on the Draft FY 2018-2022 EPA Strategic Plan

1. The NTAA EC and TAMS SC appreciate that in this Draft Strategic Plan EPA recognizes the important role of Indian Tribes in the implementation of environmental programs, and usually identifies Tribes as partners in its efforts along with states. The Draft Strategic Plan also recognizes EPA's trust responsibility to directly implement federal environmental laws in Indian Country and to collaborate more efficiently and effectively with sovereign Tribal nations. We are pleased to see on page 20 that EPA will work with Tribes consistent with the 2011 EPA Policy on Consultation and Coordination with Indian Tribes so that Tribes can meaningfully participate in EPA activities.
2. The most significant concern we have is whether the proposed budget and staffing plans will allow EPA to provide the support to Tribes in Indian Country and Alaska that the Draft Strategic Plan promises to make. The Goals and Objectives described in the Draft Strategic Plan would be better met if EPA has a stronger budget and can maintain staffing at levels needed to implement and enforce federal environmental laws on Tribal lands. Support of Tribal programs with grants and direct implementation by EPA will continue to require significant resources. EPA's budget needs to reflect the priorities described in the Draft Strategic Plan.
3. One significant shortcoming of the Draft Strategic Plan is that there is no mention of EPA activities in Alaska to assist Alaska Native Tribes and Alaska Native Villages. Current data indicates that road dust, indoor air quality, and solid waste burning are the top three Tribally-identified air quality concerns in Alaska. EPA needs to specifically plan to address the unique air quality issues found within the 229 Alaska Native Villages that represent over 40% of the Nation's federally-recognized Tribes. While the situation in Alaska with federally-recognized Tribes is very different than in the lower 48 states with only one designated Indian reservation, many Alaska Native Villages share the same air quality issues. There is the need for EPA to be present in both Anchorage and in the Villages, working with the Tribal governments and the State of Alaska, to ensure that the health and welfare of all Alaska Natives are protected.
4. Another deficiency of the Draft Strategic Plan is the failure to identify plans for addressing indoor air quality. While we recognize that the Clean Air Act is focused on ambient air, and not indoor air, EPA's Office of Radiation and Indoor Air (ORIA) has taken some steps to promote healthy indoor air quality (IAQ), such as by providing guidance and support for radon testing and for regulating sources of radiation. NTAA

conducted the first ever National IAQ Needs Assessment for Indian Country, and found that 74% of respondents identified concerns with IAQ, but only 34% have programs to address IAQ. The issue of the need to promote healthy IAQ is especially acute in Alaska Native Villages. We strongly suggest that the Draft Strategic Plan add plans for addressing IAQ.

5. In Goal 1, Objective 1.1 – Improve Air Quality, the summary of this Objective should reflect that EPA will work with States **and Tribes** to ensure that Americans are living and working in areas that meet high air quality standards. In the Strategies for Achieving the Objective, there is the plan to approve Tribal Implementation Plans (TIPs) consistent with statutory obligations. We note that at this time, only six (6) Tribes have approved TIPs, and only 50 Tribes have been approved for Treatment as a State (TAS) under the Clean Air Act. As discussed above, EPA must provide the resources to train Tribal staff and to fund Tribal air programs so that the Tribal governments can work effectively in partnership with EPA and the States to attain high air quality. While this Objective on page 7 says that EPA will provide grants and technical assistance to Tribal air pollution control agencies, there is a clear need for EPA to promote the development of Tribal air programs and to provide funding for air quality monitoring.

In the absence of Tribal activities to monitor air quality and manage air pollution sources under an approved TIP, EPA is responsible for direct implementation of the Clean Air Act. We believe that the Draft Strategic Plan should specifically plan for EPA to establish Federal Implementation Plans (FIPs) for those areas of Indian Country where no TIP or SIP is in effect. At this time, we know of only one EPA Regional Office, EPA Region 10 in the Pacific Northwest, which has established FIPs for the Indian reservations in Washington, Idaho, and Oregon. We urge EPA to make this commitment in the final 2018-2022 Strategic Plan.

In Objective 1.1, we note that EPA plans to prioritize efforts to address substances which affect the stratospheric ozone layer. We believe that EPA's Strategic Plan should also plan for how it will take action to address ground-level ozone, which would save lives and reduce medical costs. NTAA strongly supported revision of the Ozone standard in 2015 because Native Americans and Alaska Natives are disproportionately susceptible to the health effects of ozone. Several studies described in the proposed rule show that Native Americans and Alaska Natives have a disproportionate incidence of asthma and are at risk from exposure to ozone. Exposure to ozone can adversely affect Tribal community members including children, Tribal elders, members with asthma, and others who gather and use plants of cultural significance. EPA should proceed with implementing the revised primary National Ambient Air Quality Standards (NAAQS) for ozone according to the procedures in the Clean Air Act and in EPA regulations.

6. In Goal 2, as noted above, we appreciate that on page 18, EPA again recognizes that “EPA maintains responsibility for implementing environmental programs in much of Indian Country.” While EPA is responsible for implementing programs, it is also responsible for implementing the Clean Air Act by assisting Tribal governments to establish Tribal air programs. The Clean Air Act provides specifically for Tribes to

assume authority for managing air quality on Indian reservations. This will require EPA staff to assist and train Tribal employees, and will require continued significant grants to fund program development. In describing this very important goal, EPA recognizes there is a gap between funding demands and available resources. While the Draft Strategic Plan on page 18 provides: “EPA will play a role in closing this gap by optimizing and aligning its relevant programs . . .” as stated above, we believe that EPA must seek to enlarge its budget so that necessary grants are available for Tribes to develop Tribal air programs, and EPA staff is available to assist in training and development. In Objective 2.1, the Strategic Measures section does address the plan to, “Increase the number of grant commitments achieved by States, Tribes, and local communities.” However, unless EPA’s budget provides adequate support, this part of the plan is not going to be implemented sufficiently.

7. Goal 3, the Rule of Law and Process, provides for EPA to administer the federal environmental laws as Congress intended for Indian Tribes and in Indian Country. In the United States, there are 567 federally-recognized Indian Tribes, and there are 326 Indian reservations. We urge EPA to review the following principles of the Clean Air Act and the steps to properly and fully implement the Act, which are part of the White Paper on Tribal Air Program and EPA Priorities, October 2017, which was prepared by the TAMS SC and the NTAA EC.


- The Clean Air Act section 301(d) allows EPA to treat Tribes in a manner similar to a state. Section 110(o) allows Tribes to develop implementation plans to achieve the National Ambient Air Quality Standards (NAAQS).
- The Tribal Authority Rule was promulgated in 1998 to implement section 301(d) of the Clean Air Act – since that time, Tribes’ air programs have accomplished:
 - 149 Tribes manage air quality on their lands.
 - Approximately 120 have air grants.
 - 50 Tribes have Treatment as State (TAS) status:
 - 7 for developing Tribal Implementation Plans (TIPs); 30 for 505(a) reviewing Title V permits.
 - 9 for 126 “good neighbor provisions.”
 - 4 for other provisions.
 - 6 Tribes have TIPs and 2 Tribes implement Title V programs.
 - Over 300 permits have been issued for major and minor sources of air pollution.
 - 5 Tribes with Class I Redesignation under the Prevention of Significant Deterioration (PSD) program.
 - 9 Tribes with delegation of Federal rules to implement them in Indian Country.
- Regional Offices assist Tribes through grants, technical assistance, and direct implementation where the Tribes need EPA support.
- EPA supports implementation of Tribal Treaties per the EPA Policy on Consultation and Coordination with Indian Tribes: Guidance for Discussing Tribal Treaty Rights.
- Guidance and Regulation development by EPA support Tribal air quality, including Tribal New Source Review (NSR).

NTAA EC and TAMS SC appreciate the opportunity to comment on the Draft Strategic Plan. We have additional concerns with the plans ahead for EPA, as we note about the budget and staffing plans. We are also concerned that EPA has removed from its 2014-2018 Strategic Plan Goal 1: Addressing Climate Change and Improving Air Quality, because we believe that Indian nations, their members, and all Americans will continue to be affected by global warming, and the Clean Air Act has been interpreted to provide for EPA regulation of Green House Gases as a pollutant.

Finally, we recognize that the comment deadline of October 31, 2017, may not provide sufficient time for Tribes to provide comments. Therefore, we request for a 30-day extension period to November 30, 2017, in support of a similar request from the Region 9 Regional Tribal Operation Committee's Tribal Caucus. Since EPA's Draft Strategic Plan is unlike the previous strategic plan, we believe it necessitates additional time to review and evaluate the impacts to Tribal communities. We believe additional comments and recommendations from Tribes could lead to positive impacts for Tribal communities in alignment with the goals and strategies proposed.

NTAA EC and TAMS SC and our member Tribes will continue to work with EPA and look forward to continued EPA support in the future.

Signed,



Wilfred J. Nabahe, Chairman
National Tribal Air Association
Executive Committee

Shaina White, Chairwoman
Tribal Air Monitoring Support Center
Steering Committee