



ECOS

Environmental Council of the States

1250 H Street NW, Suite 850 | Washington, DC 20005
(202) 266-4920 | www.ecos.org

June 20, 2024

U.S. Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, D.C. 20460

Re: Draft FY 2025 – FY 2026 National Program Guidance

Dear U.S. EPA NPG Leads,

On behalf of the Environmental Council of the States (ECOS), thank you for the opportunity to provide comments on the U.S. Environmental Protection Agency (U.S. EPA) FY 2025-2026 Draft National Program Guidances (NPGs). ECOS is the national non-profit, non-partisan association of state and territorial environmental agency leaders which works to improve the capability of state environmental agencies and their leaders to protect and improve human health and the environment.

As ECOS has shared during the NPG Early Engagement, states are the primary implementers and enforcers of the nation's environmental laws and programs are under severe strain with high staffing vacancies and insufficient funding to meet our shared goals for protecting human health and the environment. ECOS notes that programs under the Inflation Reduction Act and Infrastructure Investment and Jobs Act lean on many of the same oversubscribed resources and staff that states rely on to meet existing and ongoing requirements. States require substantial budget increases to ensure that they can continue to fulfill their current responsibilities while also assuming obligations for new high-priority programs.

U.S. EPA's FY25 President's Budget request seeks increases to its funding for the "recalculation of base workforce costs for existing FTE due to annual payroll increases, adjustments to provide essential workforce support, and changes to benefits costs." States have similar base workforce costs and need federal funding to meet these obligations. States need a strong state workforce to effectively manage federal program implementation. Dependable annual federal funding for state program implementation is crucial. U.S. EPA may utilize opportunities to partner with states in staffing, such as through Intergovernmental Personnel Act details.

Successful implementation of rules concerning emerging contaminants, such as PFAS, and complex facilities, such as power plants, requires significant investment of resources from state agencies. Where emerging contaminants cross regulatory program boundaries, increased coordination is occurring within state and local agencies to accomplish the goals of each regulatory program.

States recommend U.S. EPA staff in the regions coordinate within and across their program offices so that guidance and information can be provided to states. This will ensure that regulatory requirements can be coordinated and implemented in a clear and transparent way for the regulated entity.

Elizabeth Biser
North Carolina Department of
Environmental Quality
ECOS President

Jon Niermann
Texas Commission on
Environmental Quality
ECOS Vice President

James Kenney
New Mexico Environment
Department
ECOS Secretary-Treasurer

Myra Reece
South Carolina Department of
Health and Environmental Control
ECOS Past President

Ben Grumbles
ECOS Executive Director

ECOS Committees reviewed the draft NPG documents and have organized specific feedback in the attached template. Thank you again for this opportunity to provide input and for your consideration of these comments.

A handwritten signature in black ink, appearing to read "Ben Grumbles". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

Ben Grumbles
ECOS Executive Director

FY 2025-2026 NATIONAL PROGRAM GUIDANCE

| Comment | Location in Draft Guidance | Office Issuing National Program Guidance | Commenter |
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| <p>More frequent and intense wildfires have triggered an unprecedented number of regulatorily significant smoke events that are impacting states’ ability to comply with the National Ambient Air Quality Standards (NAAQS). ECOS asks OAR to work closely with states to better integrate the increased frequency of exceptional events into NAAQS implementation, attainment planning, and State Implementation Plan development.</p> <p>States welcome the opportunity to work collaboratively with EPA to assess the performance of the Exceptional Events Rule and identify areas of improvements to the demonstration process aimed at making the process less resource intensive on State agencies (e.g. exploring avenues to facilitate data sharing among states).</p> | <p>Section II. Strategic Plan Implementation</p> <p>B.1.1.3 Other</p> <p>Number 8</p> <p>p.8</p> | <p>Office of Air and Radiation (OAR)</p> | <p>Environmental Council of the States (ECOS)</p> |
| <p>The Clean Air Act established the U.S. EPA as the authority for setting emission standards for manufactured products, such as wood stoves. We would like to emphasize that many States continue to struggle with wood stoves as a key source of pollution and appreciate U.S. EPA highlighting the ongoing need to “Assist air agencies in developing and/or beginning implementation of innovative and voluntary emission reduction projects, particularly local programs to help achieve attainment of the ozone NAAQS and the PM2.5 NAAQS. These programs include, but are not limited to, the Ozone and PM Advance programs, strategies to control emissions from wood smoke...”</p> <p>ECOS encourages U.S. EPA to uphold the integrity of the Wood Heater Program with stronger measures to monitor and enforce compliance.</p> | <p>Section II. Strategic Plan Implementation</p> <p>B.1.1.3 Other</p> <p>Number 10</p> <p>p.8</p> | <p>OAR</p> | <p>ECOS</p> |

| Comment | Location in Draft Guidance | Office Issuing National Program Guidance | Commenter |
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| <p><u>Clean Air Act Training</u>: ECOS would like to underscore the importance of U.S. EPA’s commitment to support air pollution control agencies through the funding and development of training programs and materials for personnel, which is critical to air improvement efforts.</p> <p>ECOS encourages U.S. EPA to engage state agencies to identify priority training topics and effective learning mechanisms to meet states’ needs.</p> | <p>Section IV. Flexibility and Grant Planning</p> <p>A.1 Continuing Air Program</p> <p>p. 36</p> | OAR | ECOS |
| <p>To the greatest extent possible, U.S. EPA program measures should reflect environmental outcomes, as opposed to outputs, and should include metrics for evaluating incremental progress towards these goals.</p> <p>ECOS would also like to note that the Draft NPG guidance published to EPA’s website appears to include incorrect FY dates on pages 41 and 42.</p> | <p>Section V. FY2023 National Program Guidance Measures</p> <p>Table 2. National Program Guidance (NPG) Measures by Code (FY 2023)</p> <p>p.41 - 42</p> | OAR | ECOS |
| <p>ECOS would like to re-emphasize the importance of a multi-media approach to addressing emerging contaminants. Even in the absence of regulations, U.S. EPA should work to understand and limit the impact of air pollution from emerging contaminants such as PFAS on water and land resources.</p> | General Comment | OAR | ECOS |
| <p>ECOS emphasizes the importance of retaining funding authority for fine particulate matter (PM2.5) monitoring under Section 103 of the Clean Air Act. Section 103 does not require agencies to provide matching funds, a critical feature because it allows those agencies that are unable to secure matching resources to accept federal grants and continue this important program.</p> | General Comment | OAR | ECOS |

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| States recommend that language be added in the NPG to the “Performance Partnership Agreements Section” that details the benefits/advantages related to the development and utilization of a PPA. | Section II. A. p.5 | Office of Congressional and Intergovernmental Relations (OCIR) | ECOS |
| A clearly defined workplan negotiation schedule or timetable would be beneficial and efficient for both state partners and EPA and the process would be improved if negotiations culminated at the application deadline date. | General Comment | OCIR | ECOS |
| Allow advance process for the workplan development between the technical leaders. This allows both teams to explore topics prior to the submission of the workplan which makes the formal review and approval process more efficient. | Section IV. B. p.12 | OCIR | ECOS |
| Supply chain issues and resource constraints in the private sector can hinder or delay timelines for projects using this funding. Providing expedited waivers from federal requirements such as BABA can help states deploy and target federal funding quicker and achieve the goals of these programs. | General Comment | OCIR | ECOS |
| State agencies need maximum flexibility and efficiency from U.S. EPA in the work- planning process to ensure that state priorities are addressed in a timely manner. As emerging contaminants and cross-media initiatives continue to evolve, states need flexibility to deploy funding and resources toward the next thing while ensuring federal dollars are allocated and expended in a timely manner. | General Comment | OCIR | ECOS |
| ECOS suggests that U.S. EPA coordination with state and local partners occur early on to encourage investment in the cleanup and reuse of Superfund sites. In the Draft Guidance, consultation with state and local partners occurs later in the process during the assessment of Institutional Controls. | Pages 34-35; General Activities in the CERCLA Program | Office of Enforcement and Compliance Assurance (OECA) | ECOS |

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| <p>NJDEP fully supports the programmatic activities outlined in EPA’s OLEM FY 25-26 National Program Guidance. NJDEP suggests that U.S. EPA evaluate increasing RCRA Grant and LUST Prevention Grant funding, to ensure continuing effective implementation of critical prevention activities.</p> | <p>General Comment</p> | <p>Office of Land and Emergency Management (OLEM)</p> | <p>ECOS</p> |
| <p>Massachusetts and other states would like to see more solidified/unified messaging around safe destruction levels of PFAS. Thus far, messaging has focused on how it will affect our land programs but not enough on how destruction will affect the air programs. We have actions that are on hold because we can’t issue permits for thermal destructions units given that we are not sure of the safe temperature to get full destructions for the fluorinated compounds. Would like to see more guidance focused on what are the safe technologies available and what science is telling us on safe disposal across media (ex. Soil, bio solids). We are having demand and capacity issues.</p> | <p>General Comment</p> | <p>OLEM/OAR</p> | <p>ECOS</p> |
| <p>U.S. EPA should continue to focus on reducing the backlog of primacy packages as a priority activity for Public Water Supply Supervision (PWSS) grantees. This problem is at both the state and U.S. EPA levels. Some states have submitted primacy packages to U.S. EPA and have had to wait three or more years for the package to be approved. U.S. EPA should work with states to identify and implement process improvements.</p> | <p>Section IV p.30-32</p> | <p>Office of Water (OW)</p> | <p>ECOS</p> |
| <p>Some states report violations to U.S. EPA beyond the minimum reporting standards, such as a significant deficiency discovered at a system or the lack of a certified operator. These differences cause states that do increased reporting to appear to have a higher number of violations than a state that does not. U.S. EPA should complete a re-baselining of state reporting of violations to ensure the strategic measure is accurate and consistent.</p> | <p>General Comment</p> | <p>OW</p> | <p>ECOS</p> |

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| <p>States and local communities appreciate the availability and agency support of Environmental Finance Centers (EFCs) and regional technical assistance (TA) organizations. The technical, managerial and financial support of these entities extend the reach and impact of state agencies.</p> <p>However, additional coordination and communication between EFCs, TA organizations and state agencies is needed so that priorities can be aligned. Knowing state agency priorities, such as nutrient treatment optimization and reduction, will help us collectively achieve the goals set out under the safe drinking water and clean water acts.</p> | General Comment | OW | ECOS |
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