***NATIONAL TRIBAL AIR ASSOCIATION (NTAA) TEMPLATE LETTER FROM TRIBAL LEADER TO USEPA***

*NOTE—NTAA recommends that you begin your Tribe’s comment letter with introductory remarks regarding the signatory’s position with the Tribe. The more individualized the letter, the greater its potential impact. Feel free to add your own arguments or specific stories that will make this educational for the EPA. Be sure to replace all the highlighted text with your own text. The comment deadline is* ***November 12, 2021*** *and comments can be submitted to the* [*Federal Register docket EPA-HQ-OA-2021-0403*](https://www.regulations.gov/document/EPA-HQ-OA-2021-0403-0001)

Honorable Michael S. Regan

Administrator

United States Environmental Protection Agency

Mail Code 1101A

1200 Pennsylvania Ave, NW

Washington, DC 20460

**RE: The** [TRIBAL NAME] **comments on the Environmental Protection Agency’s (EPA’s) FY 2022-2026 Strategic Plan, Docket ID No. EPA-HQ-OA-2021-0403**

Dear Honorable Administrator Regan:

The [TRIBAL NAME] is pleased to submit this letter in response to your invitation to provide comments on the Environmental Protection Agency’s (EPA’s) FY 2022-2026 Strategic Plan

INSERT INTRODUCTION TO WHO YOU/YOUR TRIBE ARE. PERSONALIZE THIS PART AS MUCH AS YOU CAN AND INCLUDE ANY HISTORY YOU HAVE HAD WITH THE PREVIOUS EPA STRATEGIC PLAN.

The [TRIBAL NAME] recognizes that the strategic plan provides a vision and specific commitments for accountability to meet that vision for the next few years.

Under the previous Administration the Agencies’ strategic plan didn’t reflect many of the priorities of Tribes. The 2022-2026 draft strategic plan is a vast improvement because it places a particular emphasis on addressing climate change and its effects on the most impacted communities. This plan also recognizes the impacts on indoor air quality and reducing exposure to radon, which were absent in the last strategic plan. Other highlights of this plan include emphasizing environmental justice (EJ), addressing past inequities, and mitigating disproportionate impacts on underserved communities.

However, the [TRIBAL NAME] is concerned that the Agency seems to have diminished the focus on the Executive Order 13175 in which President Biden issued a commitment to strengthen the Nation-to-Nation relationship with Tribal Governments.

For example, in including direct implementation in Goal 2, “Take Decisive Action to Advance

Environmental Justice and Civil Rights”, there isn’t a recognition that although there are EJ concerns in Indian Country there should also be a recognition of the need to balance EJ concerns by direct implementation of environmental programs. The [TRIBAL NAME] suggests that EJ concerns are balanced with long-overdue funding increases that support Tribal Sovereignty and environmental protection.

The [TRIBAL NAME] appreciates this early input opportunity and offers the following are specific comments and suggestions for the Strategic Plan:

The [TRIBAL NAME] supports the four principles to guide EPA’s operations and decision making, including the addition of the fourth foundational principle to “advance justice and equity.”

As a general matter, the [TRIBAL NAME] supports many of EPA’s proposed long-term goals. However, the [TRIBAL NAME] believes the strategic plan should include concrete commitments and deadlines that occur sooner, at a minimum by 2024. For example, EPA should already be integrating consideration of Tribal treaty rights into all EPA Tribal consultations that may affect Tribal treaty rights. There is no basis for this goal to stretch into 2026. Another example: it does not make sense for EPA to set a goal to eliminate the backlog of overdue Freedom of Information Act responses, and not violate the law, to 2026, almost five years from now. EPA can and should do this much sooner. For every goal set for 2026 in the draft strategic plan, EPA should review and determine whether that goal can be accomplished sooner.

**Goal 1: Tackle the Climate Crisis**

• *Objective 1.1: Reduce Emissions that Cause Climate Change*

The strategic plan should commit to emission reductions with the goal of limiting warming to 1.5 degrees Celsius, recognizing that Tribal communities are some of the most vulnerable to impacts from warming and will experience catastrophic harms above this amount.

The [TRIBAL NAME] supports the promulgation of rules to reduce methane, volatile organic compounds, and toxic air pollutant emissions from oil and as facilities. EPA should act quickly so that those emissions are reduced from existing sources throughout the country, which may be completely uncontrolled at this point. EPA also must pay special attention to Tribal impacts of any rules or guidelines it publishes and work with Tribes to ensure they are not harmed by EPA’s actions.

The [TRIBAL NAME] supports the robust consideration of climate change under NEPA and Clean Air Act Section 309. The EPA should commit to a stronger and more robust review of proposed projects, including submitting stronger commits explaining deficiencies in climate change and greenhouse gas emission analyses and opposing the selection of or finding unsatisfactory build alternatives that are poorly evaluated and/or will increase the harms from climate change. Too often the EPA does not speak up regarding deficient analyses and/or harmful projects, leaving Tribes or communities to spend their time and resources on their own. EPA should publish the numbers of environmental impact statements it reviews and the number it finds unsatisfactory. EPA should also provide assistance to Tribes to review and comment on climate change and air quality impacts on projects involving other federal agencies with Tribal impacts.

[IF YOUR TRIBE HAS PREVIOUSLY COMMENTED ON REDUCING GHG EMISSIONS THAT CAUSE CLIMATE CHANGE. YOU CAN INSERT THEM HERE. ALTERNATIVELY, YOU CAN INCLUDE A STATEMENT OF SUPPORT FOR THE NTAA’S COMMENTS.]

The National Tribal Air Association (NTAA) has provided EPA with previous comments regarding the need to reduce GHG emissions that cause climate change. Tribes are often the first communities to see impacts from climate change, so this goal meets with NTAA’s support.

*• Objective 1.2: Accelerate Resilience and Adaptation to Climate Change Impacts*

The [TRIBAL NAME] supports EPA’s provision of targeted assistance to Tribal communities to strengthen adaptive capacity and increase resilience.

On page 15 under Increasing Resilience of Tribes, States, and Communities, please include the National Tribal Operations Committee as well as the National Environmental Justice Advisory Council and the Local Government Advisory Committee, with the goal of attaining a more equitable, just, and climate-resilient future. You might also consider working with the Tribal partnership organizations such as NTAA as well since the Tribal air professionals may have more experience in this area.

• *Objective 1.3: EPA’s Advance International and Subnational Climate Efforts*

EPA’s strategic plan should commit to work with the State Department and other entities to put forward a new Nationally Determined Contribution that works towards limiting warming to 1.5 degrees Celsius. EPA’s strategic plan should also commit to work with the State Department to ensure that the U.S. leads the way in climate change negotiations, including strongly pushing for the inclusion of Indigenous Peoples in decision-making, the protection of the rights of Indigenous Peoples in all climate change related actions, and securing funding from the Green Climate Fund or otherwise for mitigation and adaptation for Indigenous Peoples in developing and developed countries (such as the United States).

**Goal 2: Take Decisive Action to Advance Environmental Justice and Civil Rights**

• *Objective 2.1****:*** *Promote Environmental Justice and Civil Rights at the Federal, Tribal, State, and Local Levels Integrating Environmental Justice Principles into the Implementation of Federal Environmental Programs in Indian Country and in Other Areas of Interest to Tribes, in Partnership with Federally Recognized Tribes:*

As explained above, the strategic plan should also recognize the need for EPA to support Tribal sovereignty and the need to support Tribes in developing their own programs.

The [TRIBAL NAME] supports the strategic plan’s recognition that EPA must take concrete action to further include the voices, experiences, and passions of the full diversity of the nation in EPA’s workforce. The [TRIBAL NAME] believes the strategic plan should include a key component of this goal throughout the entire plan: concrete actions from EPA. Too often, the Agency or other federal agencies have talked about environmental justice yet ignored it when it came time for action.

The [TRIBAL NAME] supports the inclusion of a more robust role for EPA under NEPA and section 309 of the Clean Air Act regarding consideration and mitigation of environmental impacts on environmental justice communities. Impacts on Tribal communities should be added. Related to above, the NTAA believes this plan needs to be implemented with concrete actions; nine months into the new administration, with many opportunities having past and currently occurring, EPA should have already been doing this.

On page 23 “Equity principles and equal protection require that implementation of federal environmental law protections be as robust inside Indian country as EPA requires these protections to be outside of Indian country. At this time, EPA directly implements the vast majority of federal environmental programs in Indian country where EPA seeks to apply key environmental justice principles, such as equity, meaningful involvement, and fair treatment. Ensuring EPA direct implementation of federal environmental programs in Indian country is in keeping with the federal trust responsibility and incorporating environmental justice principles when the Agency directly implements federal environmental programs will advance environmental justice for federally recognized Tribes.”

Please add a recognition that EO 13175 also looks to strengthen the Nation-to-Nation relationship with Tribal governments. EPA recognizes the need to continue to support Tribal governments to build capacity in order for Tribes to take on program delegation or approval to implement environmental regulations in Indian country and protect the interests of their people. In this way Tribal programs can asset Tribal sovereignty, undertake self-governance and advance environmental justice concerns.

EPA’s strategic plan should commit to provide more internal agency and external resources to help Tribes develop and implement environmental program, and to help speed up EPA’s review and approval of such programs when necessary. Tribes should not have to wait years for EPA approvals.

EPA should provide additional support for environmental justice communities and Indian Tribes to monitor air quality on and near Superfund or other contaminated sites that for too long have been sited near such communities. The strategic plan should commit to requiring remediation of such contamination and not merely covering it, leaving it to impact communities and tribal land forever.

*• Objective 2.2: Embed Environmental Justice and Civil Rights into EPA’s Programs, Policies, and Activities and*

*• Objective 2.3: Strengthen Civil Rights Enforcement in Communities with Environmental Justice Concerns*

The strategic plan should include faster and complete review of Title VI complaints, remedies for such complaints, as well as support for environmental justice communities and Indian tribes regarding Title VI complaints brought before other federal agencies.

**Goal 3: Enforce Environmental Laws and Ensure Compliance**

*• Objective 3.1: Hold Environmental Violators and Responsible Parties Accountable*

The strategic plan should include consulting with Tribes that may be impacted by violations, including Tribes in negotiations with violators, and including Tribes as parties to consent decrees entered into to address violations. EPA must recognize that even when enforcement cases involve national companies with multiple facilities across the country, there will be unique circumstances and likely different remedies needed when one of those facilities is on or near Tribal land.

The strategic plan should prioritize removing any perceived barriers to the use of supplemental environmental projects and promote Tribal involvement and benefits in such projects.

*• Objective 3.2: Detect Violations and Promote Compliance*

The strategic plan should prioritize making monitoring data and inspection reports readily accessible online to the Tribes and the public. That information can be used to protect communities and initiate citizen suit enforcement actions.

**Goal 4: Ensure Clean and Healthy Air for All Communities**

• *Objective 4.1: Improve Air Quality and Reduce Localized Pollution and Health Impacts*

On page 40 under Strategies “The Agency will focus on evaluating environmental justice considerations related to the NAAQS during review and implementation. EPA will continue to work closely with air agencies to ensure that they are working to improve air quality in areas that do not meet the NAAQS, including the 2010 SO2 NAAQS, the 2012 PM2.5 and PM10 NAAQS, and the 2008 and 2015 Ozone NAAQS. EPA will also continue to work closely with state air agencies on the regional haze program to improve visibility in the larger national parks and wilderness areas.”

Please add “and Tribal” to the last sentence “EPA will also continue to work closely with state ***and Tribal*** agencies on the regional haze program to improve visibility in the larger national parks and wilderness areas” This has been a priority for Tribes for many years now. Tribes are active in the WRAP and other MJOs and should not be overlooked in the Agency’s strategic plan in this important area.

On page 41, second to the last paragraph “EPA will work with air agencies and local communities to prioritize engagement with low-income and marginalized communities that for decades have been overburdened with air pollution and other environmental hazards. EPA will undertake air monitoring and other assessment approaches to address these long-neglected air quality and public health problems. The Agency will work to assess the current state of our nation’s monitoring network and pursue collaborative approaches to modernize the technologies, equipment, and network design used to measure air quality as well as enhance the quality and security of critical data collection, handling, and reporting from the network.”

This should include particular emphasis on the status Tribal air monitors. Many of the current monitors in Indian country are out of date or obsolete and no longer being serviced by the manufactures. Updating and making a wider set of monitors in Indian country will not only support a better understanding of the disproportionate impacts of air quality in Indian country and any potential environmental justice concerns but will also support Tribal sovereignty by allowing the Tribes to participate more fully in regulatory programs and the NAAQS designations process.

*• Objective 4.2: Reduce Exposure to Radiation and Improve Indoor Air*

Under strategies: There should be a specific strategy to focus on working with Tribes and communities on radiation exposure and health impacts of current and past uranium mining and milling operations.

On page 44, “In-home asthma management is a critical component of asthma care, particularly in low-income populations. EPA, in partnership with the Centers for Disease Control and Prevention (CDC) and Department of Housing and Urban Development (HUD) through the Federal Asthma Disparities Action Plan, 38 is supporting state Medicaid programs and private health plans to pay for in-home asthma interventions through reimbursement mechanisms. In addition, EPA is working to reduce asthma disparities for low-income people and communities of color by supporting public health and housing organizations to train and deploy community health workers to deliver in-home asthma interventions and care.”

***Cross-Agency Strategy 4: Strengthen Tribal, State, and Local Partnerships and Enhance Engagement Collaborate and engage effectively with Tribal nations in keeping with the Federal Government’s trust responsibilities, state and local governments, regulated entities, and the public to protect human health and the environment.***

The strategic plan should include that EPA will not treat Tribal consultation as merely a box to check. If EPA is going to request comments from Tribes as part of Tribal consultations, and Tribes are going to spend valuable time and resources drafting comments, it is terrible practice for EPA to submit a rule to Office of Management and Budget review merely a few days after that comment deadline, making it clear EPA already had its rule set and did not review or consider the Tribal comments.

In the second paragraph on page 90, “In addition, EPA will focus on building Tribal capacity to increase the number of Tribal co-regulators and Tribes’ ability to meaningfully participate and engage in environmental protection activities that inform, support, or enhance EPA direct implementation under federal environmental statutes. EPA will continue capacity building activities under the Indian General Assistance Program, the development of mutual environmental goals on a government-to-government basis through EPA-Tribal Environmental Agreements, and active use of the flexibilities under the Tribal Performance Partnership Grants rule. The Agency will work through the EPA National Tribal Operations Committee and support EPA Tribal partnership groups, including regional Tribal operations committees. Through these groups and other Tribal meetings, EPA will strive to address pressing environmental issues such as climate change and environmental justice.”

It should be recognized that Tribal funding for many of the Tribal environmental programs comes from the Program office grants. Tribal air programs are largely 103/105 funds. This section should acknowledge the need to grow these funds for Tribes and to continue to ensure that the national program offices are also working with Tribes to build capacity and support Tribal environmental programs.

The [TRIBAL NAME] appreciates this opportunity to comment on this draft guidance. If you have any questions or require clarification from the [INSERT TRIBAL CONTACT INFORMATION HERE]

On Behalf of the [TRIBAL NAME]

[INSERT NAME AND SUGNATURE OF TRIBAL LEADERSHIP HERE]

Cc: Holly Green, Office of the Chief Financial Officer

Pat Childers, Office of Air and Radiation