

The State Environmental Agencies'

***Statement of Need
and
Budget Proposal***

***for EPA's 2012 Categorical Grants
STAG Budget***

(State and Tribal Assistance Grants)

prepared by

The Environmental Council of the States (ECOS)

with the cooperation of:

Association of American Pesticide Control Officials

Association of State Drinking Water Administrators

Association of State and Interstate Water Pollution Control Administrators

Association of State and Territorial Solid Waste Management Officials

National Association of Clean Air Agencies

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Executive Summary

In this document, the States respectfully submit their budget priorities, statement of need and budget proposal for the categorical grants portion of the U.S. Environmental Protection Agency's 2012 budget that supports States, tribes, and local governments, known as the State and Tribal Assistance Grants (STAG).

For 2012, the States are documenting needs for just over \$2 billion in categorical program grants for State and tribal governments. Our base budget request is twofold: (1) a 2% increase for all programs above 2011 appropriations to address inflation; and (2) new funds sufficient to implement new rules, guidances, and initiatives. We have listed some of the new rules we expect to see in 2012.

Our primary emphasis is on core programs. Core programs include the categorical grants budgets for air, wastewater, drinking water, pesticides, and waste.

The current priorities for these media are as follows. For wastewater we place an emphasis on nutrient issues, implementation of the pesticide and CAFO rules, restructuring the National Aquatic Resources Surveys, and support of wetlands program implementation. For drinking water, the emphasis is on support for new rules, data management, and science-based standards. For air programs we emphasize activities related to criteria pollutants, greenhouse gas permitting, and hazardous air pollutants, including monitoring, development of State plans, modeling, enforcement and other core activities. For waste programs, the priority is corrective action funding and the coal combustion waste rule.

We attempt to project 2012 priorities further this year by listing the rules that EPA currently has under development and that States are most likely to be implementing in 2012. This list is found on pages 2-3, and includes the major rules (not all rules) that we project States will be newly implementing at that time. Implementation of new major rules usually carries a new financial burden, for which we are asking EPA to budget new federal funds to assist States in implementing them.

ECOS and our sister associations are prepared to present additional details and suggestions as requested, including in testimony at any hearings as might be held on the President's budget proposal.

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About The Environmental Council of the States (ECOS)

The Environmental Council of the States (ECOS) is the national non-profit, non-partisan association of State and territorial environmental agency leaders. The purpose of ECOS is to improve the capability of State environmental agencies and their leaders to protect and improve human health and the environment of the United States of America.

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The State Environmental Agencies' Proposal for EPA's 2012 Categorical Grants STAG Budget (State and Tribal Assistance Grants Budget)

What the States Contribute to our National Environmental Protection System

Our nation's environmental protection is dependent on a solid partnership between the U.S. Environmental Protection Agency and the State and territorial environmental agencies. State environmental agencies are responsible for implementing nearly all of the core environmental programs that protect public health and our nation's air, land, and water resources.¹ Most of the major Federal environmental statutes are designed for States to assume authority over the Federal programs under the oversight of the U.S. Environmental Protection Agency (EPA). In 1992, EPA had delegated only 40% of these programs to the States, but by 2007, 96% of these programs had been delegated to the States. States are the implementing agencies for nearly all of the nation's environmental and public health laws.

In recognition of this key role in environmental service delivery, Congress included provisions in the Clean Water Act (CWA), the Safe Drinking Water Act (SDWA), the Clean Air Act (CAA), the Resource Conservation and Recovery Act (RCRA) and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) to provide assistance to States to operate these Federal programs. A State match is usually required under these statutes, and States now provide well over half (in most States, two-thirds) of the funds needed to operate Federal programs. States also operate their own programs that address State-specific needs. These State programs, driven by State laws, do not require Federal funds but contribute significantly to the public health and environmental quality of the nation and may indirectly support the federal programs.

The core environmental protection activities required by Federal (and State) law include permitting, inspections, enforcement, monitoring, standard setting, site cleanup and more. For example, States conduct 97% of the inspections at regulated facilities; provide 94% of the data in EPA's six major databases; conduct over 90% of all enforcement actions; and are first responders at spills, cleanups, and natural disasters, with EPA providing most of the remaining work directly.

These core environmental protection activities required by Federal (and State) law include permitting, inspections, enforcement, monitoring, standard setting, site cleanup and more.

To fund these activities, Congress provides assistance to States primarily through State and Tribal Assistance Grants (STAG), which are composed of two parts: Categorical Grants (which assist with the operation of delegated programs) and Infrastructure funds (which are used primarily by local governments). Over the years that States have operated Federal programs, State environmental agencies have successfully leveraged funding to support those programs to the point where Federal funding has been reduced to about one-third of the cost of program operation.

¹ We also recognize the significant role played by local governments and tribes. In this document we acknowledge that we do not speak on behalf of other grantees, such as the tribes. However, this year we have again coordinated our proposal for programs administered by other agencies such as the pesticides programs administered by the State agricultural departments.

From the States' point of view the Categorical Grants funds are essential to provide resources to meet congressional requirements for public health and the environment.

Recent Changes in Federal Support for State Programs Reverse an Adverse Trend

In the period 2005-2008, reductions in EPA's STAG budget were the largest in EPA's history. Fortunately, this trend stopped with the 2009/2010 budgets (which were essentially flat), but it was not reversed until the 2011 budget, which has not been enacted as of this writing. The 2011 budget proposal promises significant and very much needed increases in the categorical grants, especially for air and clean water.

However, the number of new rules issued by EPA with a "State impact" is growing at a very rapid rate, with 100 rules on this list for 2007, 2008, 2009, and apparently continuing for each following year, from 2010 and into 2011 and 2012, based on information in the agency's Regulatory Gateway (see Table 1 for a list of the anticipated "major" rules). In the meantime, the agency plans to promulgate many new rules that States will be expected to implement. States do not usually oppose these rules, but we recognize that their implementation comes with a price that must be paid by someone. On top of these new rules are new or revised guidelines for existing rules (e.g., water enforcement), and the renewal of interest in existing, but previously dormant rules (e.g., degradation). These may also be very resource-intensive. Of course, all the previously existing rules must continue to be implemented as well. If budgets do not increase to accommodate new work, we risk failure in our joint missions to protect human health and the environment.

The 2011 budget proposal promises significant and very much needed increases in the categorical grants, especially air and clean water.

Table 1. EPA's Major Rules Under Development 2011-2012

	RIN	Title	Gateway Link	NPRM (Projected)	Final Rule (Projected*)
1	2050 - AE81	Standards for the Management of Coal Combustion Residuals Generated by Commercial Electric Power Producers	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2050-AE81	(05/2010)	FY 2012
2	2060 - AP50	Transport Rule (CAIR Replacement Rule)	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2060-AP50	(06/2010)	FY 2012
3	2060 - AI43	Review of the National Ambient Air Quality Standards for Carbon Monoxide	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2060-AI43	(11/2010)	FY 2012
4	2060 - AO47	Review of the National Ambient Air Quality Standards for Particulate Matter	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2060-AO47	(12/2010)	FY 2012
5	2060 - AP52	National Emission Standards for Hazardous Air Pollutants for Coal- and Oil-fired	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2060-AP52	(03/2011)	FY 2012

		Electric Utility Steam Generating Units			
6	2020 - AA47	NPDES Electronic Reporting Rule	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2020-AA47	(04/2011)	FY 2012
7	2040 - AF16	Water Quality Standards Regulatory Clarifications	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2040-AF16	(06/2011)	FY 2012
8	2060 - AO72	Review of the Secondary National Ambient Air Quality Standards for Oxides of Nitrogen and Oxides of Sulfur	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2060-AO72	(07/2011)	FY 2012
9	2040 - AF13	Stormwater Regulations Revision to Address Discharges from Developed Sites	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2040-AF13	(09/2011)	FY 2012
10	2070 - AJ57	Lead; Clearance and Clearance Testing Requirements for the Renovation, Repair, and Painting Program	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2070-AJ57	05/06/2010	(07/2011)
11	2040 - AF20	Revised Regulations for Concentrated Animal Feeding Operations (CAFOs) in the Chesapeake Bay Watershed	http://yosemite.epa.gov/opei/RuleGate.nsf/(LookupRIN)/2040-AF20	(01/01/2012)	FY 2012
12	2040 - AD94	Total Coliform Rule (revised)	http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201004&RIN=2040-AD94 (TCR)	08/2010	11/2012
13	2040 - AF10	Unregulated Contaminant Monitoring Rule	http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201004&RIN=2040-AF10 (UCMR)	01/2011	1/2012

*Issue dates are ECOS estimates, except for item 10 which is EPA's. Other data supplied by US EPA, except for rows 12 and 13 which are from OMB data. This table is a projection for the applicability of new rules in which the States would play a significant implementation role. These may or may not be finalized, and this may not be a complete list. Furthermore, this is a list of "major" rules, and there will likely be many more rules than this promulgated that will increase the implementation obligations of States. NPRM = Notice of Proposed Rule Making

Unfortunately, EPA's new rules, guidelines and revised rules are appearing at the worst possible time from a budgetary point of view. State budgets have declined significantly during 2009 and 2010, and every sign is that this will continue into 2011 and beyond.

Unfortunately, EPA's new rules, guidelines and revised rules are appearing at the worst possible time from a budgetary point of view. State budgets have declined significantly during 2009 and 2010, and every sign is that this will continue into 2011 and beyond. Most States have predicted that 2012 will also be a difficult year, even if the economy rebounds in the second half of 2010 and into 2011, because such rebounds historically take two years to appear in State revenues.

Furthermore, according to EPA, during the period 2001-2009, inflation was about 24% but Categorical Grants rose by only 11%, resulting in a decrease of 13% in purchasing power. The combination of increasing demands on the States from new rules, and the reduction in purchasing power from inflation is a significant impediment to successful State implementation of delegated programs.

Fortunately, EPA has shown a willingness to address the workload issues in ways besides increased funding. Recently, the agency entered into a Memorandum of Understanding with ECOS on the use of process improvement techniques to reduce our implementation costs. We have also begun discussions on work-sharing. We hope to use these methods and other techniques to reduce our need for additional funding, but there is no doubt that to accomplish what EPA wants to accomplish, additional funding for Categorical Grants will be needed in 2012.

Changes in State Environmental Agency Budgeting

Data that ECOS collected in May 2010 show that the State environmental agency budgets are in flux, with significant changes being made as to the source of funds. Federal funding is an important – and growing – component of their budgets, but States rely primarily on fee-based programs to fund their agencies. General fund sources are becoming less important in most States, continuing a long trend in that direction.

ECOS surveyed all 50 States and Puerto Rico for information about fiscal years 2009, 2010 and 2011. Most States are wrapping up fiscal year 2010 on June 30, but have not necessarily finalized fiscal year 2011. ECOS asked the States for information on their spending and the sources for it during these years. Although our primary interest was in operational funding (that is, not including capitalization funds), we left the States flexibility to include or exclude these funds in hopes that we would get a higher and faster response rate.

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Interpreting State budgets requires a somewhat different mindset than is typical on federal budgets. In the federal system, once Congress and the President approve a budget, it is rare for it to be significantly reduced during the course of the year. This is not the case with States, however, because they have no way to cover budget expenses when income from taxes is less than expected. This means that States may have to undergo midyear budget cuts, and these have been quite frequent since 2008. In our summary data, we remind the reader that budgets for 2010 and 2011 are *maximum* budgets – if the States' tax revenues do not meet these levels, the agencies' budgets *will* be reduced.

For our purposes here, we are presenting the summary of the ten States that did not include any State Revolving Loan Fund or ARRA (stimulus) funds as part of their response. This lets us focus more readily on the operational aspects of implementing delegated programs without including funds dedicated for infrastructure. ECOS will be presenting all data we collected, including data from States including SRF and ARRA funds, in a separate report.

Table 2 is a summary of the findings for these ten States. All but one of the States' are experiencing budget reductions from State sources during fiscals 2009 and 2010. The data show that these States are planning on spending a bit more in 2010 than in 2009, but expect to see a decline in spending the

following year, 2011. Several States pointed out that they already expect to see cuts to their 2010 budgets, but that these have not happened yet and, therefore, are not shown herein.

Most States are seeing major cuts from the “general fund” source, but not every State. Ohio got zero general fund support for all three years. Wisconsin’s general fund support will drop from 40% of its environmental budget in 2009 to 23% in 2011.

States coped with these cuts through increases in federal funds and State-imposed fees (such as permit fees). The average federal funding increased from 33% in 2009 to 37% for both 2010 and 2011². Fees are expected to increase from 37% to 40% and then 42%, respectively. Among the ten States, Idaho relies on fees the least (9%, 12%, and 15% respectively for fiscal years 2009, 2010, and 2011) and Ohio the most (82%, 82% and 84% respectively for the same years). Wisconsin is experiencing the biggest changes, moving from 47% fees in 2009 to 64% in 2011.

It is difficult to predict what State revenue projections will be in 2012, but it is safe to say that States will continue to depend on increases in federal sources to help them cope with budget shortfalls.

Table 2. Budget Totals for Ten States, 2009-2010

	FY 2009	FY 2010	FY 2011
Environmental Agency Budget	\$1,099,516,597	\$1,252,753,470	\$1,220,230,586
Avg. per state	\$109,951,660	\$125,275,347	\$122,023,059
Number of States with declining budgets	-	3	6
Number of States with increasing budgets	-	7	3
Budget includes SRF/ARRA funds (Yes/No)?	No Loan/Grant funds. May include Admin set asides.	No Loan/Grant funds. May include Admin set asides.	No Loan/Grant funds. May include Admin set asides.
Avg% from General Fund	23%	19%	19%
Avg% from Federal Government (e.g., EPA)	33%	37%	37%
Avg% from Fees, Other	37%	40%	42%

Note: The ten States are Colorado, Idaho, Indiana, Michigan, Nevada, Ohio, Oregon, South Dakota, Wisconsin and Wyoming.

2012 STAG Statement of Needs and Budget Proposal

The States' statement of needs will again this year address the Categorical Grants portion of the STAG budget. We support the administration's approach as provided in both the ARRA (stimulus) bill and in the 2011 budget proposal with respect to infrastructure.

² Although the 2010 EPA budget increase was flat for States, the addition of ARRA funds (of which 4% could be used administratively) typically resulted in a slight increase in federal funds used for implementation during 2009-2010. The projections for fiscal year 2011 are based in part on EPA’s proposed budget which still awaits enactment.

In this year's statement, we are again placing special emphasis on core programs. Core programs include air, wastewater, drinking water, pesticides, and waste. We recognize the importance of the other programs, but note that they typically affect only some States, or are narrow in their focus.

Flexibility

The States continue to ask for flexibility to State and tribal governments to manage their environmental programs, provided that States can demonstrate that such flexibility will lead to improved results through the implementation of the National Environmental Performance Partnership System (NEPPS). NEPPS is designed to allow States more flexibility to operate their programs, while increasing emphasis on measuring and reporting environmental improvements. Performance Partnership Grants will continue to allow States and tribes funding flexibility to combine Categorical program grants to address environmental priorities.

Core Programs' Documented Need for Categorical Grants

The Categorical Grants section of STAG includes the congressionally mandated programs that have been largely delegated to the States. These programs stem directly from the major environmental statutes and EPA regulations and guidance. These programs provide the basic public health benefits and the most appropriate environmental protection, and they are the law of the land.

ECOS and our sister associations have compiled information on the States' program needs based on the workload of Federal rules, policies, and guidances that affect us. This is attached in the spreadsheet budget that follows.

Budget Justifications for Documented Need

This year we present detailed budget justifications for the need as the States see it. These are based on the workload that US EPA has indicated it will expect of the States in Fiscal 2012 and on analyses of State workloads. For the most part these are new or significantly modified rules that States must implement on behalf of the Federal government in fiscal year 2012. Also included are impacts of known guidance, policies and initiatives in which EPA expects the States to play a major role.

Clean Air Programs

State and local air pollution control programs have been underfunded for many years. Not only have federal grants remained relatively stagnant, but the purchasing power of State and local air agency resources has decreased due to inflation. At the same time, the responsibilities facing these agencies have increased dramatically. Insufficient funds and increasing workloads have combined to severely erode the ability of State and local agencies to adequately address air pollution and protect public health.

Last year, the National Association of Clean Air Agencies (NACAA) conducted a survey of State and local air pollution control agencies, requesting information about the additional resources they need to fulfill responsibilities that are fundamental to their programs. The results of this study – *Investing in Clean Air and Public Health: A Needs Survey of State and Local Air Pollution Control Agencies*, published in April 2009 – show that State and local air quality agencies need \$775 million a year in federal grant appropriations to do their jobs. Unfortunately, recent appropriations – amounting to just \$225 million a year – have fallen short of this need by more than 70 percent, leaving State and local air agencies with a \$550-million annual shortfall. These agencies cannot carry out their programs

effectively with continued funding deficits of this magnitude. Accordingly, we recommend that federal grants to State and local air agencies be increased by the amount of the shortfall – \$550 million, for a total of \$775 million. For FY 2011, the States requested an increase of \$100 million as an initial step toward closing the serious funding gap that exists. Because of the urgency of the need for additional resources for underfunded core programs and pressing new work, NACAA is recommending the full increase for FY 2012.

Closing this resource gap is imperative in order for States and localities to carry out the many specific programs and activities that will ultimately lead to and sustain cleaner, more healthful air, including efforts related to ambient monitoring for a variety of pollutants; reduction of toxic air pollution; State Implementation Plan (SIP) development and implementation in response to federal air quality standards; visibility; climate change; modeling; area (small) sources, including permitting and small business assistance; emission inventories; program and rule development; emergency response; enforcement; compliance; inspections; reporting; information technology; public education and outreach; personnel; and training.

In FY 2012 in particular, there are several specific responsibilities and activities facing State and local air agencies, for which increased federal grants must be provided. Examples include the following:

Criteria Pollutants – State and local air pollution control agencies will be called upon to meet all of the new requirements, including monitoring, for the recent or proposed revisions of the National Ambient Air Quality Standards for particulate matter, ozone, lead, nitrogen dioxide and sulfur dioxide. For example, SIPs for the 2006 PM_{2.5} standard are due November 2012, SIPs for the new lead standard are due in 2011 and 2012, and SIPs for the new ozone standard are due in 2013. State and local agencies, therefore, must begin developing, and in some cases implementing, these plans in FY 2012, which will involve, among other things, compiling emission inventories, significantly expanding the current monitoring networks at a cost of tens of millions of dollars, and adopting regulations.

Greenhouse Gases – EPA and the U.S. Department of Transportation issued a rule controlling GHGs from new motor vehicles and engines on April 1, 2010. Once GHGs become a regulated pollutant under the Clean Air Act, provisions under the Prevention of Significant Deterioration (PSD) and Title V operating permit programs are automatically triggered. In May of this year, EPA finalized the GHG Tailoring Rule, creating a phased in approach to permitting GHGs that ensures that only the largest sources are initially permitted. While the Tailoring Rule significantly reduces the burden on permitting authorities, State and local agencies will need additional resources in order to fully implement the program. More importantly with respect to grant funding is the fact that many sources will likely seek permits providing them “minor source” status. Permitting minor sources consumes as much or more administrative resources than major source permitting activities and is not eligible for funding with Title V permit fees. Some State and local air agencies estimate that their workload related to permitting these sources could double or even triple. Almost all the work pertaining to the synthetic minor sources would be eligible for federal grant support.

Hazardous Air Pollutants – State and local agencies will be asked to accept delegation of regulations to address emissions of hazardous air pollutants from small, or “area” sources, necessitating significant effort and resources to address emissions and issue permits, as needed, for literally thousands of sources. State and local air agencies also will continue to implement new hazardous air pollution standards to address the “residual risk” that remains after the implementation of the MACT standards. Monitoring

efforts related to hazardous air pollution have been increasing (e.g., monitoring near schools) and are unlikely to diminish.

In order to carry out these and other critical activities, with the goal of protecting human health and welfare, State and local air pollution control agencies require significant increases in federal grants to close the gap between the amount they have received in recent years and the total that is needed for these important programs.

Clean Water Programs

The **Top Priorities** for the wastewater program are allocation of funds to deal with nutrient issues, implementation of the pesticide and CAFO rules, restructuring the National Aquatic Resources Surveys, and support of wetlands program implementation.

Section 106. Section 106 of the Clean Water Act authorizes funding to the States and Interstate Commissions to assist them in preventing, reducing, and eliminating pollution of the nation's waters, including enforcement. The States administer the core components of the Clean Water Act, overseeing the quality of State waters, issuing water pollution control permits, restoring and protecting watersheds, and ensuring compliance with the Clean Water Act.

The States' involvement with the support of adequate Section 106 funding is key to the implementation of the Clean Water Act and the protection of the nation's waters. Without it, the core work of the Act to issue permits, ensure compliance, as well as monitor and assess attainment of standards would cease and the nation's waters would revert to waste streams.

In the year 2006, with \$216 million in Federal funding the States accomplished the following plus many other activities:

- Oversaw more than 70,000 permitted discharges to waters, plus 450,000 stormwater discharges.
- Reviewed more than 100,000 discharge permits.
- Undertook 90% of all Clean Water Act enforcement actions.

In 2002, EPA and the States completed an analysis of the need for funding to the States for these and other activities. It found there was a gap of \$800 million per year. Unfortunately, since this study, only limited additional resources have been directed to this critical program and they have been directed toward specific additional tasks, not the underlying need.

EPA has not requested the increased funding needed for section 106 in the Federal budget process. In fact, the only limited requests that EPA made to increase funding over the past several years have been for specific new EPA initiatives which have amounted to "set-asides" from the core grant program. While States support certain priorities of these targeted increases, including improving State capacity for monitoring and assessment, the current "set-aside" of \$18.6M for the national aquatic resource surveys is weighted too heavily toward national scale monitoring that does not provide a sufficiently accurate picture of water quality trends. The States' critical funding shortage is exacerbated when EPA is inflexible about how certain funding can be used.

The States provide a minimum match based on actual expenditures to this program that is often over 200% compared to the Federal 106 contribution. Thus, the Federal funding is leveraged and the nation's

waters are protected. Day-to-day management of the program is done at the State level allowing for regional flexibility and local involvement. Yet, the Federal government has oversight of the State programs to provide for a level playing field across the nation.

Section 106 provides the only Federal funding for the baseline programmatic needs of the States. It allows States to direct resources to the areas in their programs that need the most attention. This funding is integral to the States' continued involvement with Clean Water Act activities. In a very direct way, inadequate funding adversely impacts the quality of the nation's waters.

Section 319. Nationally, Clean Water Act (CWA) §319 funds are used for protection and restoration efforts for water bodies primarily impaired by non-point sources. The majority of the water bodies on the CWA §303(d) list are impaired as a result of non-point source pollution. Water quality improvements in these waters are only accomplished through Federal, State, and Local efforts, which include addressing the following: high levels of sediments and nutrients due to agriculture and land development, dissolved oxygen impairments, high phosphorus loads, high turbidity, pathogen impairments, total suspended solids impairments stream from bank modification/destabilization, toxic metals from mines, and acid mine drainage.

According to the most recent (2004) Clean Watersheds Needs Survey (CWNS), total NPS needs are \$38 billion over 20 years or \$1.9 billion annually on average. Additionally, the CWNS does not include data from all States and all non-point source categories, and is based on 2004 dollars.

In the last five years, the annual appropriation for CWA §319 has been approximately \$200 million per year. Of that, States received an annual allotment of anywhere from \$1.0 million to \$10 million, depending on each fiscal year. The current level of §319 funding provided to States is not sufficient to run a comprehensive non-point source program. For example, States in the Northeast have reported that they could utilize 100% to 500% more §319 funding than is currently allocated to them. The projections are likely much larger for mid-western States.

While States were hopeful that USDA Farm Bill funding could be part of the solution, in most States those programs do not give water quality a priority or are not coordinated with water quality programs.

Wetlands. ECOS proposes expansion of Federal support to include funding for implementation (not just development) of wetland protection programs. While we understand there is currently a statutory obstacle to this, legislation is under consideration to remove this obstacle. In the aftermath of various Federal court cases affecting jurisdiction, States have expanded their programs to include waters previously protected only under Federal law. In addition, States are interested in seeking delegation of section 404, but the absence of funding was one of the major obstacles that prevented States from implementing the program, according to an EPA Office of Water study.

Section 104(g)(1). Section 104(g)(1) of the Clean Water Act authorizes funding for the Wastewater Treatment Plant Operator On-Site Assistance Training. The program addresses non-compliance at small publicly-owned wastewater treatment plants that have a discharge of less than 5 million gallons per day (MGD). The need for individualized technical assistance is real. There are more than 15,000 municipal wastewater treatment plants in the U.S., of which 14,000 (>93%) discharge less than five MGD. More than half have sophisticated activated sludge treatment technologies that require highly-developed operating skills. Investing in training provides hands on support for the proper operation and maintenance of the nation's vast wastewater infrastructure investment.

State programs funded by Section 104(g) have been highly effective and produced significant environmental improvements for a very modest investment. In 2006, at an average Federal cost of about \$1,800 per facility, the program:

- Assisted 659 facilities, of which 566 achieved or maintained compliance, or improved performance - a 86% success rate and;
- Completed training at 335 of these facilities, of which 316 achieved or maintained compliance, or improved performance - a 94% success rate.

In a cooperative effort with EPA, States, Municipalities, and Operators, 104(g) assistance focuses on issues such as wastewater treatment plant capacity, operation training, maintenance, administrative and financial management, trouble-shooting, and laboratory operations. Plant operating staff and local elected officials work together to improve water quality through efficient use of treatment equipment for maximum environmental benefit. This program was a win-win for everyone and provided credibility for State water programs.

No CWA 104(g) funding was dedicated through the Federal budgeting process for FY'08 – the program was eliminated and States are losing their capacity to assist small local wastewater facilities. This negatively impacts attainment of CWA program goals.

Drinking Water Programs

Drinking Water Programs

The categorical grant for Public Water System Supervision (PWSS) is the principal source of Federal funding for State drinking water programs to administer all of the Federal rules governing the 90+ regulated contaminants and all of the Federal requirements associated with these programs. All but one State (Wyoming) and the Navajo Nation have taken on “primacy” obligations to implement the Federal rules. Increased funding for the PWSS program grant is urgently needed to enable State drinking water programs to implement recently promulgated rules and undertake a host of other tasks needed to ensure safe and secure drinking water. Both a qualitative and quantitative explanation of these needs are provided below.

Qualitative Justification for Recommended Level

- **Pre-Existing State Resources “Gap”:** An extensive recent survey of all 50 States estimated a nationwide gap of \$360 million annually between the funds needed to administer their programs and available funds. This gap has grown in recent years – due to inflation, the deteriorating financial situation in most States, and the increasing complexity and scope of the Federal requirements that States must implement.
- **Implications of Infrastructure Funding:** State drinking water programs have appreciated Congress’ efforts to significantly increase appropriations for the Drinking Water SRF in recent years and to begin to more substantially bridge the “infrastructure gap.” The State drinking water programs have used set-asides from the fund to administer this program. However, the magnitude of this effort, combined with State hiring freezes in most States, has meant shifting some State personnel from other State drinking water program tasks to help administer the DWSRF program – further exacerbating PWSS program shortfalls described in more detail below.

- **Recent Requirements/Demographics of Water Systems:** In addition to the ongoing need to adequately fund existing responsibilities and obligations, several “risk-based” Federal rules have been promulgated in the past few years. “Risk-based” means that the actual on-the-ground implementation of the rule needs to be tailored to the health risk posed at individual drinking water utilities. State drinking water programs are the entities that must undertake this work. Moreover, these requirements must be implemented at predominantly small water systems (those serving fewer than 10,000 people) – since they make up the vast majority of water systems in the U.S. Thus, States must continually shore up the technical, managerial, and financial capacity of many water systems. The following are the most prominent of the new regulatory requirements:
 - a. **Lead and Copper Rule Short Term Revisions (LCR):** In the wake of the D.C. lead-in-drinking water crisis of a few years ago, EPA promulgated a series of changes to this important rule (affecting virtually all water systems in the U.S.) designed to minimize the amount of lead in drinking water with a particular focus on lead in schools. The short term revisions are designed to strengthen implementation of existing LCR requirements regarding monitoring, treatment processes, public education, customer awareness and lead service line replacement. States must revise and enforce stricter public education and Consumer Confidence Report (CCR) provisions with respect to lead. (Promulgated: 10/10/07; Effective: 12/10/09).
 - b. **Disinfection By-Products/Microbial Contaminants Phase 2 Rules** (known as “LT 2/Stage 2”): Disinfection of drinking water (typically using chlorine) ensures the microbiological safety of drinking water. However, that process can also create cancer-causing contaminants (called “disinfection by-products” or DBPs) that are themselves problematic. This complex suite of rules requires all water systems that disinfect to ensure that they find the “sweet spot” between killing or inactivating bacteria and viruses in drinking water while at the same time reducing quantities of cancer-causing disinfection by-products. (Promulgated: 1/5/06; Effective Date: 10/1/06; with cascading deadlines through FY 12 and beyond.) New tasks include the following:
 - Review and approval of cryptosporidium and E. coli monitoring plans
 - Making “grandfathering” determinations of adequacy of prior treatment levels
 - Review and approval of “40/30” certifications (i.e., more lenient requirements based on a good track record).
 - Review and approval of DBP standard monitoring plans and compliance monitoring plans
 - Review and approval of Initial Distribution System Evaluation (IDSE) reports
 - Review and approval of cryptosporidium “bin” classifications
 - Consult with water suppliers and make decisions regarding sampling locations for E. coli and cryptosporidium, including decisions about “Ground Water Under the Direct Influence” (of surface water) trigger levels, multiple sources, and sampling locations for DBPs.
 - Update laboratory reporting guidance, data management procedures and other related guidance documents
 - Provide training to State staff and the regulated community
 - Track new monitoring requirements
 - Additional federal reporting
 - c. **Ground Water Rule:** Over 80% of the nation’s community water systems are served by ground water; many of which do not currently disinfect their drinking water supplies. This recently promulgated rule requires States, working with water systems, to assess the vulnerability of all

water systems using ground water and correct all deficiencies that pose a human health risk. (Promulgated: 1/8/06; Effective: 12/1/09.) New tasks include the following:

- Incorporate federal requirements into State regulations
 - Conduct source water assessments
 - Determine specific criteria for defining 4-log treatment for inactivation/removal of viruses
 - Review and approval of system 4-log treatment designations
 - Additional permitting workload to review and approve 4-log treatment, particularly for Non-Community Water Systems (of which there are approximately 100,000).
 - Conduct periodic sanitary surveys of all groundwater systems
 - For sanitary surveys, determine what constitutes "significant deficiencies" and "outstanding performance"
 - Recommend, review, and approve corrective actions by water utilities
 - Track triggered source water monitoring
 - Track new monitoring requirements, such as chlorine residual and/or operation of alternative treatments
 - Additional federal reporting
- d. Additional Rules Expected in FY 2012:** By FY 2012, a set of long term revisions to the Lead and Copper Rule, comprehensive revisions to the Total Coliform Rule (TCR), and a rule for the emerging contaminant, perchlorate, are all expected. All three rules are expected to present very substantial challenges in terms of State implementation burden – particularly, the TCR, which would affect all 160,000 public water systems.

State PWSS Program Activities Not Specifically Covered by New Rule Estimates and Not Already Addressed in PWSS Grant:

- e. Small Water Systems Support:** As drinking water regulations become increasingly complex and as the operator workforce continues to age, the need for enhanced support and assistance for small (serving populations of fewer than 10,000) water systems increases. These small systems frequently have poor economies of scale that leave them ill-equipped to meet the escalating costs and technical challenges of water treatment operations. Thus, State primacy agencies, either directly or through contracted technical assistance providers, spend a substantial portion of their time and resources working with these systems on an individual basis to find unique solutions.
- f. Addressing Unregulated Contaminants:** State drinking water programs must also respond to a host of unregulated contaminants, such as MTBE, perchlorate, PFOA/PFOS, and pharmaceuticals/personal care products, to name but a few. States conduct monitoring for many of these contaminants, evaluate their health significance, advise water systems and their customers about appropriate steps (if any) to be taken to mitigate risk, and, where appropriate, establish State-specific advisories or regulations.
- g. Data Management Support:** In the past few years, States have expended very significant efforts to modernize their data management systems to accommodate the suite of new rules and to interface with EPA's modernized data flows. This has been time and resource-intensive for States and has not been fully accounted for in the PWSS grant.

- h. **Integrating Security into Water Programs:** Security considerations have grown in recent years from potential manmade events to a more broad based ‘all hazards’ approach that includes accidents and natural disasters. State primacy agencies must be positioned to support the response, recovery, and business continuity needs of all water systems so that the economic vitality of a community or region is not irreparably harmed. The natural expansion of public health protection into the water security arena means that States must incorporate security into their more traditional implementation efforts.

Quantitative Justification for Recommended Level

- **Adjustment to Base Appropriation: \$124.3 million** (represents 2004 appropriation level adjusted for inflation)
- **Annual State Costs of Rules Effective Since 2004** (Note: These figures are from EPA’s Economic Analyses accompanying the following rules and represent mean annualized costs for States at 7% discount rates):

Ground Water Rule:	\$11.7 million
Stage 2 DBP Rule:	\$1.7 million
LT 2 ESWTR:	\$1.4 million
Arsenic Rule:	\$1.2 million
LCR Short Term:	\$0.6 million
Radionuclide Rule:	\$0.1 million
Filter Backwash Rule:	\$0.1 million
LT 1 ESWTR:	\$6.6 million
<u>Stage 1 DBPR:</u>	<u>\$17.3 million</u>
TOTAL:	\$40.7 million

Note: States believe the Economic Analysis significantly underestimates State costs, thus, we recommend increasing this total by a factor of approximately 25% to \$50.7 million.

State Costs for PWSS Program Activities Not Specifically Covered by New Rule Estimates and Not Already Addressed:

Small water systems support:	Need 2 FTE, on average, per State
Addressing unregulated contaminants:	Need 1 FTE, on average, per State
Data management support:	Need 1 FTE, on average, per State
Integrating security into water programs:	<u>Need 1 FTE, on average, per State</u>
TOTAL FTEs NEEDED:	Need 5 FTEs

Assuming \$100,000 per FTE (salary & benefits); 5 X \$100,000 X 50 States = \$25,000,000

Total PWSS Annual Financial Need:

Adjusted 2004 Baseline:	\$124.3 million
Costs of New Rules:	\$50.7 million
Annual Unaddressed Costs:	<u>\$25 million</u>
GRAND TOTAL:	\$200 million

Implications of Inadequate Funding Levels

States must accomplish all of the above-described activities, and take on new responsibilities, in the context of the current national economic crisis. This has meant further cutting their budgets, streamlining their workforces, and operating with less State-provided financial support. State drinking water programs have often been expected to do more with less and States have always responded with commitment and ingenuity. However, State drinking water programs are now in crisis. Insufficient Federal support for this critical program increases the likelihood of a contamination event that puts public health at risk. Examples of the kinds of activities most likely to suffer without adequate funding are:

Field Activities: Insufficient resources hinder adequate State field presence at water systems, principally through inspections known as “sanitary surveys” as well as on-site technical assistance to water systems.

Review of Submissions: States are either unable or are delayed in reviewing all the materials that water suppliers must submit to the States (e.g. monitoring plans, annual reports, watershed sanitary survey reports, assessment reports, permit applications, construction schedules, etc.).

Assuring Sufficient Water Quality and Quantity: The increased severity and frequency of storm events and droughts has intensified the need for State efforts to assure safe, secure and adequate supplies of drinking water. The growing complexities of drinking water sampling and treatment as communities need to access water that is naturally and/or anthropogenically contaminated (even from some “regulated” sources) challenges State drinking water program personnel. These activities need to be adequately supported.

Training (for State staff, water suppliers, and laboratories): Training is akin to Research and Development programs – the near term impacts of program cuts in these areas may not be immediately felt, but the loss of a trained cadre of professionals has serious longer term consequences for program integrity and ultimately, public health.

Data Management: Accurate and reliable data upon which to base decisions and to verify compliance is the “heartbeat” of drinking water programs. These activities are time and resource intensive and among the program areas that are most impacted by insufficient funding.

Source Water Protection Planning and Implementation: State drinking water programs play a leading role in helping prevent sources of drinking water from becoming contaminated. Contaminated sources of drinking water translate into greater costs for water systems to remove contaminants as well as, in some cases, the need to secure alternative water supply sources.

State Laboratory Capacity: State laboratories play a key role in providing reliable sample results for State decision-making purposes as well as quality assurance and quality control standards that undergird the State’s drinking water program. Insufficient funding jeopardizes that important function.

Waste and Related RCRA Programs

The **Top Priority** for waste programs is the need for funding to implement new rules such as the Coal Combustion Waste rule, and Corrective Action funding. Because the funding has been so inadequate over the years, many States have over-matched the funding. We estimate the budget for this item could be increased by 25% without the need for States to find new matching funds.

Hazardous Waste Financial Assistance

In order to enable States to implement effective and adequate RCRA Subtitle C programs, the States believe \$275M is needed for State Hazardous Waste Financial Assistance grants. At a minimum, \$367M in State and Federal funding is needed to run State RCRA C programs – the State share should be \$92M (25%) with the remaining \$275M in State Hazardous Waste Financial Assistance grants.

In 2006, the States conducted a pilot program to determine the cost to States for implementing a complete and adequate RCRA Subtitle C Program (hereafter referred to as “RCRA C” or “RCRA”). The report entitled *State RCRA Subtitle C Core Hazardous Waste Management Program Implementation Costs - Final Report (January 2007)* revealed that the cost to States of implementing a complete and adequate RCRA Program in 2006 was approximately \$255 M.

Using a required 25% State match for Federal grants, it would appear that States should have contributed approximately \$64M toward this estimated annual program cost in FY06, and the Federal grants should account for approximately \$191M for an adequate and effective program. However, this is not the case. A separate data collection project by the States shows that, for FY06, States estimated their hazardous waste program costs (including both Federal and non-Federal sources of funding) to be approximately \$189M. Compared against the enacted Federal RCRA C State/Tribal Assistance Grant (STAG) funding level of approximately \$101M, this indicates that States contributed approximately \$87M (\$25M more than the required cost share) toward the core hazardous waste program in their efforts to ensure program effectiveness. Clearly, additional resources are needed to fully fund the RCRA C program. However, the RCRA C STAG appropriations have continued to fall far short of the needed level.

Another important finding in the report is that professionals who are responsible for day-to-day implementation believe that the currently available Federal and State resources provide only about 74% of what is needed to run an effective and adequate RCRA C Core Program. This doesn't consider important new initiatives such as Sustainability and the Resource Conservation Challenge, and implementation of the new “definition of solid waste rules.” At a minimum, \$367M in State and Federal funding is needed to run State RCRA C programs (100% funding rather than the current 74% that was being spent by States in 2006 which was \$255M or \$273M in 2008 dollars). The State share should be at least \$92M, which is half of what the States spent in FY06. In order to enable States to implement effective and adequate RCRA C programs, States request that \$275M be appropriated for State Hazardous Waste Financial Assistance grants in FY 2012.

If States are to continue to meet the increasingly challenging national goals for the RCRA C Core Program set by EPA and the Office of Management and Budget (OMB), and to satisfactorily meet the reasonable expectations of the public that these programs will be implemented in a manner which ensures continued protection of human health and the environment, the funding recommendation must be addressed. To do nothing will only exacerbate the current funding gap and further erode the national

capacity to prevent harmful releases of hazardous constituents to the environment, as well as the capacity to clean up those releases that have occurred in the past.

Some examples of recent regulatory requirements that contribute to this need include the following:

- The RCRA C Core Program consists of permitting, remediation (closure, corrective action), compliance, enforcement, and program development activities. Through the pilot study, it was determined that the total program need for implementing the RCRA C Core Program in 2006 in the ten pilot States was approximately \$51,000,000 annually, and the 2006 national program need for the fifty States was estimated to be approximately \$255,000,000 annually. However, it is also noted that, due to the increasing emphasis on timely completion of remediation and other activities at the majority of Government Performance and Results Act (GPRA) facilities, it is anticipated that this estimated cost may in fact be lower than the actual cost of the RCRA C Core Program. For example, the permitting focus has historically been on issuance and reissuance of permits as related to meeting the GPRA goals for permitting and “approved controls in place.” Based on this cost estimation project, it is now abundantly clear that State program costs to modify and maintain hazardous waste permits comprise a significant portion of State RCRA C Core budgets. These costs will continue to be significant long after the number of permitted facilities has peaked. These program elements are significant in that they have not historically been discussed or specifically funded as part of the State/EPA planning and negotiation process in many States.
- As a second example, this cost estimation project clearly highlights the need for ongoing consideration of State oversight costs for long-term stewardship at remediation facilities. The current remediation focus is on remedy decisions and construction completion related to meeting the mid-term GPRA goals for corrective action. While there may be some facilities that are able to exit the corrective action universe once remedy construction is complete, there will be a large number of facilities that will continue to operate remedies for years if not decades before corrective action can be considered complete. This must be considered in the context of future long-term funding for State RCRA C Core programs.
- As a third example, since the genesis of the original GPRA Environmental Indicator (EI) evaluations, several additional RCRA C performance measures have been developed by EPA in coordination with the States, and others are under development or consideration. Similar to EIs, State resources necessary to address and document these new performance measures are expected to be significant. The costs associated with these new activities were not estimated as part of this evaluation as the performance measures were not developed well enough at the time of estimation to come up with associated costs. Based on States’ experiences with the EI evaluations, it is certainly plausible that the additional costs associated with the new performance measures alone could add another 2-3% to the overall cost of State RCRA C Core programs. These potential costs should be kept in mind as future State resource and funding needs are evaluated.
- As a fourth example, the pilot State results show that a significant portion of the inspection and enforcement budgets are expended conducting inspections and enforcement at Small Quantity Generator (SQG) and Conditionally Exempt Small Quantity Generator (CESQG) facilities, which greatly outnumber Large Quantity Generator (LQG) and Treatment, Storage and Disposal (TSD) facilities. However, these facilities have historically been funded at a fraction of the cost of LQG and TSD facilities, which likely accounts for a large portion of the funding gap in these

program areas. The actual costs of inspection and enforcement at these smaller facilities should be kept in mind as future State resource and funding needs are evaluated.

Additionally, ECOS notes:

1) In many States, a single individual is charged with RCRA financial assurance reviews. If an EPA Region were to establish a small team of staff members with expertise in RCRA financial assurance (and financial assurance in other programs, for that matter), this could greatly assist States in accessing expertise. EPA should consider redirecting base program resources to enhance the Environmental Finance Center Network <http://www.epa.gov/efinpage/efcn.htm> and provide more tools for States.

2) Along the same lines, States struggle with performing special analytical studies and often have difficulty funding such research. Perhaps regional labs could offer a percentage of their time and knowledge in assisting with studies on a regional and multi-programmatic basis in areas like children's health (e.g., pharmaceuticals).

3) States also have difficulty with in-house risk assessment expertise. This is another area where the EPA Regions could develop know-how that States could access. Increased resources could be directed to the National Center for Environmental Assessment in ORD for grants to States in need of risk assessment expertise.

4) Regions could provide expertise to assist EPA efforts in promoting energy savings projects and cutting-edge technologies in waste and other areas. The pilot programs identified in the 2020 Vision process should be multi-State or multi-regional in nature with transferable outcomes for each of the States, and the EPA Regions should serve as "consultants" to ensure their success.

Underground Storage Tanks

The Energy Policy Act of 2005 P.L. 109-58 (EPAct) imposed several significant new regulatory requirements on the States. Section 1523 of the Act imposed one of the most significant new requirements - that States inspect all regulated underground storage tanks (USTs) every three years. States must complete the first three-year inspection cycle by August 2010. The three year inspection cycle imposes a significant fiscal burden on States.

The estimated annual cost to States for the three-year inspection cycle is \$41.6 M. We arrive at this figure by estimating the number of inspectors needed to inspect an estimated 235,000 facilities (623,000 total USTs based upon a conversion factor of 2.65 tanks per facility) once every three years. Assuming that an inspector can conduct 200 inspections per year on average, there is a need for 392 inspectors nationally to inspect 235,000 tanks every three years. Assuming \$100,000 fringe and salary per inspector, States need at least \$39.2M per year to meet this federally imposed regulatory requirement.

In addition to the new three year inspection cycle, EPAct also requires that States: 1) require operator training; 2) implement a delivery prohibition for non-complying facilities; and 3) require secondary containment or financial responsibility for tank manufacturers and installers. All of these requirements impose significant fiscal burdens on the States. The FY 2008 Omnibus Budget Bill increased State assistance by approximately \$22 M to help States achieve the requirement of the Energy Policy Act (the STAG was reduced from \$11.7M to \$2.5M and \$31M for UST programs was added to the LUST Trust Fund). The amount appropriated for EPAct requirements is about half of what is needed for the three

year inspection cycle alone. For that reason, the States believe the need is a total of \$63.1M for State UST programs. An increase of \$29.4M is for the Federal share of the three year inspection cycle (State share is \$9.8M) and the remaining \$33.7M will fund other State UST and EPAct requirements.

Lead Abatement

EPA is now asking States to adopt programs at least as stringent as the recently promulgated Renovation, Repair, and Painting rule. It appears to ECOS that the size of the regulated community is much larger than the current TSCA 402(a) program. Our needs statement here is designed to encourage States to create these programs and operate the rule on behalf of the US EPA by addressing the increased funding needs.

EPA promulgated a Lead Paint Renovation and Remodeling Rule that provides for more stringent regulation of high-risk renovation work on residential lead paint. Implementation of this rule by the States would doubtless be more effective than EPA Regions given superior State knowledge of local practices and renovation contractors. EPA training and licensing through the Regional offices will be difficult at best to manage at a regional level. In 2009, EPA provided \$75,000 grants to scope out State implementation of this rule. If additional funding is available to support State delegation of the Lead R&R rule, a number of States will be interested in taking such delegation. Timing suggests that a Federal grant equal to 100% of the States' costs for at least the first year would help States accept delegation without waiting for Legislatures to reconvene to appropriate matching grants.

FIFRA - Pesticides Programs

Principal goals of the FIFRA Pesticide Program include:

- Protection of public health and the environment from potential risks of pesticide use;
- Ensuring adequate pesticides are available for their beneficial contributions to society (i.e., public health protection, a safe and adequate food supply, control of structural pests);
- Supporting and promoting the use of less toxic pest control measures (safer pesticides/safer practices); and
- Ensuring efficient and effective management of public resources.

Although national pesticide regulatory decisions are centralized at EPA headquarters their effective implementation depends upon the actions taken by state regulatory partners at the local level. State Lead Agencies (SLA) continue to be the primary administrators and enforcers of EPA's Pesticide Field Programs. In 2008, some 100,000 SLA FIFRA- related inspections were conducted and over 2,000,000 pesticide applicators were trained and licensed to apply pesticides. The certification, licensing and field monitoring activities of the SLAs are the primary safety net for the public. Unfortunately, it has become readily apparent that the States are no longer able to maintain this level of activity unless additional funding is secured.

Since the mid 1970's EPA has provided funding through cooperative agreements with the States to support FIFRA program implementation and enforcement. SLAs supplement the federal FIFRA grant funding with State funding. Over the past three decades, SLA's share of program costs has progressively risen (relative to the Federal share) and will continue to rise under the current economic climate. In many States, FIFRA grant funding has become only a small portion of the SLA's total pesticide program revenues and expenditures. Funding for enforcement activities provided by the Office of Enforcement and Compliance Assurance (OECA) over the past several years has continued to

decrease, making up a smaller portion of the overall funding needs when compared to SLA contributions (Grantee), as shown below:

Grantee contributions

2006: \$31,937,109 (several States did not report all State funding)

2007: \$44,334,911 (majority reported full State funding)

2008: \$42,931,124 (inflation adjusted)

EPA contributions

2006: \$18,273,646

2007: \$17,685,000

2008: \$17,254,544 (inflation adjusted)

The States' share in pesticide enforcement is nearly 2.5 times the EPA contribution to the Performance Partnership Agreements, while at the same time the States are expected to conduct nearly all of the core federal FIFRA field enforcement activities. Underscoring the critical importance of SLA enforcement programs is the recent survey of EPA Regional offices showing there are virtually no dedicated Federal EPA inspectors remaining in the regional offices. This places the burden of nearly all field enforcement activities on the States.

Similarly, STAG funds provided by the Office of Pesticide Programs (OPP) to support program implementation have remained static or slightly decreased over time:

FY 2001:	\$11,816,100
FY 2002:	11,789,900
FY 2003:	11,713,200
FY 2004:	11,720,300
FY 2005:	11,695,600
FY 2006:	11,616,400
FY 2007:	11,616,400
FY 2008:	11,490,000
FY 2009:	11,490,000

While it would appear OPP funding has remained fairly level over the last 9 years, it must be said that during this same period of time, EPA has asked States to implement numerous new programs and initiatives without eliminating a like number of previous expectations. Indeed, as this funding request is being written, States are reviewing and providing comment on the upcoming Cooperative Grant Agreement Guidance for FY 2011-2013. This Guidance is proposing that States implement new programs for pesticide containers and containment, soil fumigation compliance activities, additional reporting of field monitoring activities, and potential impact the Clean Water Act will have on aquatic pesticide applications requiring NPDES permits.

Efforts to maintain and increase funding are essential as federal regulations become more complex and expansive, and States are given new federal mandates for implementation of these programs. Present and future funding deficiencies for State compliance programs, if not corrected, will reduce the scope and effectiveness of their work and impede successful accomplishment of EPA priorities. Increased regulations delegated to States without adequate companion funding are unacceptable and unproductive.

Following is a list of the EPA program rule changes, policy changes and initiatives that will have a budgetary impact on state pesticide programs and for which EPA has proposed no additional funding:

1. Pesticide Container/Containment Regulations – major impacts are pending following August 2009 implementation date.
2. Pesticide Worker Protection Standards – proposed revisions due out 2011.
3. Pesticide Applicator Certification & Training rule changes –proposed revisions due out 2011.
4. Laboratory Equipment & Analytical Methods Development needs – keeping pace with new chemistry & analytical methods.
5. Chemigation Pesticide Registration (PR) Notice – still in discussion, but with likely PR Notice in 2010.
6. Drift PR Notice – issued November 2009.
7. Heating, Ventilation, and Air Conditioning (HVAC) PR Notice – will impact uses of anti-microbials in HVAC systems.
8. Soil Fumigation Registration Eligibility Documents – new labels will be in circulation by 2010, including mandated fumigation management plans and pre-application notification requirements for more than 75,850,782 pounds of fumigants applied annually.
9. Rodenticide Mitigation Measures – additional restrictions on the sale and use of rodenticides.
10. Water Quality monitoring, POINTS (Pesticides of Interest National Tracking System) reporting – new management decisions, tracking, lab costs.
11. On-going registration and labeling decisions (e.g., pyrethroids buffer zone restrictions, restrictions on 2,4-D use and hazard statements, FIFRA 25(b) exemptions, new chemical registrations, and product stewardship requirements on labeling, inert ingredients disclosures).
12. NPDES issues: Pesticide application permitting system to be implemented in April of 2011 will have a major impact on SLA's and State Water Quality Agencies. EPA has estimated that the ruling will impact approximately 5.6 million pesticide applications annually, which will be made by over 365,000 applicators. There are 500 active ingredients in 3,700 pesticide products that may be affected by the rule.
13. Endangered species protection: As the agency moves forward with review of all pesticides for re-registration, hundreds if not thousands of pesticides will be required to add statements on pesticide labels that require applicators to obtain county-by-county bulletins that detail mandatory habitat protection. State implementation of this added requirement will include public education and field enforcement activities, neither of which are receiving adequate funding now in their limited capacity, let alone a greatly expanded capacity in the future.

In addition to new rules, policies and initiatives, basic inflation-indexed increases must be considered. Each SLA full time equivalent position costs more to support every year. Furthermore, overall program operation costs continue to increase and must be factored in with inflationary increases. The recent recession has well demonstrated the painful lack of Federal funding for States to implement a Federal program: When States are forced to reduce their budgets, the State match funding for STAG funds is the first to be eliminated, especially in States where this funding is tied to the general operations fund. In some cases State FIFRA programs have reduced staffing 25% to 50% in the last 10 years, yet are expected to maintain FIFRA program activities at the same level as they were over the same period of time.

2012 States' Statement of Need

State and Tribal Assistance Grants (all figures in thousands of dollars)

	FY 2010 Enacted	FY 2011 President's Budget Proposal	FY 2012 States' Statement of Need	Change
State and Tribal Assistance Grants (STAG)				
Categorical Grants				
Air Programs				
State and Local Air Quality Management	\$226,580	\$309,080	\$775,000	150.7%
Clean Water Programs				
Pollution Control (Sec. 106)	\$229,264	\$274,264	\$540,000	96.9%
Nonpoint Source (Sec. 319)	\$200,857	\$200,857	\$408,000	103.1%
Wetlands Program Development	\$16,830	\$17,167	\$24,000	39.8%
Wastewater Operator Training	\$0	\$0	\$2,000	n/a
Drinking Water Programs				
Public Water System Supervision (PWSS)	\$105,700	\$105,700	\$200,000	89.2%
Waste Management Programs				
Hazardous Waste Financial Assistance	\$103,346	\$105,412	\$275,000	160.9%
Brownfields (limited by statute to \$50m)	\$49,495	\$49,495	\$50,000	1.0%
Pesticides Programs				
Pesticides Enforcement	\$18,711	\$19,085	\$28,200	47.8%
Pesticides Program Implementation	\$13,520	\$13,690	\$17,040	24.5%
Specialized Programs (Note 1)				
Beaches Protection	\$9,900	\$9,900	\$10,098	2.0%
Environmental Information	\$10,000	\$10,200	\$10,404	2.0%
Lead	\$14,564	\$14,855	\$15,152	2.0%
Local Govt Climate Change (Note 2)	\$10,000	\$0	\$0	
Pollution Prevention (Note 3)	\$4,940	\$5,039	\$8,000	58.8%
Radon	\$8,074	\$8,074	\$8,235	2.0%
Toxics Substances Compliance	\$5,099	\$5,201	\$5,305	2.0%
Tribal Air Quality Management	\$13,300	\$13,566	\$13,837	2.0%
Tribal General Assistance Program	\$62,875	\$71,375	\$72,803	2.0%
Underground Injection Control (UIC)	\$10,891	\$11,109	\$11,331	2.0%
Underground Storage Tanks (Note 4)	\$2,500	\$2,550	\$2,601	2.0%
Subtotal, Categorical Grants	\$1,116,446	\$1,246,619	\$2,477,007	98.7%

Note 1. Specialized programs do not affect every state, or are narrower in scope than the core programs.

Note 2. ECOS recognizes that this program was added by Congress and not originally proposed by EPA.

Note 3. ECOS has passed a resolution on this matter, supporting the \$8 m figure.

Note 4. ECOS recognizes that substantial funds are provided from non-STAG sources for this item. These funds are not shown here.