



January 3, 2014

Ms. Maryann Froehlich
Acting Chief Financial Officer
Office of the Chief Financial Officer
U.S. Environmental Protection Agency

Regarding Docket ID Number EPA-HQ-OA-2013-0555

Submitted to www.regulations.gov and via electronic mail

Dear Acting Chief Financial Officer Froehlich,

We are writing to you today on behalf of the Environmental Council of the States (ECOS) regarding the Draft FY 2014 - 2018 U.S. Environmental Protection Agency's (EPA) Strategic Plan (Plan) Docket ID Number EPA-HQ-OA-2013-0555. ECOS and the states appreciate the opportunity to comment on EPA's draft Plan. ECOS also encourages EPA to thoughtfully consider comments submitted from individual state environmental agencies and state associations.

ECOS is the national nonprofit, nonpartisan association of state and territorial environmental agency leaders. Congress included provisions in many of our nation's major federal environmental statutes that allow the federal government, through EPA, to delegate to the states and tribes meeting qualifications the day-to-day management of environmental programs. The federal statutes were designed to recognize states as partners and co-regulators, allowing the states to issue and enforce permits, carry out inspections and monitoring, collect data, and set standards.

A. Overall

ECOS appreciates that EPA has included a number of themes of importance to state environmental agencies in the draft Plan shared for review and comment. A few of these themes are currently touched upon in the section on "Launching a New Era of State, Tribal, Local, and International Partnerships." Specifically, themes related to flexible and innovative solutions; shared governance framework via the National Environmental Performance Partnership System (NEPPS); and consultation with states on rules are of interest to the states. States applaud EPA for continuing to include these important concepts in the Plan and would encourage greater emphasis on these themes in the Plan in the "Introduction" and other sections as appropriate as the Plan is finalized.

States appreciate that the Plan includes compliance assurance along with enforcement as the current FY 2011 – 2015 Plan includes language on enforcement only. States believe that compliance assistance is complementary to enforcement and compliance assurance and that language regarding compliance assistance should also be included in the Plan and in related measure(s). For greater discussion regarding the states' need for measuring compliance, please see our comments in Section D.

States appreciate that the Plan includes a commitment to collaborate with state research organizations to share information on EPA's scientific and technical capabilities and solicit input to make EPA's tools, models, and research useful and practical for states in carrying out their environmental responsibilities.

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Recently, states determined to continue to build relationships outside of ECOS with EPA and to maintain an ongoing and evolving conversation with EPA on state and federal roles. Much of what EPA proposes in the Plan fits well with ECOS priorities.

B. Emphasizing the Role of State Work

In several places in the Plan, EPA notes it may be “working with,” “collaborating with,” or “partnering with” states. However, states ask EPA to acknowledge the critical importance of states’ actions in achieving our shared national environmental goals, beyond just noting that EPA is “working with” states as this may understate the important work of the states separate from other stakeholder groups. States believe EPA should explicitly acknowledge in the Plan that much of the work done under EPA’s Strategic Plan is operationally performed by states as delegated programs using state funds that support environmental programs or as grantees through activities such as state inspections, state permit issuance, state enforcement, state data gathering and management, ambient monitoring, etc. The Plan should recognize how critical direct work by the states, and funding from EPA for much of that state work, are to the achievement of the goals outlined in the Plan.

For example, under “Address Climate Change,” specific greenhouse gas (GHG) reductions are delineated in the Strategic Measures Framework on page 66 and on page 67 EPA notes that states will incorporate climate change adaptation into the implementation of their environmental programs; however, specific state contributions to the achievement of the reductions is not stated.

In another instance, in Goal 3 on page 31, EPA notes that national preparedness is an essential component in “EPA’s work responding to large-scale emergencies.” This paragraph does not mention the important role of states, often as first responders, to state, regional, or national emergencies. Man-made or natural catastrophes may result in large impacts to state staff and budget resources with resulting impacts to planned workload in media or enforcement areas which then may have impacts on national targets. States believe their work in such cases should be noted in the Plan.

The Plan is eventually a policy and budget document. EPA’s decisions about funding for the states and about meeting other needs of the states, such as for flexibility and efficiencies, will directly impact the environmental goals spelled out in the Plan. Policymakers – especially in Congress, at EPA, and at the Office of Management and Budget (OMB) - need to keep those decisions by EPA in mind especially in consideration toward the achievement of the Strategic Measures.

- **ECOS Request: States ask that EPA consider emphasizing states’ contribution to workload in the Cross Cutting Strategy “Launching a New Era of State, ... Partnerships,” the Administrator’s message (to be developed), and other areas as appropriate.**

C. Further Elaboration on What Revitalizing NEPPS Should Include

- **ECOS Request: States ask that EPA expand the related Cross Cutting Strategy narrative to touch on the themes below. States believe the themes below are core parts of NEPPS and what it should mean to revitalize NEPPS and therefore should be included as a way to elaborate on what a revitalized NEPPS will look like.**

Theme 1 - State-EPA Relationship in New Budgetary Era:

- Collaborating with state grantees on priority setting. This may include strategic investments and disinvestments as funding resources decline. It should be expected and reflected in the Plan that declining funding resources link to a realignment of state grant commitments. Examples where this conversation has begun include the Region I Strategic Planning Pilot, state flexibility to innovate through ACMS, and the Environmental Results Program (ERP) approaches.
- Reducing Administrative Burden, including no increased reporting burden on grants management. To the greatest extent possible, the workload priority should be on value added to the environment and public health.

- Partnering with states on EPA national and regional decisions about allocation of unexpended funds.

Theme 2 - EPA Consultation and Collaboration with States:

- As EPA sets new GHG programs/approaches, states want to continue to have a voice and be consulted.
- Early opportunity to weigh in on planned programs/rules. For instance, the NPDES e-reporting rule included language for “state readiness criteria” and “initial recipient.” ECOS and a number of states submitted comments that these portions of the proposed rule are problematic and that states and EPA must talk candidly and openly about rollout in a way that will lead to changes in the final rule. A more robust discussion during rule development may have resolved some of the areas raised through comments.
- E-Enterprise co-governance and support for states including the recognition of adequate funding and implementation schedules related to all electronic requirements.

Theme 3 - Federalism/States Rights:

- Maintaining ability for states to set rules and standards beyond federal rules.

In addition to the suggested language above, the Plan includes on page 53 language to “leverage all available opportunities to share work ...” In March 2013, the EPA-State Worksharing Task Force published a document entitled, “Principles and Best Practices for Worksharing.” The report includes nine core worksharing principles including that worksharing must be mutually agreed upon and considered beneficial by both the EPA and the state.

- **ECOS Request: Language in the Plan should recognize that these core principles should be applied when negotiating worksharing arrangements so that scarce resources can be deployed effectively and efficiently.**

D. Commitment that Efforts to Measure Compliance Will Not Increase State Burden

On page 62 under “Strategic Management Framework” in the second paragraph, the document states that EPA recognizes that *“preventing problems is both cheaper and more effective than taking action after they happen; however, our traditional metrics do not adequately account for work to prevent pollution. By focusing only on enforcement actions the measures can have the inadvertent effect of discouraging innovative approaches that could improve compliance, and undervalue strong work by states to improve compliance.”* States support this concept.

States recognize that innovative approaches hold great promise for building upon environmental successes and are often necessary to address our most pervasive environmental problems. Innovation can supplement traditional regulatory approaches to achieve federal and state environmental and public health goals, including those outside the purview of traditional regulatory systems, by using new and different approaches, including incentives, market-based strategies, application of Lean-Six Sigma approaches (see ECOS Resolution 07-5 To Sustain Techniques for Improvements to Work Practices and Business Processes in State and EPA Programs and Administrative Processes for the Protection of Human Health and the Environment), joint strategic planning, outcome/ performance-based oversight, Environmental Results Programs, and first- and third-party certification programs (see ECOS Resolution 12-2 On Innovative Approaches to Protecting Human Health and the Environment).

States have also expressed support for alternative Compliance Monitoring Strategies (ACMS) including risk-based inspection strategies (RBIS). States have stressed the importance of accounting for these state-region negotiated strategies in national databases and reporting systems. The recent December 12, 2013, ECOS comment letter on the e-reporting rule noted this by saying that EPA must account for variances in data reporting elements. If required data fields do not readily support alternate approaches, it becomes a barrier to effectively and efficiently allowing states and EPA to focus scarce resources where they are most needed to achieve the greatest environmental protections.

- **ECOS Request: States ask that the Strategic Plan explain that EPA will ensure that efforts to measure compliance do not increase the burden on states or other reporting entities. States look forward to working with EPA in their national dialogue on measuring compliance.**

E. Emphasize that EPA Will Continue to Implement Some Specific Air Program Efficiency Efforts

EPA and states have jointly identified numerous areas in which they must work together to streamline, coordinate, and otherwise improve the many elements of the air quality program, ranging from limiting air monitoring to top priorities to issuing timely implementation guidance to reforming the SIP process. States additionally have repeatedly emphasized the need for EPA to tailor requirements to available resources and to provide resources adequate to the tasks at hand. The EPA-ECOS-NACAA work priorities, the ECOS survey, and several ECOS resolutions address these points generally and on specific topics.

- **ECOS Request: Recognizing EPA’s Plan is a more general document, states ask that the Administrator emphasize in her letter, if not in the Plan itself, how critical these numerous needed efforts are to the maintenance and continuous improvement of air quality efforts. The Plan notes the SIP reform group in particular but otherwise does not mention these many, numerous important efforts. States suggest at a minimum inclusion in the Administrator letter (to be added) of how important improvement efforts are and that they will be a part of EPA’s actions fulfilling the Plan. EPA working with states to implement improvements is necessary to maintain the pace of environmental progress toward key goals.**

F. Reference Work on Multi-Pollutant Strategies as Part of SIP Reform

- **ECOS Request: The draft Plan should note work on multi-pollutant strategies as part of SIP reform work. States through ECOS Resolution 01-2 “On Multi-Pollutant Strategies for the Control of Air Pollution” and Resolution 07-8 “On the Need to Ensure that Up-To-Date, Protective National Ambient Air Quality Standards and Implementation Rules are Timely Promulgated and Implemented” support developing a cost-effective, efficient, and environmentally protective approach.**

G. Articulate EPA’s Commitment to Work with States on E-Enterprise and Next Generation Compliance

States are looking forward to working with EPA to develop Next Generation Compliance. However, as stated in the July 2010 ECOS comment letter on the draft FY 2011- 2015 EPA Strategic Plan, states request ample time to review data, that EPA provide timely correction of data errors, and that data released to the public is put into context (see related ECOS Resolution 13-4 Environmental Performance Data and Metrics and Resolution 11-2 Respectful Use of Data). This request is even more important now as the foundation of both E-Enterprise and “Next Generation Compliance” is timely, accurate, and transparent information. How information is presented to the public matters. Data presented without context or data errors that go uncorrected lead to additional effort to respond to unnecessary inquiries.

States have noted that they have difficulty with data quality and verification issues associated with, in particular, EPA’s Integrated Compliance Information System (ICIS) federal database. For instance, the design of the data entry fields in ICIS do not necessarily match the data elements. This causes difficulty for the states in conducting their data verification processes. Also, some states find it challenging to attain meaningful and accurate reports out of the federal database and are unable to replicate reports due to the way EPA synthesizes data. With the increasing importance of data, the states urged EPA to address these types of challenges associated with ICIS.

- **ECOS Request: EPA should recognize in the Plan a commitment to work jointly with states to identify and resolve any on-going state concerns integral to the successful implementation of E-Enterprise and Next Generation Compliance goals.**

H. Note the Potential Benefits of Streamlining State-EPA Business Processes

On page 57, the Plan indicates EPA will focus on streamlining internal business processes and decision making at all levels.

ECOS Resolution 07-5 endorses a sustained organizational commitment by the states and EPA to apply work practice/business process improvement techniques and thinking to areas of federal-state interaction through joint projects where there is top management buy-in and support, the scope and boundary conditions have been defined, appropriate human resources for planning and implementation have been committed, and work practice/business process improvement technique training for participants has been provided. States have also expressed a belief that a successful partnership between ECOS and EPA should focus on the implementation of the improvements to work practice/business processes identified through these techniques to enhance the organizational capacity of the nation's environmental protection agencies in carrying out the nation's environmental laws and regulations and to keep up with the ever-expanding and ever-more complex workloads.

- **ECOS Request: States and EPA may also benefit from focus on streamlining joint business processes and the Plan should consider this potential, particularly in light of scarce budget resources.**

I. Engaging with States on their Role in Sustainability (if Applicable)

On page 49-50, the Plan includes a new cross-cutting strategy, "Working Toward a Sustainable Future." The strategy notes, "EPA will consider and apply sustainability principles to its work on a regular basis, collaborating closely with stakeholders." And EPA notes it will collaborate with "a broad range of stakeholders" to select a small set of sustainability indicators covering three initial topics – energy use, water use, and materials use.

It is not clear what role states might play in support of EPA's efforts to work toward a sustainable future. Much of the work done under EPA's Strategic Plan is operationally performed by states as grantees and, as such, direct work by the states and funding from EPA for much of that state work are critical to the achievement of the goals outlined in the Plan.

- **ECOS Request: If states will have responsibilities in support of the sustainable future, the Plan should include language specifically seeking state engagement and early input into development of plans.**

J. Request for EPA's Written Response to ECOS's Comments

State environmental agencies through ECOS resolution have stated a desire for early, meaningful, and substantial involvement as partners with EPA in both the development and implementation of environmental programs. Part of meaningful involvement includes understanding how comments may or may not be included in EPA's strategic planning documents, budget processes, policies, and rules.

- **ECOS Request: States request that EPA provide at least overall written feedback when it seeks formal review and comment on significant documents such as the draft Plan. Written EPA feedback would encourage future state engagement and assist states in understanding areas where input resulted in change.**

K. Conclusion

In closing, states acknowledge the need and desire to work in concert with EPA to make effective use of scarce resources. States are committed to continuing to collaborate as co-regulators and partners with EPA to protect our nation's human health and the environment.

Thank you for the opportunity to provide comments.

Sincerely,



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