



THE
ENVIRONMENTAL
COUNCIL OF
THE STATES

50 F Street, N.W.
Suite 350
Washington, D.C. 20001

Tel: (202) 266-4920
Email: ecos@ecos.org
Web: www.ecos.org

John Linc Stine
Commissioner, Minnesota
Pollution Control Agency
PRESIDENT

Todd Parfitt
Director, Wyoming Department
of Environmental Quality
VICE PRESIDENT

Becky Keogh
Director, Arkansas Department
of Environmental Quality
SECRETARY-TREASURER

Martha Rudolph
Director of Environmental
Programs, Colorado
Department of Public Health
and Environment
PAST PRESIDENT

Alexandra Dapolito Dunn
Executive Director &
General Counsel

Robin H. Richardson
Principal Deputy Associate Administrator
Office of Congressional and Intergovernmental Relations
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Via email to: richardson.robinh@epa.gov

Re: *Priority Areas for a Time of Political Transition*

Dear Principal Deputy Associate Administrator Richardson,

The [Environmental Council of the States \(ECOS\)](#) is the national, non-profit, nonpartisan association of state and territorial environmental commissioners. ECOS works to improve the capability of state environmental agencies and their leaders to protect and improve human health and the environment across the nation. In addition to supporting state leaders on environmental issues of national importance, ECOS provides a respected venue for discussing the state-federal relationship. We are dedicated to identifying and advancing approaches that result in measurable and effective solutions to our nation's complex environmental and public health concerns.

Our nation is fully engaged in the transition from President Obama's Administration to President-Elect Trump's Administration. Transition teams are spending time at all federal agencies to become more deeply familiar with each agency's priorities, challenges, and opportunities. To complement the transition team's work at the U.S. Environmental Protection Agency (EPA), ECOS is pleased to provide the attached collective state environmental agency perspective - [Priority Areas for a Time of Political Transition](#). Our paper outlines key issues that ECOS members believe are critical to be considered early and thoughtfully as the EPA transition is carried out. ECOS members are experts in the issues discussed in the Paper and summarized below. We are more than willing to make our leadership and members available to you and your colleagues for input and perspective.

Coordinated and collaborative state-federal implementation of environmental programs. State environmental agencies and EPA, by statutory design, must work together to implement programs to bring the American public clean air, safe water, healthy land, and a thriving economy. ECOS has worked closely with EPA over many years to make the case for, and to obtain, flexibility states need to use limited federal and connected state funds on *state environmental priorities* with consideration of broader federal guidelines. Additionally, EPA, states, and tribes are advancing *joint governance* approaches to modernize the business of environmental protection. The direct result of this positive state-federal collaboration is increased efficiency in processing permits, managing data, making information available to businesses and the public – and better and more timely decisions so that the business of environmental protection and economic vitality are advanced. A rich and meaningful state-federal partnership must continue so that states can respond *most effectively and efficiently to environmental conditions within their borders and affecting their people*.

Addressing serious water infrastructure investment needs. Infrastructure is appropriately high on the list for early attention by the incoming Administration. For decades, EPA, states, and third parties have documented a critically overdue and monumental investment needed to modernize our nation's aging wastewater and drinking water infrastructure. Cities and towns across the country facing aging and decaying water and wastewater systems, and economically stressed populations need access to capital, flexible and workable loan terms, and reduced paperwork burdens. State environmental agencies will be *a key voice in the water infrastructure conversation* as implementers of the Revolving Loan Funds under the Clean Water and the Safe Drinking Water Acts. State environmental agency experience implementing innovative state loan and grant programs means we have many workable and proven approaches to bring to the infrastructure dialogue.

Measuring and communicating results. All levels of government will be more successful when we can show the true value of our work and dispel the perception that many environmental regulations are burdensome and economically constraining. ECOS wants to work with you to identify effective mechanisms to *communicate the results* delivered by our national system of environmental laws and programs to the public, business, elected officials, and all stakeholders.

Advancing a national conversation on the nexus between environment and public health.

Environmental protection programs and regulations are critical to the *advancement of public health*. ECOS, EPA, and our state colleagues in the health departments are working closely together to find ways to more effectively leverage our efforts. A continuation of this conversation is essential to demonstrating the value of our work, as discussed in the preceding point.

Federal fiscal support of state environmental programs. States are the primary implementers of the nation's environmental laws, regulations, and corresponding programs through the system of cooperative federalism. To ensure the long-term strength and viability of this system, the federal government must request sufficient Congressional funding for states to carry out their environmental responsibilities. Over nearly two decades, federal funding of state environmental programs has remained essentially flat. *It is time for this to change.* New and existing regulatory requirements must come with the fiscal resources for states to carry them out.

Discussion around our nation's energy future. The past eight years have been dominated in part by a conversation about carbon-based fuels, renewable energy, clean energy, and the related economic implications of energy choices and portfolios. We urge the new Administration to *continue a national conversation* around these and related issues. ECOS is committed to offering state expertise and meaningful assistance to these energy discussions with EPA, other federal agencies, and in other venues.

ECOS recognizes the challenge that complex environmental regulatory, programmatic, and policy issues present to the executive, federal government, states, courts, legislators, localities, and the public. Our nation's economy and environment are dependent on our collective and collaborative efforts to manage it responsibly and in a results and outcome oriented manner. ECOS values its partnership with the federal government and stands ready to support and offer our input to the imminent political transition.

Thank you for considering our views and for sharing them with President-Elect Trump's EPA transition team. We look forward to continuing our work with EPA in the new Administration.



John Linc Stine
Commissioner
Minnesota Pollution Control Agency
ECOS President



Alexandra Dapolito Dunn
Executive Director & General Counsel
Environmental Council of the States

CC: ECOS Members, EPA Headquarters Leaders



E C O S

Priority Areas
for a Time of
Political Transition
2016–2017

The Environmental Council of the States

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Purpose of this Transition Paper

Founded nearly 25 years ago, the Environmental Council of the States (ECOS) is the national, nonprofit, nonpartisan association of state and territorial environmental commissioners. 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.

ECOS provides leadership on environmental issues of national importance and plays a critical role in facilitating a quality relationship among and between federal and state agencies. To fulfill its mission, ECOS:

- ❖ Articulates, advocates, preserves, and champions the role of the states;
- ❖ Provides a forum for the proactive early engagement, collaboration, and exchange of ideas, views, and experiences among states and with others;
- ❖ Fosters cooperation, coordination, consultation, and problem-solving in environmental management; and
- ❖ Articulates state environmental positions to Congress, federal agencies, and the public on environmental issues.

ECOS provides a constructive venue for advancing the state–federal relationship so that together, we arrive at solutions to address our nation’s environmental and public health concerns.

Since its inception, ECOS has worked to strengthen the partnership between the states and the federal government in implementation of our nation’s environmental laws and policies. State-federal cooperative governance is critical to the success of both federal and state environmental programs. A central goal in ECOS’ Strategic Plan (2016–2020) is proactive investment in a constructive relationship with federal agency partners, based on the principle of cooperative federalism. Strategic Goal 3 in that plan commits ECOS to reaching out to leadership during periods of political transition. Accordingly, this Transition Paper identifies seven areas of importance during this time to maintain—and nurture—sound state–federal relationships and programs, all with one goal: to advance the protection of human health and the environment.

ECOS members are available as expert resources to all involved in the political transitions of 2016. We welcome opportunities to discuss this paper. Dialogue and discussions can be arranged through ECOS’ Executive Director and General Counsel, Alexandra Dapolito Dunn, by email (adunn@ecos.org) or by calling 202-266-4929.



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Priority Areas for a Time of Political Transition



State–Federal Implementation of Environmental Programs: Collaborating for Maximum Results

State and federal agencies must collaborate in the implementation of state-delegated environmental programs. Federal roles should be cooperative and conducted with sensitivity to states’ rights and judgment; federal directives should be thoroughly evaluated to promote flexibility and consider state priorities.

The integrity of our system of environmental protection depends on accountability, and federal coordination of delegated state programs is a necessary part of the cooperative federalism system. ECOS and the US Environmental Protection Agency (EPA) have worked to more clearly articulate principles that should guide the oversight process—allowing deficiencies to be identified and addressed, but minimizing unnecessary processes that do not yield environmental results.

State environmental agencies are managing funding and staffing constraints, in part, by “leaning” business processes and strategically applying practices that improve efficiency, such as targeting inspections to priority areas and implementing technological advancements. Within each state, needs and priorities can vary. States need maximum flexibility to direct federal resources in ways that suit the unique needs and circumstances of each.

States have worked closely with EPA over many years to gain flexibility for states to use limited federal funds to address state priorities within broader federal guidelines. For example, ECOS supported the \$21 million multipurpose grant program that Congress created in the 2016 omnibus budget, as this program fosters state flexibility to address environmental priorities within their borders. Another example of state-supported flexibility is the recently renewed ECOS–EPA National Environmental Performance Partnership System (NEPPS). NEPPS is designed to allow states more flexibility to operate their programs by minimizing administrative burden, while maintaining emphasis on measuring and reporting environmental improvements.

Cooperative governance between the states and EPA works best in a partnership in which states are afforded the flexibility to address state and regional priorities in concert with EPA's national framework. Fewer federal funding directives streamline state–EPA discussions about the work to be accomplished and expedite state utilization of funds to address the highest priority needs relative to protection of public health and the environment. Further, this approach to governance is relevant to state environmental agency engagement with other federal agencies.

Advancing a National Conversation on the Nexus between the Environment and Public Health

Environmental quality is inextricably linked to public health; keeping this connection front and center allows leaders to focus limited resources on the most important environmental problems—and serves to highlight distracting federal requirements and demands.

Environmental regulations play a critical role in protecting public health. For example, hazardous waste is regulated to make sure it is properly managed to minimize human exposure, and drinking water standards are established to make sure the public is consuming water that is safe to drink. Pesticide application regulations are meant to ensure the health and safety of workers applying pesticides and protect the public from chemicals that can drift into waterways that may serve as drinking water sources. Limits are set for air emissions to prevent asthma and other respiratory diseases. The environment–health connection was front and center in the early 1970s, as evidenced by the fact that many early EPA employees came from the US Public Health Service, and many state environmental agencies were formed from state health departments.

Over time, as our federal environmental regulatory system has grown, arguments over the cost and level of protection have made national headlines. In some instances, it appears as though we have forgotten the underlying reason for environmental regulation—to protect public health and the natural environment in which we live. Distancing ourselves from this connection also means that resources may be directed toward regulations and policies that bear only a tenuous relationship to this core principle, further stressing our collective regulatory capacity.

In an effort to solidify the environment/health connection and forge a stronger partnership between EPA and state environmental and health officials, ECOS, EPA, and the Association of State and Territorial Health Officials (ASTHO) signed a Memorandum of Agreement (MOA) in April 2016 to advance cooperative initiatives

pertaining to environmental health. The public health and well-being of all US citizens rely heavily on the condition of their physical environment, and this MOA serves to memorialize the cooperative governance that is necessary to ensure that the environment is managed in a way that prevents negative public health consequences.

ECOS urges that conversations continue to be held around the environment and public health nexus. Such conversations will help states and the federal government prioritize efforts and activities in times of constrained resources.

Measuring and Communicating Environmental Results

The success of the state–federal environmental system depends in part on our collective ability to demonstrate how our nation’s investment in environmental protection is delivering tangible results.

Investments in the protection of human health and the environment may generate immediate results; however, more often, it takes time before fiscal and human capital investments result in measurable improvements to human health and the environment. For example, outcomes associated with investments in our natural resources, such as the cleanup of contaminated groundwater, may not reveal themselves for decades. Simple output measures, such as the number of permits issued, do not necessarily tell the story of whether our public investments are yielding meaningful advances in the protection of human health and the environment.

There have been many efforts to document and depict environmental progress over the past decades. For example, EPA has an extensive database of measures and reports that, with dedicated study, tell a story of improvement. Straightforward and easily accessible measures and metrics are needed to more effectively communicate with the public the true benefits and results—the outcomes—associated with the implementation of federal and state environmental programs.

Through our new State Measures Project (Project), ECOS, in collaboration with EPA, is identifying common state measures, and visual and narrative ways to express them, so that environmental outcomes are better understood and more meaningful to the general public. The Project will help raise public awareness and drive conversations within a state (e.g., helping to convey the strategic direction of a state environmental or public health agency). Further, consolidation of common measures could be used to examine environmental and public health outcomes and conditions regionally and/or nationally. ECOS’ state-oriented measures work will be designed to complement efforts by EPA and other federal agencies to report to Congress and stakeholders on national environmental outputs and outcomes.



Federal Funding of States: An Integral Part of the US System of Environmental Protection

Federal investment is critical to state implementation of federal environmental programs.

States are primary implementers of the nation's environmental laws, regulations, and corresponding programs through the system of cooperative federalism. Congress included provisions in the major federal environmental statutes directing states to assume authority over the federal programs and for the federal government to provide financial assistance to states to operate these federal programs. A state match is usually required under these statutes, and states provide, on average, more than half, and in many states, up to three-quarters of the funds to operate federally delegated programs. This is in addition to funding state-specific environmental laws and programs.

Nearly half of EPA's congressionally appropriated annual budget flows through to the states and tribes to carry out these responsibilities through State and Tribal Assistance Grants (STAG). States supplement STAG with general revenue fund allocations from their state legislatures and other revenue streams such as permit fees. This allows states to perform their core environmental protection functions, such as issuing permits, conducting inspections and enforcement, gathering and managing data, setting standards, remediating sites, monitoring ambient conditions, and other essential protective and public information activities. Federal funding, when combined with state resources, also allows states to assist communities and businesses with meeting their environmental responsibilities.

ECOS has documented that STAG funding has remained flat for over a decade, meaning that the federal investment in the environmental enterprise is not keeping up with the cost of doing business. Core regulatory obligations remain, while new regulatory requirements are multiplying. While states seek ways to save resources through efficiency efforts, the reality is that when limited funding combines with new and increasing regulatory requirements, states' ability to meet their delegated commitments becomes increasingly challenging. This challenge is heightened by variability in the allocation and ultimate distribution of federal funds.

In order to ensure the long-term strength and viability of the joint EPA and state efforts to implement these programs, the federal government must support congressional funding of states to carry out their environmental responsibilities and ensure effective protection of human health and the environment.

Addressing Serious Water Infrastructure Investment Needs

Federal collaboration with states to advance innovative funding and technical support for our nation’s aging drinking water and wastewater treatment systems is critical to the US population.

A significant portion of the aforementioned STAG is composed of monies from the federal Clean Water State Revolving Loan Fund and Drinking Water State Revolving Loan Fund (CWSRF and DWSRF), among the most successful and cost-effective environmental programs enacted by Congress and carried out by states with EPA guidance. The CWSRF has facilitated hundreds of wastewater, stormwater, energy efficiency, nonpoint sources, and green infrastructure projects. The DWSRF addresses the costs of ensuring safe drinking water supplies and assists small communities in meeting their responsibilities. The funding assistance provided to both small and large communities through this state–federal partnership has been instrumental in delivering safe and clean water for the American public. The “revolving” nature of the loan programs and states’ efforts to maximize federal capitalization grants assure a continuing return on federal investments.

This successful history, however, is now overshadowed by extensive and compromising national water and wastewater infrastructure needs. Cities and towns across the country face aging and decaying water and wastewater systems in need of major investments. In its 2013 “Report Card for America’s Infrastructure,” the American Society of Civil Engineers awarded a “grade” of D for our nation’s drinking water and wastewater infrastructure. In June 2013, EPA estimated that our drinking water infrastructure will require an investment of \$384 billion through 2030 and, in January 2016, EPA estimated that an investment of \$271 billion will be required over the next five years to address our wastewater infrastructure needs. Distressed urban areas, and small and rural communities, are particularly pressed to make these needed investments and to operate and maintain these assets.

Revolving loan funds supplement other capital sources to upgrade water and wastewater treatment plants, support pipe-related repairs, control sewer overflows, reduce sources of lead in drinking water, fight algal toxins, and clean up water sources that have been contaminated with per- and polyfluoroalkyl substances (PFAs)—a diverse group of compounds used in industrial applications and consumer products such as carpeting, apparels, upholstery, food wrappings, fire-fighting foams, and metal plating.

States and other stakeholders are seeking innovative strategies to address water infrastructure needs. A national conversation around these subjects is underway and must continue. ECOS is committed to being a constructive part of these conversations, including through documenting successes, best practices, and case studies in innovative funding and effective partnerships.



Advancing Joint Governance through E-Enterprise for the Environment

Joint environmental governance is at the heart of ensuring an effective system of environmental protection—helping us to share information, advance efficiency, utilize technology, and deliver results.

State–federal joint governance is becoming increasingly complex as regulators strive to meet public health and environmental goals and communicate with each other, the regulated community, and the public. Through E-Enterprise for the Environment (E-Enterprise), EPA, states, and tribes are collaborating and pursuing joint governance as a means to change the way environmental programs are implemented. They seek to transform it into a national enterprise for environmental protection that will benefit the regulated community, regulators, and the public at large. E-Enterprise participants seek to streamline and modernize the implementation of environmental programs; foster greater trust among the regulated community, the public, and government by improving data integrity and communication of accurate information; and enable more informed and timely decision-making and better environmental results by improving the productivity of the environmental protection enterprise.

E-Enterprise is chaired by EPA's deputy administrator and a state environmental commissioner, and led by the E-Enterprise Leadership Council (EELC). EELC members include senior staff from EPA program offices as well as state environmental commissioners and senior level state staff. Tribal governance is being added to E-Enterprise through a formal consultation process. Dedicated leadership is a valuable component of E-Enterprise, one that is essential to its continued effectiveness.

E-Enterprise builds on the foundation of the Exchange Network, a proven platform for sharing environmental information among many levels of government to foster informed decision-making. E-Enterprise expands on the Exchange Network's joint governance model to allow states and EPA to advance business modernization and process improvement initiatives. Streamlining processes and technological investments are key to enhancing how states deliver permits, conduct monitoring, perform inspections, and inform the public. E-Enterprise is essential to modernizing state and EPA environmental business. In part, this may be accomplished through development of state shared services that can be built once and widely replicated.

Continued federal support and funding of E-Enterprise, together with state support and resources, will facilitate ongoing efforts to proactively implement burden reduction efforts such as electronic permitting and electronic reporting systems. These will allow information to be processed, reviewed, and shared between states and EPA more readily as well as increase information available to the public. This in

turn facilitates job creation, contributes to improved public health, and creates a more efficient and transparent government system that helps regulated entities achieve compliance. ECOS is committed to the E-Enterprise principles of joint governance, better decision-making, and increasing transparency and efficiency.

Discussions around Our Nation's Energy Future

A national conversation will continue surrounding energy—states have extensive expertise, are demonstrating leadership in this arena, and must be meaningfully included.

For over a decade, our nation has been engaged in a highly political and polarized conversation about carbon-based fuels, renewable energy, clean energy, and the related economic implications of shifting our energy portfolios. A significant question has arisen around who should lead this conversation—and how federal and state goals can work together. ECOS is committed to being a part of conversations that will inevitably continue regarding our nation's carbon-considered future.

Conclusion

ECOS recognizes that it is challenging for all states to agree on the premises behind—and content of—many environmental and public health policies, regulations, and priorities. However, all state environmental leaders are committed to their mission of advancing a clean and healthy environment for their citizens.

Environmental and public health issues are complex and involve multiple agencies at the federal, state, and local levels of government, emphasizing the need for cooperative governance in addressing these issues. Through ECOS, state leaders, EPA, and other federal agencies forge collaborative solutions to environmental and public health challenges. ECOS creates the space for stakeholders to come together, offering a respectful atmosphere for dialogue and problem-solving.

The future of our environment is dependent on our collective and collaborative efforts to manage it responsibly. ECOS has worked to cultivate a positive working relationship with the federal government and intends to continue this partnership well into the future.



50 F St., NW, Suite 350
Washington, DC 20001

www.ECOS.org

202-266-4920 (*phone*)

202-266-4937 (*fax*)

ecos@ecos.org (*e-mail*)

