



# Environmental Council of the States

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Associate Director, Analysis Division  
Office of Planning, Analysis and Accountability (OPAA)  
Office of the Chief Financial Officer  
U.S. Environmental Protection Agency (EPA)  
1200 Pennsylvania Avenue, N.W.  
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Submitted via e-mail to: [greenblott.joseph@epa.gov](mailto:greenblott.joseph@epa.gov)

Dear Mr. Greenblott:

On behalf of the Environmental Council of the States (ECOS), I thank you for the opportunity to provide comments on the U.S. Environmental Protection Agency's (EPA) draft Fiscal Year (FY) 2020-2021 National Program Guidances (NPG).

ECOS is thankful for EPA's work to gather and reflect state priorities through high-level, early engagement. The NPG documents reflect much of the work that states, regions, and EPA program offices do together, as well as our common goals and shared initiatives. Given the importance of cooperative federalism in our national system of environmental protection, we appreciate the ability to work together on these documents in a collaborative way.

ECOS submits the attached comments for your consideration using the required comment template. ECOS also commends to EPA's attention any NPM comments from individual states, as well as from the media-specific state associations such as AAPCA, ACWA, ASDWA, ASTSWMO, and NACAA.

Again, thank you for the opportunity to provide input on these draft Guidances.

Regards,

Donald Welsh  
Executive Director

cc:  
ECOS Officers, ECOS Committee Chairs

**Becky Keogh**  
Arkansas Department of  
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**Donald Welsh**  
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**ECOS Comments on EPA’s Draft FY20-21 National Program Guidance**

Comment	Location in Draft Guidance	Office Issuing National Program Guidance	Commenter
<i>ECOS encourages EPA to continue work with states to bring clarity and certainty to the identification of assumable and non-assumable waters, including the development of clear instruction for states and tribes seeking to assume the §404 program.</i>	<i>Section III; Providing Regulatory Certainty (p5)</i>	<i>OW</i>	<i>ECOS</i>
<i>EPA should continue to draw upon input from the ECOS-EPA Workgroup on State &amp; Federal Collaboration in Compliance Assurance as it seeks to further institutionalize and report on its State Assists Pilot program and other new initiatives and efforts to improve State-EPA collaboration.</i>	<i>Section II-A; Subpart 3: State Assists Pilot (p4)</i>	<i>OECA</i>	<i>ECOS</i>
<i>ECOS opposes the shifting of PM2.5 state grant funding from the Clean Air Act (CAA) §103 program, which does not require a state funding match, to the CAA §105 program which requires a 40% state match or Maintenance of Effort (MOE). States assume significant administrative implementation costs for many regulatory programs, and these costs are often not clearly or fully reflected in the funding levels outlined by Congressional or Executive budget materials. As a result, states often struggle to meet this 40% or MOE match on top of existing program implementation costs. Thus, the shift of funding to the CAA §105 program, as proposed in recent President’s Budget Requests, would result in an added financial burden on states and decreased flexibility in their regulatory activities.</i>	<i>Section III-B: Allocation of §105 grants (p20)</i>	<i>OAR</i>	<i>ECOS</i>
<i>OLEM notes its work with OECA and OEI to clarify requirements of the Cross-Media Electronic Reporting Rule (CROMERR) with e-Manifest. In ECOS comments on E.O. 13777 in May 2017, we encouraged EPA to expedite corrective action to the Cross-Media Electronic Reporting Rule (CROMERR) that would make it more accessible to and functional for all users. The current rule requires users to follow complicated and burdensome reporting procedures. The procedures involve challenges associated with password expirations, log-on delay time, and updating secret questions as a double verification steps. OLEM has reached out to states with the e-Manifest system to consider opportunities to further streamline CROMERR requirements while maintaining the integrity of reported information. ECOS encourages OLEM to continue these efforts and to reflect this work in its Guidance.</i>	<i>Section II-A: E-Manifest System (p20)</i>	<i>OLEM</i>	<i>ECOS</i>
<i>States encourage OLEM to continue to promote sustainable materials management (SMM) throughout their key programmatic activities. OLEM should continue to coordinate with national organizations such as ECOS and ASTSWMO to promote federal, state, and territorial coordination and to advance SMM training and education among key regulators and stakeholders.</i>	<i>Section II-B: Other Core Work (pp25-27)</i>	<i>OLEM</i>	<i>ECOS</i>

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<p><i>ECOS and states appreciate working closely with EPA on Cooperative Federalism Oversight efforts and inclusion in its NPG of promoting use of Oversight Principles and templates. Collaborating on activities such as permitting and related work such as timely review and approval of State Implementation Plans (SIP) benefit from close communication and coordination.</i></p>	<p><i>Section 2, 2.1.a and 2.1.b (p7)</i></p>	<p><i>OCIR</i></p>	<p><i>ECOS</i></p>
<p><i>EPA should continue to work closely with ECOS membership and the ECOS State Grants Subgroup in formulating and tracking the number of state grant commitments achieved, including defining a subset of nationwide state grant commitments to serve as a baseline. EPA should allow thorough state review of materials associated with these initiatives and address state feedback prior to launch. Tracking efforts should seek to pull from existing reporting to the greatest extent and seek to minimize any additional reporting burden.</i></p>	<p><i>Section II-A; Subpart 1: Increase Grant Commitments Achieved (pp4-6)</i></p>	<p><i>OCIR</i></p>	<p><i>ECOS</i></p>
<p><i>The principles outlined in ECOS' Cooperative Federalism 2.0 paper emphasized that states should have flexibility to determine the best way for their programs to achieve national minimum standards. ECOS believes that it will be beneficial to the cooperative federalism relationship for the NPG documents to include language wherever possible that encourages regional staff and states to collaboratively pursue this flexibility. Some effective avenues for flexibility include Performance Partnership Agreements/Grants (PPAs/PPGs), E-Enterprise Tradeoffs, Alternative Compliance Monitoring Tradeoffs (ACMS), and innovative financing models. To examine more areas for potential flexibility, please see ECOS' Field Guide to Flexibility and Results report.</i></p>	<p><i>General; OCIR p6</i></p>	<p><i>OCIR, All NPGs</i></p>	<p><i>ECOS</i></p>
<p><i>Through E-Enterprise for the Environment, ECOS' Innovation &amp; Productivity Committee, and other contexts, ECOS has supported the ability of states to improve their efficiency and effectiveness in implementing environmental programs through streamlining and modernization activities. ECOS hopes that EPA program offices include guidance language wherever possible that encourages close, proactive communication between regional and state staff to identify and pursue opportunities for these activities.</i></p>	<p><i>General</i></p>	<p><i>All NPGs</i></p>	<p><i>ECOS</i></p>
<p><i>ECOS supports the focus on core, strategic agency performance measures brought about through the EPA Lean Management System (ELMS). As the process of adopting ELMS throughout the agency continues, ECOS encourage EPA's regions, program offices, and Office of Continuous Improvement to hold ongoing, open discussions with states regarding the status and import of ELMS-related operational changes, how these changes will affect states, and how states can better align their own efforts toward business process improvement with ELMS.</i></p>	<p><i>General</i></p>	<p><i>All NPGs</i></p>	<p><i>ECOS</i></p>