



Resolution 22-1  
Revised September 21, 2022  
Park City, Utah

As certified by  
Ben Grumbles  
Executive Director

## **ENSURING A CONSULTATIVE ROLE FOR STATES AND TERRITORIES IN SETTING POLICY FOR THE HYDROGEN ECONOMY**

WHEREAS, the Infrastructure Investment and Jobs Act (IIJA) also referred to as the Bipartisan Infrastructure Law (BIL) was signed into law by the President on November 15, 2021; and

WHEREAS, Subtitle B of the BIL, titled Hydrogen Research and Development, acknowledges that hydrogen plays a critical part in the comprehensive energy portfolio of the United States; and

WHEREAS, Section 40315 of the BIL amended the Energy Policy Act of 2005 to add Section 822, which includes the following pertinent provisions:

- a. The term “clean hydrogen” is defined as hydrogen produced with a carbon intensity equal to or less than 2 kilograms (kg) of carbon dioxide equivalents (CO<sub>2</sub>e) per kg of hydrogen (H<sub>2</sub>) at the site of production.
- b. The U.S. Department of Energy (U.S. DOE), in consultation with the U.S. Environmental Protection Agency (U.S. EPA) and accounting for input from industry and other stakeholders, will determine whether the initial clean hydrogen standard should be adjusted below 2 kg CO<sub>2</sub>e/kg H<sub>2</sub>.
- c. The clean hydrogen standard shall apply to production from renewable, fossil fuel with carbon capture, utilization, and sequestration technologies, nuclear, and other fuel sources using any applicable production technology; and

WHEREAS, clean hydrogen represents an opportunity to decarbonize numerous industrial sectors, including power generation, freight, and other industries that contribute to climate change and air pollution; and

WHEREAS, clean hydrogen standards relate to National Ambient Air Quality Standards under the Clean Air Act and Underground Injection Control programs under the Safe Drinking Water Act; and

WHEREAS, state and territorial environmental programs are responsible for implementing nearly all the core federal, state, and territorial environmental programs that protect public health and our nation’s air, land, and water resources; and

WHEREAS, a fundamental responsibility of the U.S. EPA is to work cooperatively and collaboratively with the states and territories as co-regulators to ensure that regulations and programs can be effectively implemented.

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES (ECOS):

Requests that the Secretary of the U.S. DOE and the Administrator of the U.S. EPA provide a consultative role for state and territorial co-regulators related to the development and implementation of clean hydrogen standards pursuant to the BIL.