



ECOS

Environmental Council of the States

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January 18, 2023

U.S. Environmental Protection Agency
EPA Docket Center
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Via Docket ID Nos. EPA-HQ-OAR-2022-0873, EPA-HQ-OAR-2022-0874, EPA-HQ-OAR-2022-0876

Re: Request for Information on implementation of air programs under the Inflation Reduction Act

Dear Administrator Regan:

The Environmental Council of the States (ECOS) appreciates the opportunity to provide input and recommendations to EPA in response to its Requests for Information (RFIs) on the design and implementation of air programs under the Inflation Reduction Act (IRA) of 2022. ECOS is the national, non-partisan, non-profit association of state and territorial environmental agency leaders. Throughout our comments, the use of the word “states” is inclusive of states, territories, and the District of Columbia.

As co-regulators with EPA, states are positioned to play a key role in ensuring that these historic funds reduce harmful emissions and improve air quality in our communities across the nation. ECOS offers the following suggestions based on states’ decades of direct experience implementing environmental protection programs. Our input includes general comments that cut across each of the 6 RFIs followed by feedback specific to programs under the following sections of the IRA:

- Climate Pollution Reduction Grants [Section 60114]
- Transportation Programs [Sections 60101, 60102]
- Funding to Address Air Pollution [Sections 60105, 60106]

Bolstering State Capacity

1. State environmental agencies have the expertise and experience to put these dollars to work in communities with added capacity to effectively deploy these resources. Throughout the design and implementation of the IRA’s programs, ECOS asks EPA to bear in mind that state environmental agencies and programs are stretched thin and must maintain important ongoing responsibilities irrespective of these new programs. These IRA dollars will have a greater and more immediate impact if EPA specifically allows recipients to use a portion of the funding to perform activities including: hiring long-term staff, securing contractor support, deploying new technologies, providing technical assistance, managing and analyzing data, and other activities to expand capacity. Sections of the IRA specifically grant EPA the ability to reserve a percentage of the funds available for administrative expenses.
2. The IRA is an enormous investment in clean energy, climate resilience and adaptation, and emissions reduction. Implementing new technologies and building new infrastructure will place unprecedented demands on state and federal permitting and compliance assurance resources. EPA should provide resources and guidance to states to support timely permit development and review for these new projects. This would include helping states to navigate the uncertainty and potential tension between Title VI and permitting expectations and requirements. EPA’s close coordination

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with states and other partners such as the Federal Energy Regulatory Commission (FERC) in these permitting processes is critical to improving permitting processes to achieve successful and equitable outcomes.

3. The IRA set aside \$40M for EPA to provide efficient, accurate, and timely reviews for permitting and approval processes. States encourage EPA to consider identifying key subject matter experts for various renewable energy permitting actions and have these individuals work across regional offices to improve state-EPA coordination on permits. States also suggest that regional offices convene appropriate federal agencies such as FERC, the Department of Interior, the Army Corps of Engineers, research partners, land use and clean energy non-profit organizations, state agencies, and others to increase awareness of state permit requirements and to deploy best practices for renewable energy siting and permitting.

Program Administration

1. ECOS asks EPA to give thoughtful consideration to funding timelines and application processes. State staff resources are extremely tight so program application processes should be as clear and streamlined as possible. ECOS urges EPA to limit the length and complexity of its notice of funding opportunity to reduce costs associated with preparing grant applications, particularly for smaller agencies and partners with limited resources. Award processes should also adequately account for state-level procurement timelines and the time required to receive and deploy funding. Offering staggered or multiple rounds of funding may help ensure that applicants have adequate time to plan requests, develop applications, and deploy resources across multiple programs. EPA should also consider phased applications where the initial phase requires less information than future application cycles as applicants progress through a selection process.
2. EPA should maximize the use of existing funding mechanisms to deliver resources to states as quickly and efficiently as possible. In addition, ECOS asks EPA not to impose significant matching requirements that may prevent some agencies from being able to seek these funds. Where applicable, ECOS encourages EPA to use funding authority under Clean Air Act Section 103 rather than 105 to the greatest extent possible.
3. ECOS emphasizes the importance of maximizing the flexibility and longevity of funds to be used for planning, implementation, technical assistance, community education and engagement, and training needs. These varied types of support will be crucial to ensure successful scoping, development, administration, and sustainment of funded projects.
4. ECOS asks EPA to engage with states as the agency develops metrics and reporting processes for tracking progress, impacts, outcomes, and the community and environmental benefits of IRA-funded projects and programs. These metrics should support transparency and accountability without placing undue burdens on grant recipients. ECOS continues to request additional clarity on state Justice40 accountability and requirements as IRA funds are distributed.

Implementation & Results

1. ECOS encourages EPA to embrace a flexible, all-of-the-above approach to achieving known environmental benefits while building a clean energy economy and reducing pollution. This

includes flexibility to pursue projects that help communities recover from natural disasters and rebuild with cleaner technologies, resilient infrastructure, and sustainable systems.

2. ECOS would like to emphasize that one-time capital investments are not sufficient to ensure lasting benefits. EPA should consider ways to ensure that funded projects are sustainable and that results are long-lasting. Investments in equipment should be paired with funding for sustained operations and maintenance to guarantee projects that produce long-term benefits.

Coordination

1. ECOS asks EPA to consult and coordinate with state co-regulators on an ongoing basis so they can lend their expertise and ensure that these new programs are aligned with and informed by ongoing state efforts, including state climate plans and strategies. States have local relationships and deep expertise that cuts across sectors and can facilitate efficient delivery of funds and technical assistance. Frequent and meaningful engagement between EPA and state co-regulators will help ensure that the IRA's programs deliver great impact in ways that best meet the needs, timeframes, and on-the-ground conditions in states and communities.
2. ECOS recommends that EPA increase regular interagency coordination to ensure that other federal entities (e.g. US Department of Transportation (DOT), U.S. Department of Agriculture, U.S. Department of Housing and Urban Development, U.S. Department of Energy (DOE), and U.S. Department of the Interior (DOI)) are harmonized to amplify successful deployment of long-term solutions without duplication of efforts. There is additional opportunity to align and coordinate across rulemakings, programs, and other funding streams (e.g. the Infrastructure Investment & Jobs Act).
3. EPA should consider appointing knowledgeable grants and infrastructure coordinators in every EPA region to provide administrative and technical support to states and local partners as they navigate these new funding and programmatic opportunities, including matching a project need with available funding options, completing relevant applications, and then supporting grant implementation.
4. ECOS encourages EPA to facilitate advisory and technical assistance partnerships across the federal government, state health and environmental agencies, local communities, as well as through regional universities and educational institutions, including the establishment of advisory resources that can assist in planning and project implementation, especially in communities with the greatest needs.

Environmental Justice Considerations

1. Mapping tools at various scales are important resources for ensuring that funds benefit and reach low-income and disadvantaged communities, though they should not substitute for meaningful community engagement and understanding. ECOS recommends continued support for state-developed environmental justice mapping tools, as well as continued clarification, enhancement, and training for national tools like the White House Climate and Economic Justice Screening Tool (CEJST) and EPA's EJScreen.

2. ECOS requests that EPA include, as allowable expenses, activities to further engage disproportionately impacted community partners. This could include funding for community engagement and non-traditional communication and participation strategies (e.g. evening workshops, multilingual options, or virtual meeting capability).

Comments on Docket 1: Climate Pollution Reduction Grants [60114]

1. ECOS is supportive of the IRA's funding for planning activity and recognizes the importance of ensuring that implementation grant recipients have a well-defined path to reducing climate pollution. ECOS urges EPA to be flexible in designing requirements for climate pollution reduction planning. Many states have already invested significant time and effort to develop and approve comprehensive climate action plans. Those states should be eligible to receive implementation grants without necessarily conducting additional planning activity. EPA should define its eligibility criteria to be flexible enough for states with existing state climate plans to qualify for implementation grants. A flexible approach will allow those states with existing plans to avoid duplicative work and focus on accelerating their implementation activities.
2. ECOS encourages EPA to embrace an all-of-the-above approach to reducing greenhouse gas emissions through the Climate Pollution Reduction Grants. Each state has its own mix of economic, environmental, and societal characteristics that offer different opportunities to reduce climate pollution. EPA should allow states adequate flexibility to determine the best way to achieve emissions reductions within their particular circumstances. This includes making space for states to propose and pursue projects that target reductions in air toxics and criteria pollutants that have important co-benefits, such as a reduction in greenhouse gasses.

Comments on Docket 2: Transportation Programs [60101, 60102]

1. With respect to the Clean Heavy-Duty Vehicle Program, states continue to see strong demand and unmet needs for replacing diesel-powered vehicles with clean alternatives. States will be well positioned to put this funding to work alongside resources from the Diesel Emissions Reduction Act (DERA) Program and EPA's Clean School Bus program under the IIJA. States encourage EPA to seek alignment with these and other related programs to ensure complementary implementation strategies.
2. ECOS encourages EPA to include provisions to ensure that replaced engines and vehicles are taken out of service and sustainably managed so they do not continue to contribute emissions from a different location. In designing the program, EPA should consider that communities operate under varying circumstances. The program should be flexibly designed to allow for a range of different asset management cycles and replacement timeframes.
3. With respect to the Grants to Reduce Air Pollution at Ports, ECOS recommends that EPA build an inclusive program that offers opportunities for ports of varying sizes and scopes. While larger ports may already have robust climate mitigation plans and the potential to immediately apply available funding, smaller ports may face barriers to entry and should not be overlooked in the zero-emission future. EPA should consider opportunities to provide technical and planning assistance to smaller port operators, including land-based ports at international border crossings.

4. In designing the transportation programs, EPA should ensure close coordination with DOT, DOE and other agencies with complementary efforts.

Comments on Docket 4: Funding to Address Air Pollution [60105, 60106]

1. ECOS supports funding to help expand and ensure the longevity of a national ambient air monitoring network. ECOS also emphasizes that funding for new monitoring capability must go beyond the procurement of new equipment. States and other recipients also need resources to support staff to operate and maintain monitoring equipment. Most critically, agencies need staff and other resources to manage and analyze air monitoring data, as well as respond to results that indicate an air quality concern. Technology for improved situational awareness must be coupled with added capacity for compliance assurance and program implementation to reduce emissions and improve air quality in our communities.
2. EPA should be sure to provide the technical assistance and training necessary to support fully successful community-led monitoring programs. Community groups should have access to resources to ensure proper deployment of monitoring equipment and to build knowledge for analyzing, using, interpreting, and communicating their monitoring results. Monitoring data generated with federal investments should be made available with appropriate quality assurance practices and presented in context and with appropriate risk communication. EPA should provide resources to ensure that community monitoring data can be shared with state regulators promptly and in a certifiable, actionable, and readily usable format.
3. ECOS emphasizes that EPA should maximize the use of existing funding mechanisms to deliver resources to address air pollution as quickly and efficiently as possible. EPA should avoid significant matching requirements whenever possible. Rather than acting as a resource multiplier, matching requirements may prevent under-resourced agencies from being able to seek these important funds. Where applicable, ECOS encourages EPA to use funding authority under Clean Air Act Section 103 rather than 105 to the greatest extent possible to minimize matching requirements.

ECOS appreciates the opportunity for states and territories to engage with EPA on this important work. Thank you for your consideration of our comments and your ongoing partnership.

Sincerely,



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