

**Testimony of Myra Reece, Director of Environmental Affairs,
South Carolina Department of Health and Environmental Control
on behalf of the Environmental Council of the States
to the U.S. Senate Committee on Appropriations
Subcommittee on Interior, Environment, and Related Agencies
Addressing the FY24 Budget Request for the U.S. Environmental Protection Agency
May 24, 2023**

The Environmental Council of the States (ECOS) – the national nonprofit, nonpartisan association of state and territorial environmental agency leaders – appreciates the opportunity to submit written testimony on the Fiscal Year 2024 (FY24) President’s budget request for the U.S. Environmental Protection Agency (EPA). ECOS requests \$692.3M for four specific Categorical Grant programs and support for addressing per- and polyfluoroalkyl substances (PFAS) and other EPA programs.

States Lead in Implementing the Nation’s Environmental Laws

Congress has established in the nation’s three key environmental statutes — the Clean Water Act (CWA), the Clean Air Act (CAA), and the Resource Conservation and Recovery Act (RCRA) Subtitle C — its intent for states to have primary responsibility and rights to prevent, reduce, eliminate, and control water, air, and hazardous waste pollution through the management of permit and enforcement programs. EPA notes in its March 2022 FY2022-2026 Strategic Plan that “states and local governments serve as primary implementers of many of the nation’s environmental laws.” As an example, of the 51,927 facilities permitted for air emissions in 2022, states were the permitting agency for more than 47,300 facilities — that is 91% — with just under 4,000 facilities permitted by local governments and 663 by EPA.¹ Through permitting, state environmental agencies protect human health and the environment while also supporting economic development. States conduct public meetings to promote understanding and help communities and regulated entities, including small businesses, navigate the sometimes-complex permitting process through technical assistance. States also conduct most inspections and enforcement activities nationwide through federal delegation to ensure compliance, a level playing field, and protect communities. Sufficient funding is critical to maintaining the core ability of state staff to issue and renew permits, gather data for determinations regarding the health of local and regional air and water resources, and meet inspection and enforcement priorities for existing and new obligations.

The scope and breadth of state environmental agency activities is ever expanding. With respect to PFAS, ECOS has requested that EPA urgently provide states funding and flexibility to address PFAS.² Many states report spending significant resources taking samples, gathering data, conducting testing, and investigating and responding to complaints and concerns related to drinking water, air quality, wastewater discharges, contaminated properties and the management of waste. While states, federal agencies, industry, and others have worked together on [PFAS through the Interstate Regulatory and Technology Council \(ITRC\)](#) and ECOS has published a [PFAS and biosolids report](#) and a [paper on setting state PFAS standards](#), states will need more funding to build capacity and infrastructure to implement and enforce PFAS-related regulations.

In addition to the challenges posed by emerging contaminants, there are new federal expectations regarding the implementation of delegated programs, such as stepped-up community engagement including increased translation service expenses, support for public involvement, cybersecurity protection, and other activities that require expanded state activities to support permit issuance and other delegated activities. For example, EPA has asked states to analyze disparate impacts in the issuance of some permits.

¹ Source: [Analyze Trends: EPA/State Air Dashboard | ECHO | US EPA](#), March 15, 2023

² [ECOS Resolution 21-1: Advancing Collaboration and Coordination on Per- and Poly-fluoroalkyl Substances](#)

Categorical Grant funding to states is the most significant federal support for core day-to-day delegated program activity and state staff capacity. In FY2002, State & Tribal Categorical Grants received \$1.1B. Two decades later, funding is \$1.16B. At the same time, inflationary pressures³ make it hard for states to keep up with recruitment and retention of key staff given the rising cost of living. There is also an increasing need for investment in modern infrastructure like electronic permitting and air monitoring networks and a corresponding need for analysis of growing environmental monitoring data. In sum, federal support to states has eroded.

Through an [ECOS resolution](#), states urge the U.S. Congress and EPA to financially support state implementation efforts commensurate with the complexity and breadth of federal requirements so we may fulfill our obligations to our communities. Please consider the following:

I. Increase State and Tribal Assistance (STAG) Categorical Grants

ECOS has looked closely at three critical Categorical Grant programs: State and Local Air Quality Management (CAA §§103, 105, and 106); Pollution Control (CWA §106); and Resource Recovery and Hazardous Waste (formerly Hazardous Waste Financial Assistance) (RCRA §3011) and determined that a course correction is necessary to address persistent erosion in federal support. ECOS finds that a modest 1% compounding annual escalation is the minimum ongoing federal funding trajectory needed. Going back to FY10 and course correcting based on a 1% compounding increase would amount to a \$51.7M funding increase in FY24. **Accordingly, for FY24, ECOS requests that Congress enact a combined \$642.3M for these three programs as shown in the table below – \$260.4M for air; \$263.5M for water, and \$118.8M for hazardous waste.**

STAG Categorical Grant	State and Local Air Quality Management (CAA §§103, 105, and 106)	Water Pollution Control (CWA §106)	Resource Recovery and Hazardous Waste (RCRA §3011)	13-year Enacted Level Increase	Total
FY10 Enacted*	\$226.6M	\$229.3M	\$103.3M		\$559.2M
FY23 Enacted**	\$249.0M	\$237.0M	\$105.0M	\$31.8M	\$591.0M
FY24 Funding Request based on 1% Escalation starting FY10	\$260.4M	\$263.5M	\$118.8M		\$642.3M
<i>Delta: 1% escalation vs. FY23 enacted</i>	<i>\$11.4M</i>	<i>\$26.5M</i>	<i>\$13.8M</i>		<i>\$51.7M</i>

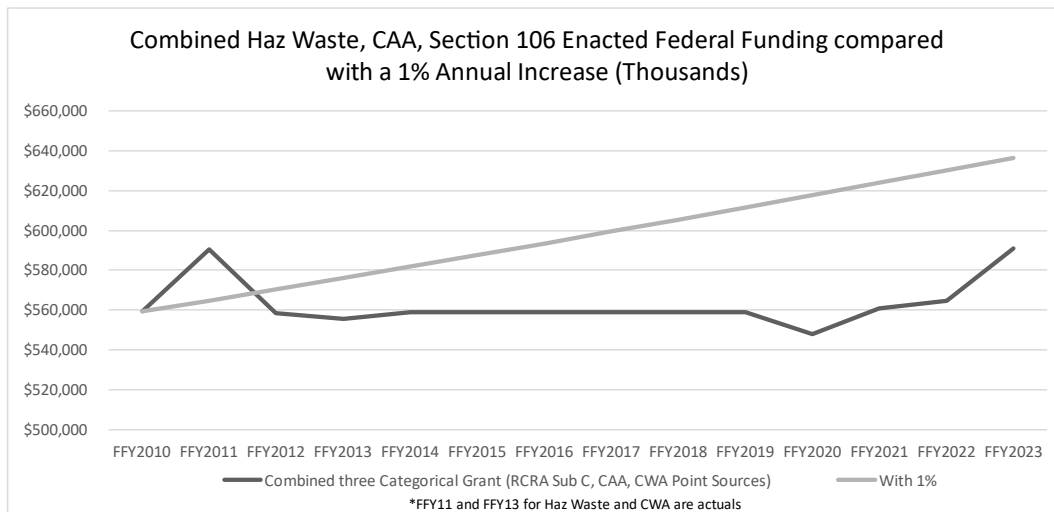
* Source: FY11 EPA Budget in Brief pg. 69; ** Source: FY23 Joint Explanatory Statement

In FY23, Congress provided small increases over FY22 levels to all Categorical Grant programs. However, some increases funded new work rather than existing core work. As an example, the increase of \$2.5M for the Resource Recovery and Hazardous Waste Categorical Grant includes \$4M for development and implementation of state coal combustion residuals (CCR) programs, effectively a cut to state hazardous waste programs. True increases for hazardous waste program work, independent of CCR program work, are needed.

Changes in federal law have resulted in a steady decrease in the volume of hazardous waste being regulated in many states impacting program funding. While there has been a drop in

³ Current inflation for the period ending February 2023 is approximately 6 percent. Source: [Current US Inflation Rates: 2000-2023 | US Inflation Calculator](#)

revenues from decreased hazardous waste volume, the number of entities requiring permits and inspections has increased, particularly small quantity generators. The Association of State and Territorial Solid Waste Management Officials state survey from 2019 indicated the total cost of operating the RCRA program nationwide was \$168.8M. States were required to provide a 25% match, and with congressionally enacted funding, states provided another \$37M beyond the required match, a rate that is not sustainable. In 2018, EPA’s OIG noted, “*Most states are authorized to implement the majority of new required hazardous waste rules promulgated by the EPA. However, states and the EPA have taken many years to authorize rules—from less than 1 year to more than 31 years. No state has been authorized by the EPA for all required rules. For the 173 required rules, the number not authorized ranges from six to 98 per state; eight states have not been authorized for more than 50 rules.*” Further, “*For Hazardous and Solid Waste Amendments of 1984 (HSWA) rules, EPA regions can administer the requirements if a state has not received authorization. However, for non-HSWA rules, the EPA cannot administer a rule when a state has not yet been authorized for the rule, which creates regulatory gaps. Unauthorized non-HSWA rules create risks to human health and the environment.*”⁴ A second OIG report in 2022 noted that not all treatment, storage, or disposal facilities are being inspected at the frequency mandated by RCRA.⁵ Underfunding may lead to program challenges and delays.



Given constraints on the use of major source air permit fees under the CAA and Title 40 Code of Federal Regulations Part 70, many other critical – and federally required – activities are underfunded, including updating State Implementation Plans, support for small business programs and emission reductions from smaller sources, support for enhanced community air monitoring, and the development of inventories and rules. Congress has mandated that the U.S. Forest Service conduct prescribed fires yet has not provided a companion declaration for EPA to respond to increased prescribed fires and their potential impact on state and local air quality attainment. EPA is now considering lowering fine particulate matter levels under the National Ambient Air Quality Standards (NAAQS), which would likely result in many areas nationally falling out of compliance with those lower NAAQS. This may also create further tension with wildfire risk mitigation strategies with prescribed burns that may be limited by air quality standards. The majority of the State and Local Air Quality Management Categorical Grant is provided as CAA §105 air grants that require a 40% match or maintenance of effort, whichever is higher. States continue to seek an increase in

⁴ July 2018 EPA OIG report, [Incomplete Oversight of State Hazardous Waste Authorization Creates Regulatory Gaps and Human Health and Environmental Risks](#).

⁵ June 2022 EPA OIG report, [The EPA Continues to Fail to Meet Inspection Requirements for Hazardous Waste Treatment, Storage, and Disposal Facilities](#).

funding and for this to be provided as CAA §103 awards to avoid a match requirement and allow agencies that do not have sufficient matching funds to still obtain grants.

CWA §106 grants support work with 900,000 National Pollutant Discharge Elimination System (NPDES) regulated facilities with increasing complex challenges to reduce nutrients in surface waters, meet electronic reporting requirements, address PFAS and other contaminants, and more.⁶ State water programs also need funding to close the monitoring gap for state water quality impairments and improvements including the use and tracking of nature-based solutions. These and other such activities are needed to develop water quality standards and total maximum daily load listings, improve surface water quality, restore impaired waterbodies, increase water reuse activities to respond to climate change, address backlogged NPDES general permits, and conduct other core water pollution control activities.

II. “Off the Top” Cuts Erode Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Programs

In the FY23 enacted budget, Congress stipulated \$863M of CWSRF and \$609M of DWSRF funds go to Community Project Funding/Congressionally Directed Spending (CPF/CDS). EPA has taken \$1.472B for 715 CPF/CDS projects “off the top” of the state capitalization grants, 53% of the annual SRF funding provided, prior to state capitalization awards being made and importantly, before state “set-asides” are taken. The state set-asides are used to supplement public water system supervision program funding, to protect source water, to address failing septic systems, to provide stormwater control measures, to take cybersecurity measures, to provide technical assistance, and more – up to 6% for CWSRF and up to 31% for DWSRF. These across-the-board cuts create challenges and uncertainty for states with year-to-year staff planning, with budgeting for non-infrastructure support activities, and with long-term viability of SRFs, as funds will not “revolve” in future years as the CPF/CDS funds are not repaid. CPF/CDS projects are also managed outside existing state programs, creating a parallel bureaucracy. **States ask that CPF/CDS not be taken from SRFs and ask that Congress maintain and increase SRF funding levels for state-run programs in FY24 and beyond.**

III. Additional Considerations

These issues also remain important to state environmental agencies:

- 1. Fund Multipurpose Categorical Grants.** States seek \$50M for these flexible funds, which can be applied broadly to state identified priorities, do not require a match, and expand state implementation capacity of federal environmental programs.
- 2. Continue to invest in data modernization for drinking water, clean water, and clean air.** Through E-Enterprise for the Environment, states, tribes, and EPA are working jointly to modernize the complex reporting processes for sharing [Safe Drinking Water Act](#) and [Clean Water Act and Clean Air Act state enforcement information](#), a critical collaboration to develop effective multi-directional data flows that are not duplicative, burdensome, and expensive and focus on efficient data exchange solutions and on providing more accurate information to the public.
- 3. State Research Needs.** ECOS affiliate the Environmental Research Institute of the States published its [2022 biannual survey](#) of state environmental agency research needs. ECOS urges Congress to provide funding to EPA to help states meet these needs.

On behalf of ECOS, I thank the subcommittee for considering the views of state environmental agencies as you prepare EPA’s FY24 budget. Please don’t hesitate to reach out to me or ECOS Executive Director Ben Grumbles at bgrumbles@ecos.org or (202) 266-4929.

⁶ Source: Association of Clean Water Administrators FY23 testimony to the U.S. Senate, April 2022.