



Resolution 00-1  
Approved April 12, 2000  
Philadelphia, Pennsylvania

Revised June 13, 2000  
By mail vote

Revised April 4, 2003  
By mail vote

Revised April 11, 2005  
Washington, DC

Revised September 8, 2005  
Kennebunkport, Maine

Revised September 22, 2008  
Branson, Missouri

Renewed September 26, 2011  
Indianapolis, Indiana

Revised March 20, 2012  
Austin, Texas

Revised March 18, 2015  
Washington, DC

Revised March 22, 2018  
St. Paul, Minnesota

Revised March 22, 2021  
Via Zoom Meeting

Revised March 27, 2024  
Austin, Texas

As certified by  
Ben Grumbles  
Executive Director

## **ON ENVIRONMENTAL FEDERALISM**

WHEREAS, the states are co-regulators with the federal government in a federal system; and

WHEREAS, ECOS represents states, territories, and the District of Columbia, and throughout this resolution the term “states” indicates states, territories, and the District of Columbia; and

WHEREAS, the meaningful and substantial involvement of the state environmental agencies as partners with the U.S. Environmental Protection Agency (U.S. EPA) is critical to the development, implementation, and enforcement of environmental programs; and

WHEREAS, the U.S. Congress has provided by statute for delegation, authorization, or primacy (hereinafter referred to collectively as “delegation”) of certain federal program responsibilities to states which, among other things, enables states to establish state programs that go beyond the minimum federal program requirements; and

WHEREAS, states that have received delegation have demonstrated to the U.S. EPA that they have the independent authority to adopt and they have adopted laws, regulations, and policies at least as stringent as federal laws, regulations, and policies; and

WHEREAS, states have further demonstrated their commitment to environmental protection by taking responsibility for more than 90% of the primary environmental programs which can be delegated, authorized, or primacy (hereinafter “delegated”) to states; and

WHEREAS, because of this delegation, the state environmental agencies have a unique position as co-regulators and co-funders of these programs; and

WHEREAS, new, withdrawn, or modified federal environmental rules (issued as final and completed actions and published by the U.S. EPA) to delegated states impacts the workload to implement federal programs; and

WHEREAS, federal financial support to implement environmental programs delegated to the states has declined since 2005; and

WHEREAS, cuts in federal and state support adversely affect the states’ ability to implement federal programs in a timely manner and to adequately protect human health and the environment; and

WHEREAS, states currently perform the vast majority of environmental protection tasks in America, including more than 90% of the enforcement and compliance actions and collection of the environmental quality data currently held by the U.S. EPA; and

WHEREAS, these accomplishments represent a success by the U.S. EPA and the states working together in ways the U.S. Congress originally envisioned to move environmental responsibility to the states; and

WHEREAS, the U.S. EPA provides great value in achieving protection of human health and the environment by fulfilling numerous important functions, including establishing minimum national standards, ensuring state-to-state consistency in the implementation of those national standards, supporting research and providing information, and providing standardized pollution control activities across jurisdictions; and

WHEREAS, with respect to program operation, when a program has been delegated to a state and the state is meeting the minimum delegated program requirements, the role of the U.S. EPA is oversight and funding support rather than state-level implementation of programs; and

WHEREAS, under some federal programs the U.S. EPA grants to states the flexibility to adjust one-size-fits-all programs to local conditions and to try new procedures and techniques to accomplish agreed-upon environmental program requirements, thereby assuring an effective and efficient expenditure of the taxpayers’ money; and

WHEREAS, ECOS published “Cooperative Federalism 2.0: Achieving and Maintaining a Clean Environment and Protecting Public Health” in June 2017 reflecting states principles for the roles and functions of states and U.S. EPA in cooperative federalism and changes implied by such.

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

Affirms its continuing support for the protection of human health and the environment by providing for clean air, clean water, and proper handling of waste materials;

Affirms that states are co-regulators, co-funders, and partners with appropriate federal agencies, including the U.S. EPA, and with each other in a federal environmental protection system;

Affirms the need for adequate funding for both state environmental programs and the U.S. EPA, given the vitally important role of both levels of government;

Affirms that expansion of environmental authority to the states is to be supported, while preemption of state authority, including preemption that limits the state's ability to establish environmental programs more stringent than federal programs, is to be opposed;

Supports the authorization or delegation of programs to the states and believes that when a program has been authorized or delegated, the appropriate federal focus should be on program reviews, and, further, believes that the federal government should intervene in such state programs where required by court order or where a state fails to enforce federal rules particularly involving spillovers of harm from one state to another;

Supports early, meaningful, and substantial state involvement in the development and implementation of environmental statutes, policies, rules, programs, reviews, joint priority setting, budget proposals, budget processes, and strategic planning, and calls upon the U.S. Congress and appropriate federal agencies to provide expanded opportunities for such involvement;

Specifically calls on U.S. EPA to consult in a meaningful, timely, and concurrent manner with the states' environmental agencies in the priority setting, planning, and budgeting of offices of the U.S. EPA as these offices conduct these efforts;

Further specifically calls on U.S. EPA to consult in a meaningful and timely manner with the states' environmental agencies regarding the U.S. EPA interpretation of federal regulations, and to ensure that the U.S. EPA has fully articulated its interpretation of federal regulations prior to the U.S. EPA intervention in state programs;

Believes that such integrated consultation will increase mutual understanding, improve state-federal relations, remove barriers, reduce costs, and more quickly improve the nation's environmental quality;

Noting the extensive contributions states have made to a clean environment, affirms its belief that where the federal government requires that environmental actions be taken, the federal government ought to fund those actions, and not at the expense of other state programs;

Affirms that the federal government should be subject to the same environmental rules and requirements, including the susceptibility to enforcement that it imposes on states and other parties; and

Affirms its support for the concept of flexibility and that the function of the federal environmental agency is, working with the states, largely to set goals for environmental accomplishment and that, to the maximum extent possible, the means of achieving those goals should be left primarily to the states; especially as relates to the use of different methods to implement core programs, such as risk-based inspections or multi-media environmental programs, and particularly in the development of new programs which will impact both states and the U.S. EPA.