

**Testimony of Myra Reece, Director of Environmental Affairs, South Carolina
Department of Health and Environmental Control, and President, Environmental
Council of the States, to the U.S. Senate Appropriations Subcommittee on Interior,
Environment, & Related Agencies Addressing the FY23 Budget Request for the U.S.
Environmental Protection Agency, June 10, 2022**

The Environmental Council of the States (ECOS) is the national nonprofit, nonpartisan association of state and territorial environmental agency leaders and appreciates the opportunity to submit written testimony in support of the Fiscal Year 2023 (FY23) President's budget request for the U.S. Environmental Protection Agency (EPA). ECOS requests \$686.4M for four specific Categorical Grant programs, as well as continued funding for other Categorical Grants, infrastructure investments, and EPA programs.

States implement and enforce more than [90%](#) of those programs EPA is authorized to delegate to states under federal laws, a point EPA also notes in its March 2022 FY2022-2026 Strategic Plan stating that "states and local governments serve as primary implementers of many of the nation's environmental laws." As an example, in 2021, states were the lead agency on over 83,000 Clean Air Act (CAA) compliance monitoring strategy (CMS) activities, with EPA serving as the lead agency on 1,514 CMS activities.¹ States often hear first from residents and work with their communities to provide important monitoring and modeling activities and work with regulated facilities to issue permits and conduct compliance assurance activities. States must also respond to new challenges such as identifying locations and sources of emerging contaminants in groundwater, and addressing harmful algal blooms (HABs) in surface waters while seeking to more comprehensively engage with and provide support to overburdened and underserved communities. The scope and breadth of state environmental agency activities only continues to expand. However, Categorical Grants funding to states, the most significant federal support to core day-to-day delegated program activity, has not increased in **20** years. In FY2002, STAG Categorical Grants were \$1.1B enacted. In FY2022, they remain at \$1.1B enacted, a substantial decrease in purchasing power when inflation is considered.

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

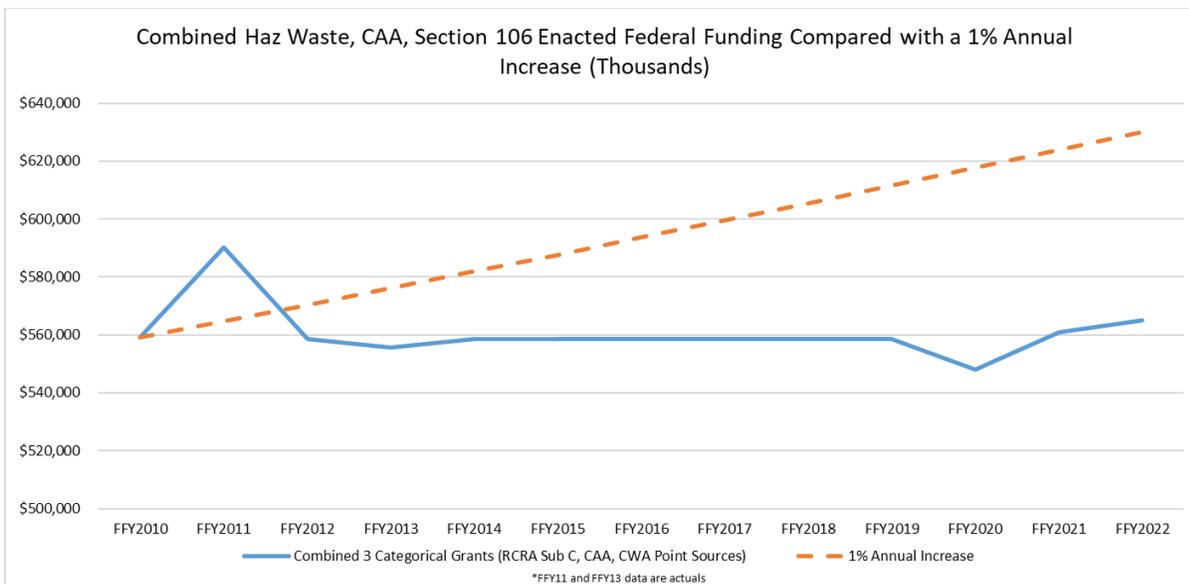
ECOS has looked closely at three critical Categorical Grant programs: State and Local Air Quality Management (CAA §103, 105, and 106); Pollution Control (CWA §106); and Hazardous Waste Financial Assistance (RCRA §3011). Between inflation and increases in the cost of administering regulatory programs over this period, states propose a modest 1% compounding annual escalation as the minimum federal funding trajectory needed, although ECOS would note that U.S. Department of Labor data indicates the annual inflation rate is 8.3% for the period ending in April 2022.² If just a 1% compounding escalation had been implemented for these programs starting in FY10, this would amount to a \$71.5M funding level increase by FY23. **For FY23, ECOS requests that Congress enact a combined \$636.4M for these three programs as shown in the table below – \$257.9M for air/105 and 103; \$260.9M for water/106, and \$117.6M for hazardous waste.**

¹ Source: [Analyze Trends: EPA/State Air Dashboard | ECHO | US EPA](#), June 9, 2022.

² Source: [Current US Inflation Rates: 2000-2022 | US Inflation Calculator](#).

STAG Categorical Grant	State and Local Air Quality Management (CAA §103, 105, and 106)	Water Pollution Control (CWA §106)	Hazardous Waste Financial Assistance (RCRA §3011)	12-year Enacted Level Increase	Total
FY10 Enacted ¹	\$226.6M	\$229.3M	\$103.3M		\$559.2M
FY22 Enacted ²	\$231.4M	\$231.0M	\$102.5M	\$5.7.8M	\$564.9M
FY23 Funding Request with 1% Escalation started 2010	\$257.9M	\$260.9M	\$117.6M		\$636.4M
<i>Delta: 1% escalation vs. FY22 enacted</i>	<i>\$ 26.5M</i>	<i>\$ 29.9M</i>	<i>\$ 15.1M</i>		<i>\$ 71.5M</i>

¹ Source: FY11 EPA Budget in Brief pg. 69; ² Source: FY22 Omnibus



Looking more closely at FY22, Congress provided \$1M increases over FY21 levels to a number of core Categorical Grant programs. However, these increases were offset by eliminating \$10M of flexible Multipurpose Grant funds, resulting in no net increase for Categorical Grants from FY21 to FY22. While the increases are welcome, the counter-balancing reduction wiped out gains.

Within specific Categorical Grants, the Hazardous Waste Financial Assistance grant received an increase of \$1M accompanied by a directive that \$4M go toward development and implementation of state programs for the control of coal combustion residuals, an effective cut to existing state hazardous waste Subtitle C programs. Recent changes in federal law have resulted in a steady decrease in the volume of hazardous waste being regulated in many states impacting program funding. Although revenues have declined, the number of entities requiring permits and inspections has increased, particularly small quantity generators. In one state, they are seeking to increase fees, but estimates a need of an additional \$1M in funding to efficiently manage inspections, compliance, enforcement, permitting and outreach activities. This one state's projected need alone matches the increase Congress provided for all the states and territories in FY22.

Under the CAA and 40 CFR Part 70 Regulations, constraints are placed on the use of major source permit fees, leaving many other critical, and federally required, activities under-funded.

For instance, Arizona’s Air Quality Planning and Improvement Program requires additional funding to update the State Implementation Plan (SIP) to remove inter-precursor trading for Ozone nonattainment areas. Other activities funded by the air Categorical Grant include air monitoring and visualization efforts, support for small business programs and emission reductions from smaller sources, and the development of inventories and rules. States ask Congress to appropriate new funding and requests that to the greatest degree possible, these funds be provided under Section 103 authority, which requires no match other than Section 105 so that no state is forced to refuse funds due to their inability to afford the required match.

State programs face a rapidly growing portfolio of demands to continue protecting communities by implementing the CAA with 21st century technology. One example of these increased demands is the rise in particulates. States must monitor wildfires and consider their local surface impacts on the state’s ability to attain and maintain the National Ambient Air Quality Standards (NAAQS). If the PM2.5 standard were changed, state PM2.5 exception demonstrations could average 150 pages per event **day**, with some fires burning for weeks, a significant burden to state staff. EPA regional staff will also see an increased workload to review initial demonstrations as well as demonstration packages to determine acceptance. In addition, Congress has mandated that the U.S. Forest Service conduct prescribed fires. Unfortunately, there is no companion declaration for EPA to respond to increased prescribed fires and their potential impact on state and local air quality attainment. States need to account for wildfire smoke and need resources to perform this work.

CWA Section 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 emerging contaminants like PFAS, and more.³ States such as Connecticut are now using drones to provide visual support to photo-document cyanobacteria plumes and breakouts in waterbodies, supporting more informed decision-making and safety to meet these new challenges.⁴ Such activities will be needed to develop water quality standards and total maximum daily load (TMDL) 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. From FY18 to FY21, states and EPA worked closely through the National Compliance Initiative to reduce the NPDES Significant Noncompliance (SNC) permit rate from 20.3% in FY18 to 12.6% in FY21⁵ and continue to work to reduce and maintain lower rates with new e-reporting deadlines approaching in the near future. States need federal funding to meet core permitting, compliance, inspection, and enforcement activities for this large regulated universe.

II. Protect Clean Water and Drinking Water State Revolving Fund Programs from Cuts Due to “Off the Top” Accounting for Congressionally Directed Spending

States receive important set-aside funding to administer the SRFs, to supplement public water system supervision program funding, assist small systems, address failing septic systems, provide nonpoint source erosion and stormwater control measures, support operator certification and wellhead protection programs, take cybersecurity measures, assist recycled water projects, and develop capacity such as assess management plans for communities. CWSRF set-asides are up to 6%, and DWSRF set-asides are up to 31%, of state allocations.

In the FY22 enacted budget, Congress stipulated \$425M of CWSRF and \$393M of DWSRF funds go to “Community Project Funding/Congressionally Directed Spending.” EPA has taken these \$841M in earmark funds “off the top” of the state capitalization grants, even if a state did

³ Source: Association of Clean Water Administrators FY23 testimony to the U.S. Senate, April 2022.

⁴ Source: ECOS Green Report: State Environmental Agency Modernization – Leveraging Unmanned Aerial Systems to Improve Environmental Results, February 2021.

⁵ Source: FY23 Congressional Justification, FY21 EPA Performance Report, pg. 1015.

not receive any earmarks, lowering annual allocations for every state and reducing funds that will “revolve” in future years. The congressionally directed spending reduces the CWSRF and DWSRF FY22 state allocations by 27% and 35%, respectively. Cuts from earmarks also mean \$131M less for state set-aside work to protect public health and the environment. Significantly, this is less funding for state public water system supervision efforts such as implementing the lead and copper rule revisions and supporting small systems serving fewer than 10,000 people who require significant technical and operational assistance to comply with the new requirements of the Safe Drinking Water Act. **States ask that congressionally directed spending not be taken from SRFs and ask that Congress maintain and increase SRF funding levels for state-run programs in FY23 and beyond.**

III. Fund Categorical Grant Multipurpose Grants

Multipurpose grant (MPG) funds were created by Congress in 2016. States greatly appreciate that these funds can be applied to state-identified priorities broadly and do not require a match. The New Mexico Environment Department reports that the flexibility of MPG funds enables state environmental agencies to be nimble and respond more effectively to shifting federal requirements, the needs of communities, and state environmental policy priorities. While Categorical Grant funding is highly restricted and stagnant, MPG funds meaningfully expand implementation capacity for federal environmental programs, key innovation initiatives on matters such as emerging contaminants, and sustained environmental justice program activities. **States ask Congress to appropriate \$50M in MPG funds in FY23**, maintain state maximum flexibility of their use, and limit EPA’s ability to direct these funds to specific activities.

IV. Additional Considerations

These issues also remain important to state environmental agencies:

- 1. Invest in enterprise drinking water, clean water, and clean air data modernization.** 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](#). The collaboration is absolutely critical for effective multi-directional data flows that are not duplicative, burdensome, and expensive but rather focus on efficient data exchange solutions and on providing more accurate information to the public more readily.
- 2. State Research Needs.** ECOS affiliate the Environmental Research Institute of the States (ERIS) publishes a biannual survey of state environmental agency research needs. ECOS urges Congress to provide funding to EPA to help meet these needs.
- 3. Oppose shift from 103 to 105 air funds.** States ask that Congress push back against EPA’s proposed CAA §103-§105 funding shift for PM2.5 monitoring at states’ expense.⁶
- 4. Make infrastructure assistance grants PPG eligible.** States ask Congress to enable the seven new STAG infrastructure assistance grants⁷ to be eligible for Performance Partnership Grants (PPGs) to minimize state and EPA grant administrative burdens.

On behalf of ECOS, I thank the subcommittee for considering the views of state environmental agencies as you prepare the FY23 budget for EPA. Please do not hesitate to contact me or ECOS Executive Director Ben Grumbles at bgrumbles@ecos.org or (202) 266-4929 for any further discussion.

⁶ Source: [U.S. EPA Office of Air and Radiation Draft FY2023-2024 National Program Guidance](#), pg. 31.

⁷ New STAG infrastructure assistance grants created since 2018: assistance for small and disadvantaged communities, reducing lead in drinking water, lead testing in schools, drinking water infrastructure resilience and sustainability, technical assistance for treatment works, sewer overflow control grants, and water infrastructure and workforce investment.