

October 5, 2022

BOARD OF DIRECTORS

Co-Presidents

Frank L. Kohlasch
Minnesota

Rollin Sachs
Olathe, KS

Co-Vice Presidents

Mark Buford
Mount Vernon, WA

Kelly Crawford
District of Columbia

Co-Treasurers

Tracy Babbidge
Connecticut

Sam Rubens
Akron, OH

Past Co-Presidents

Michelle Walker Owenby
Tennessee

Erik C. White
Auburn, CA

Directors

Elizabeth Bisbey-Kuehn
New Mexico

Rick Brunetti
Kansas

Richard Corey
California

Jayne Graham
Pittsburgh, PA

Chris LaLone
New York

Uri Papish
Vancouver, WA

Richard A. Stedman
Monterey, CA

Kathy Taylor
Washington

Bo Wilkins
Montana

Executive Director

Miles Keogh

The Honorable Michael Regan
Administrator, U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Mail Code 1101A
Washington, DC 20460

Dear Administrator Regan,

We are writing on behalf of the National Association of Clean Air Agencies (NACAA) to offer considerations and recommendations regarding the deployment of funds and implementation of programs related to the Inflation Reduction Act (IRA) that was signed by President Joe Biden in August 2022.¹ NACAA is the national, non-partisan, non-profit association of air pollution control agencies in 40 states, including 117 local air agencies, the District of Columbia and five territories. The air quality professionals in NACAA's member agencies have vast experience dedicated to reducing air pollution in the United States and addressing the climate crisis.

As you know, the IRA offers to provide hundreds of millions of dollars to state and local clean air agencies to help address the climate crisis, and billions of dollars to programs that support our missions and objectives and advance the equitable protection of clean air for all. The following sections of the IRA are of particular note and importance to our agencies:

- SEC. 60101. Clean heavy-duty vehicles.
- SEC. 60102. Grants to reduce air pollution at ports.
- SEC. 60103. Greenhouse gas reduction fund.
- SEC. 60104. Diesel emissions reductions.
- SEC. 60105. Funding to address air pollution.
- SEC. 60106. Funding to address air pollution at schools.
- SEC. 60107. Low Emissions Electricity Program.
- SEC. 60109. Funding for implementation of the American Innovation and Manufacturing Act.

¹ The enrolled bill is available online at <https://www.congress.gov/bill/117th-congress/house-bill/5376/text>.

- SEC. 60110. Funding for enforcement technology and public information.
- SEC. 60113. Methane emissions reduction program.
- SEC. 60114. Climate Pollution Reduction Grants.
- SEC. 60201. Environmental and Climate Justice Block Grants.

The Clean Air Act (CAA) places the responsibility for implementing the federal air pollution program squarely on state and local clean air agencies. This is an enormous undertaking that calls for monitoring, issuing permits, planning, developing strategies for reducing emissions, enforcing requirements, engaging with and educating the public, training staff and a host of other activities. More and more, these agencies are tasked with new and high-priority responsibilities to reduce air pollution, address environmental justice, and tackle climate change. As we have communicated to EPA for years, our agencies are stretched to their limits to accomplish the existing portfolio of work with the available federal funding support. We must emphasize that capitalizing on the once-in-a-generation opportunities afforded by the IRA cannot be accomplished if its funding resources are not implemented skillfully and in a manner that maximizes the state-local-federal relationship. As EPA explores the most effective ways to advance Congress's aims using this money, we hope you will take into account the following considerations and recommendations from NACAA.

1. Talk to us: EPA should coordinate with state and local agencies as it determines the best way to allocate funding made available by the IRA. Several sections specifically enumerate our agencies as funding recipients and EPA should leverage that opportunity and our expertise to the greatest degree possible. Even in sections where Congress did not specifically name state and local agencies as eligible recipients, EPA would benefit from discussions with our community. We have decades of experience in working and communicating with interagency workgroups, regulated sources and community groups in the implementation of clean air programs that address greenhouse gas emissions and advance environmentally just outcomes – programs that have been in action for many years. Our experience, advice, and insights will be invaluable in the successful deployment of funds and implementation of programs. NACAA stands ready to engage with EPA through our association and its committees.
2. Don't reinvent the wheel for grant vehicles: Several sections of the IRA specifically enumerate the use of CAA Sections 103, 105, 134, 136, and 137 to advance its programs and goals. EPA should prioritize using existing funding mechanisms for state and local air agencies, even where provisions of the IRA authorizing grant programs do not specifically identify existing Clean Air Act funding sections. In provisions where the IRA specifically identifies state, territory, or tribal air pollution agencies as recipients, EPA should prioritize providing as much of the IRA funding as is administratively feasible to those eligible agencies directly through grants or other mechanisms. EPA should also make a special effort to reach out to smaller clean air agencies that may not use Section 103 and 105 funds to implement the Clean Air Act. Where other sections

are being considered, such as Section 137, EPA should make an effort to explore whether these agencies may be priority recipients.

3. Support both state and local action: There's an adage that says "diversification is the only free lunch in economics". EPA should support a diverse range of program types in its climate pollution reduction grants, greenhouse gas reduction fund programs, American Innovation and Manufacturing Act implementation, methane programs, enforcement technology and public information actions, air pollution grants, work with schools, and wood heater emissions reduction efforts. NACAA's 157 members include state, local, city, county, and territorial agencies and each brings strengths to the table. EPA will miss opportunities for durable and impactful investments in decarbonization and emissions reductions if it focuses on one agency recipient type or program type.
4. Don't overdo matching requirements: NACAA encourages EPA to recognize the significant fiscal challenges faced by many state and local air agencies and avoid overuse of matching requirements.² To those without experience in the implementation of these programs, requiring state and local agencies to match EPA funds would appear to create the possibility of leveraging other dollars. In practice, state and local agencies are so fiscally strained that a requirement of additional matching funds may create a barrier to acceptance of the funding by many agencies and frustrate the desired accomplishments of the IRA. Rather than extending the buying power of the funds provided by the IRA to EPA, burdensome match requirements may leave state and local agencies unable to use the funds. A burdensome match requirement would also favor larger agencies that may already have resources to advance emission reduction ambitions and are largely independent of federal funds in the implementation of their programs, rather than smaller agencies that are more dependent on federal funding and may have less capacity to advance those reductions, even if those are the agencies with the greatest needs and opportunities. Along the same lines, work with us to determine appropriate programmatic match requirements for other grants so that we can make sure that small businesses, small jurisdictions, and disadvantaged communities can afford to participate in grant programs such as those for diesel emission reductions and climate programs.
5. Leverage our existing capacity: Where funding has been enumerated to go to multiple recipients, EPA should strongly consider whether state and local agencies implementing the Clean Air Act and climate change programs are the most effective potential recipients of this funding, leveraging existing capacity rather than having to create new federal capacity to effectively implement programs that reduce emissions.

² Federal grants to state and local air pollution control agencies are provided primarily under Sections 103 and 105 of the Clean Air Act. Section 105 requires a 40-percent match, while Section 103 does not require matching funds.

6. We need people, not just tools: Many state and local air agencies are at or near crisis levels for the staff resources available to protect public health, improve air quality, and reduce emissions. Funding from the IRA for local and state agencies must allow us to address our workforce needs by hiring staff and addressing institutional support, and not simply be constrained to equipment or technology procurement. There are limits to the extent to which additional technology will compel emission reductions. Recent emphasis on monitor and sensor procurement has enabled us to have better visualization of problems we already knew existed. Now, funding must pivot towards the analysis, engagement, implementation, and compliance assurance functions that actually yield reductions and air quality improvements. Not only will these actions require staff with varied expertise, they will also require supportive institutional infrastructure that will enable these agencies to be successful.

7. New programs need new resources: This is particularly true as EPA anticipates expanding its regulatory tools for reducing emissions. In NACAA's January 28, 2022, comments on EPA's proposed NSPS for the oil and gas sector,³ NACAA noted that "all agencies face inadequate resources to meet their existing and emerging Clean Air Act responsibilities. For agencies that have a daunting number of sources and already-stretched funding, human resources, and equipment, the rule will create implementation challenges if EPA does not become a more effective advocate for fully funding these agencies, and matching the regulatory responsibilities assigned to these agencies with the resources to carry them out. New EPA rules will overburden agencies with many new sources requiring new inspection and enforcement actions with unchanged funding, resources and support. The Agency has a responsibility to address this issue." What is true for the NSPS rule also applies to other actions being considered and taken by EPA under the IRA, such as new grant programs, especially those designed to serve disadvantaged communities. Such programs require additional agency staffing and resources to adequately engage and involve communities in crafting solutions.

8. Let us have some lead time: Agencies need sufficient lead time to prepare for the expanded funding, work, and outcomes enabled by the IRA. State and local agencies face requirements in their own jurisdictions and must have time to take steps necessary to receive support, as well as to support EPA actions that are made possible by the IRA. Legislative calendars, elected leadership availability, and budget year cycles are among the factors that can impede our state and local agencies' ability to be immediately responsive. As EPA moves forward, it must engage our state and local agency members as early (and as regularly) as possible.

³ Available online at https://www.4cleanair.org/wpcontent/uploads/NACAA-Oil-and-Gas-NSPS-Comment-Letter-01_28_2022.pdf

9. Consider indirect implications of resource impacts on air agencies: Many of the proposals for funding include grants to support the installation of advanced pollution control systems at stationary sources regulated by the Clean Air Act. EPA should support agency activities necessary for the timely implementation of these grants . In practice, this means EPA should provide resources to state and local agencies for the development of construction and operating permits for improved infrastructure at permitted sources, as well as resources to support agencies' compliance assistance programs that ensure safe and effective operation of the advanced control technology. EPA has received substantial IRA funding for timely permit review and implementation, and analogous consideration should be given to state and local efforts in this area, which have not been specifically designated for funding under the legislation. Relatedly, given the changes over time in the emissions profiles of regulated sources, EPA should also review the assumptions (established in 1993) and analyze the complexity of work and multiple federal requirements on which the Title V presumptive minimum fee rate is based.

Thank you for considering these recommendations. In terms of the national budget, the amount appropriated for federal grants to state and local air quality agencies is relatively small. Yet the return on investment is among the highest, when the benefits of protecting public health and the environment against the serious threats posed by air pollution, environmental injustice, and climate change are considered. We are eager to work closely with EPA to take on the opportunities afforded by the IRA and we look forward to robust engagement from EPA and tremendous success together. Please do not hesitate to contact Miles Keogh (mkeogh@4cleanair.org) of NACAA, or either of us, if you need additional information.

Sincerely,



Frank Kohlasch,
Minnesota
NACAA State Co-President



Rollin Sachs,
Johnson County, Kansas
NACAA Local Co-President