



March 16, 2009

THE
ENVIRONMENTAL
COUNCIL OF
THE STATES

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Attn: Mabel Echols
Office of Information and Regulatory Affairs
Records Management Center
Office of Management and Budget
Room 10102, NEOB
725 17th St., NW
Washington, DC 20503

Subject: Federal Regulatory Review

Thank you for the opportunity to provide input to the Office of Management and Budget as it develops a set of recommendations to the President for a new Executive Order on Federal Regulatory Review.

The Environmental Council of States, ECOS, is the national non-partisan association of state and territorial environmental agency leaders.

Executive Order 12866 – Regulatory Planning and Review – includes a definition of a "significant regulatory action" including any regulatory action that is likely to result in a rule that may "have an annual effect on the economy of \$100 million or more..." In November 2008, the U.S. EPA updated its guidance for implementing Executive Order 13132 on Federalism. This guidance now includes a threshold of \$25 million to consult with state and local governments for actions that have federalism implications. ECOS would recommend that a new Executive Order on Federal Regulatory Review not supersede EPA's commitment to consult with states at the \$25 million threshold and that lower thresholds for impact be allowable for federal agencies. ECOS supports inclusion of state input.

Secondly, costs to states to implement federal rules under delegated programs are increasing. The number of rules continues to increase, there are more rules overall to implement, and federal rules have impacts on declining state budgets. The portion of EPA's budget that provides federal support to delegated state programs to implement rules - Categorical Grants – has remained at best flat over the last few years.

Please let me know if additional information would be helpful.

Sincerely,

R. Steven Brown
Executive Director

Cc: Mike Linder, ECOS President
Wayne Gieselman, ECOS Planning Committee Chair
Tom Burack, ECOS Planning Committee Vice-Chair

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Executive Director