January 18, 2023

Via Federal eRulemaking Portal

U.S. Environmental Protection Agency
EPA Docket Center
WJC West Building, Room 3334
1301 Constitution Avenue, NW
Washington, DC 20004

Re: Request for Information – Climate Pollution Reduction Grants (Inflation Reduction Act § 60114) (Docket ID No. EPA-HQ-OAR-2022-0873), https://www.regulations.gov/docket/EPA-HQ-OAR-2022-0873

To Whom It May Concern:

Environmental Defense Fund (EDF) appreciates the opportunity to provide feedback to the Environmental Protection Agency (EPA) regarding the implementation of the Climate Pollution Reduction Grants (Section 60114) of the Inflation Reduction Act ("IRA") in the new section 137 of the Clean Air Act. EDF will be submitting additional comments separately on other aspects of the RFI.

The Climate Pollution Reduction Grants program provides EPA a unique opportunity to partner with state, tribal, and local entities to catalyze regulatory measures designed to cut greenhouse gas (GHG) pollution. EDF's comments include recommendations for how EPA can effectively implement this program to maximize GHG pollution reductions, and to direct funding to secure reductions that are additional to our current business-as-usual trajectory. Our comments are organized as follows:

Contents

I. Introduction

President Biden signed the Inflation Reduction Act (IRA) into law in August 2022. The IRA represents a $369 billion down payment on climate progress, including historic investments in clean energy, clean transportation, decarbonizing industry, environmental justice, and cutting

methane pollution. Rhodium Group estimates[1] the provisions in the law have the potential to draw U.S. greenhouse gas emissions down to between 32% to 42% below 2005 levels by 2030 – reducing 7% to 10% more than under business-as-usual emissions projections prior to the IRA's passage. This marks the most significant progress towards President Biden's commitment to cut U.S. emissions in half (50-52% below 2005 levels) by 2030 of any federal legislation to date.[2]

Whether the U.S. succeeds in capturing the full pollution abatement potential of the IRA is contingent on two variables: 1) how effectively the provisions of the IRA are implemented, and 2) if strong and complementary regulatory policies are put in place at the state and federal level that require cuts in GHG pollution, helping to ensure deployment at scale of incentivized technologies. The resources made available through the IRA create an unprecedented opportunity for local jurisdictions to elevate their fight against climate change and deliver policies that directly regulate and constrain GHG pollution, in particular, by leveraging federal investments to significantly mitigate the costs associated with decarbonization across multiple sectors. These resources also provide a critical opportunity to invest in low-income and disadvantaged communities and this should be an essential, overarching consideration in EPA's implementation of the program given that reductions of GHG also secure meaningful reductions in locally harmful co-pollutants.

The IRA's Greenhouse Gas Air Pollution Plans & Implementation Grants (section 60114) provides EPA with a powerful tool to work in partnership with state environmental agencies to facilitate the development and implementation of state-level regulations. Effective regulatory policy levers exist at the state and local level, and states have a significant role to play in securing reductions consistent with the scale of the climate challenge. Such regulations are necessary to maximize the abatement potential of the IRA, and then go beyond – closing the still sizeable gap between projected GHG emissions in the U.S. and the level of abatement necessary.

The EPA must implement the Inflation Reduction Act's section 60114 to: (1) minimize cumulative GHG pollution from U.S. sources, and (2) direct funding to state-level regulatory efforts that carry the greatest certainty of delivering reductions in GHG pollution that are quantifiable, verifiable, enforceable, and additional to a current business-as-usual trajectory. Moreover, EPA should consider additionality to ensure the funding is not directed towards efforts receiving multiple grants through different EPA IRA programs.

II. Section 60114 Overview

[1] Rhodium Group, "A Turning Point for US Climate Progress: Assessing the Climate and Clean Energy Provisions in the Inflation Reduction Act," August 2022, available at https://rhg.com/wp-content/uploads/2022/08/A-Turning-Point-for-US-Climate-Progress_Inflation-Reduction-Act.pdf.

[2] The White House, "FACT SHEET: President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies," April 2021, available at https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/

The GHG Air Pollution Plans and Implementation Grants (section 60114) includes three discrete appropriations:

1. $250 million for at least one eligible entity in each state to develop GHG reduction plans,
2. $4.75 billion to be competitively administered to eligible entities to implement those plans. ($4,675,500,000 taking into account #3 below), and
3. $3% of the $4.75 billion ($142.5 million) for EPA Administrative costs to carry out the program.

First, the IRA directs EPA to distribute $250 million for grants to at least one eligible entity (i.e., state, air pollution control agency, municipality, Indian tribe) in each state "for the costs of developing a plan" to reduce GHGs. EPA must distribute the funds, which averages to $5 million per state, *by September 30, 2031*.

Second, EPA must competitively award roughly $4.7 billion to implement those plans to eligible entities (i.e., state, air pollution control agency, municipality, Indian tribe). The IRA requires EPA to reserve three percent of this fund to carry out the IRA's directives in this section. EPA must distribute these implementation funds *by September 30, 2026*.

The IRA codifies these grants in Section 137 of Part A of the CAA, "Air Quality and Emissions Limitations."

III. Statutory Considerations

The statutory text of section 60114 provides EPA clear direction that the implementation grants are intended to be based on the "performance in implementing" the greenhouse gas reduction plan and "in achieving projected greenhouse gas air pollution reduction.[3]"

Additionally, Congress importantly requires in section 60114 that the plans, include "programs, policies, measures, and projects that will achieve or facilitate the reduction of greenhouse gas air pollution.[4]" Congress also specified the entities that are eligible to receive the grants—a state, air pollution control agency, municipality, Indian tribe, or a combination of those entities. These entities have the authority to implement programs, policies, measures and projects and ensure they achieve GHG emission reductions.

IV. Recommendations

1. Timeline

a. Statute Consistent with Urgency to Cut Pollution

[3] Section 137(c)(3)
[4] Section 137(b))

Congress provided a very swift deadline for the competitive implementation resources to be fully expended (September 2026), underscoring the importance of focused planning that quickly transitions to the adoption and implementation of regulations that will demonstrably cut pollution.

EPA should move quickly to facilitate timely development and refinement of state GHG mitigation plans, in order to enable implementation of state-level plans—and associated resource disbursement—as quickly as possible.

The urgency and the stakes couldn't be higher. The U.S. is currently emitting carbon dioxide pollution at roughly seven times[5] the rate that we are actively removing it, and preliminary estimates[6] indicate that 2022 annual emissions likely *increased* roughly 1.3% relative to 2021 emission levels. The average of carbon dioxide emissions pathways that achieve international temperature targets as analyzed by the IPCC[7] show net zero carbon dioxide emissions achieved globally by around mid-century, with the pathway we take leading up to that point critically important. Climate scientists broadly agree that swift action to reduce greenhouse gas emissions has both near- and long-term benefits. For example, reducing emissions of short-lived climate pollutants (e.g., methane) – which largely govern the rate of warming – is crucial for slowing and limiting near-term warming and associated damages. Additionally, reducing emissions of long-lived climate pollutants (e.g., carbon dioxide) – which largely govern the maximum amount of warming – is crucial for limiting the overall amount of warming we will experience. This is because long-lived climate pollutants can last for centuries in the atmosphere, thus committing us to warming for generations to come.[8] Therefore, as we continue to emit greenhouse gases into the atmosphere over the next decade, and even over the next few years, we will continue to exacerbate the climate damages we are already seeing. The earlier we reduce emissions, the better the chance we have at achieving temperature stability at desirable levels and limiting the severity of climate impacts such as extreme heat, wildfires, and drought.

b. EPA Should Meet Aggressive Implementation Deadlines; Provide States Clear Deadlines with Program Guidance

1. EPA should issue full Section 60114 grant program guidance by April 15th, 2023. (3 months)

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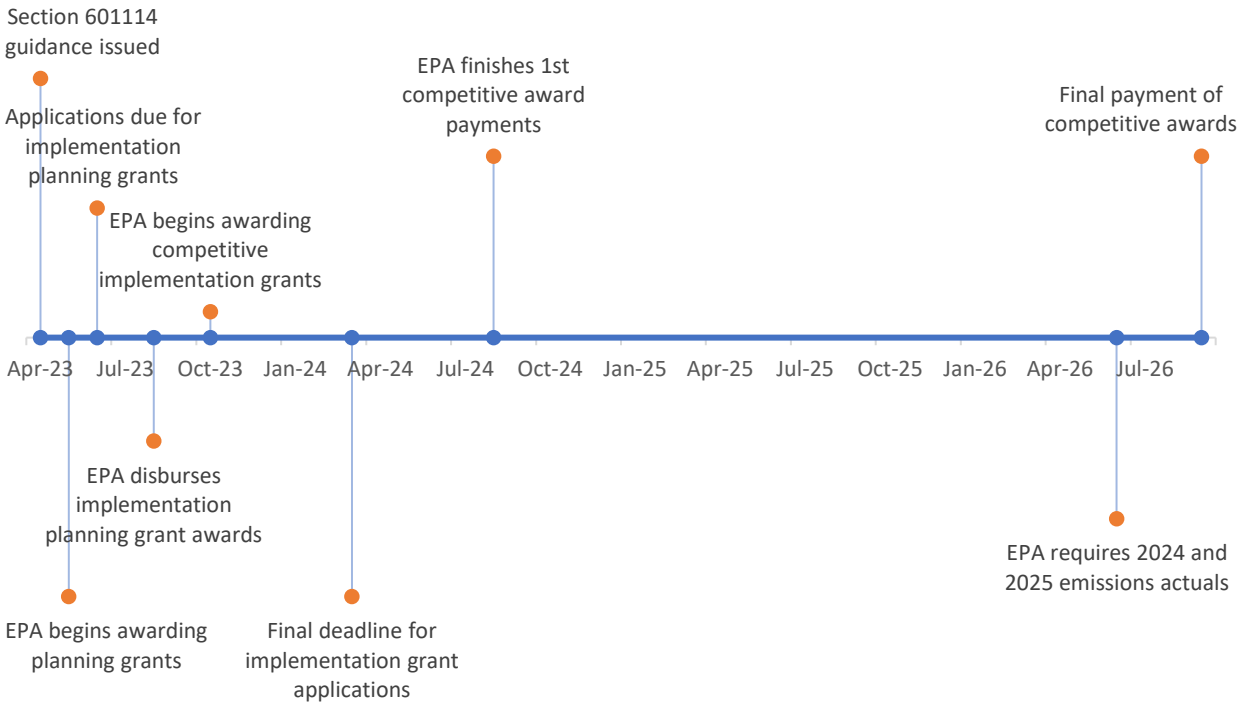
[5] Based on emission sinks from the Land Use, Land-Use Change, and Forestry sector as reported in EPA 2020. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2018, available at https://www.epa.gov/sites/production/files/2020-04/documents/usghg-inventory-2020-main-text.pdf.

[6] Rhodium Group, https://rhg.com/research/us-greenhouse-gas-emissions-2022/

[7] See Summary for Policymakers of IPCC Special Report on Global Warming of 1.5 C. Available at: https://www.ipcc.ch/sr15/chapter/spm/.

[8] Myhre, G., D. Shindell, F.-M. Bréon, W. Collins, J. Fuglestvedt, J. Huang, D. Koch, J.-F. Lamarque, D. Lee, B. Mendoza, T. Nakajima, A. Robock, G. Stephens, T. Takemura and H. Zhang, 2013: Anthropogenic and Natural Radiative Forcing. In: Climate Change 2013: The Physical Science Basis. Contribution of Working Group I to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change [Stocker, T.F., D. Qin, G.-K. Plattner, M. Tignor, S.K. Allen, J. Boschung, A. Nauels, Y. Xia, V. Bex and P.M. Midgley (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA. Available at: https://www.ipcc.ch/site/assets/uploads/2018/02/WG1AR5_Chapter08_FINAL.pdf.

2. EPA should commit to applicants that they will hear back from agency (approval, denial, or any necessary changes) within 30 days of submission.
3. EPA should begin awarding *planning grants* no later than May 15th, 2023.
4. All applications for planning grants *that are implementation-grant eligible* should be due no later than June 15th, 2023. (2 months)
5. EPA should work with applicants on any necessary planning grant revisions and disburse all *implementation-eligible planning grant* awards no later than August 15th, 2023. (2 months)
6. EPA should set final deadline for *implementation grant* application no later than March 15th, 2024. (7 months)
7. EPA should begin awarding first disbursement of *competitive implementation grants* no later than October 1st, 2023.
8. EPA should finish disbursement of first payments of competitive awards no later than August 15th, 2024. (5 months)
9. EPA shall require 2024 and 2025 emissions actuals, based on federal or state reporting data, for sources covered by a competitive grant award by June 1st, 2026.[9]
10. Final payments of competitive awards will be issued upon demonstration that plan provisions (implementing regulations) have been adopted *and are achieving GHG emission reductions*, no later than September 30th, 2026.



[9] Federal GHGRP annual deadline is March 31st.

c. Timing of Grant Disbursement

As outlined above, competitive implementation grants should be awarded in two tranches. The first disbursement should happen as soon as a final application is chosen by EPA. The second disbursement should happen no later than September 30th, 2026, contingent on implementing regulations for policies/measures/programs adopted and emissions reductions in 2025 materializing as projected. Emission reductions over the first two quarters of 2026 would be sufficient in lieu of 2025 abatement actuals with verifiable quarterly reporting requirements or continuous emission monitoring.

2. Planning Grants.

The IRA provides for $250 million in planning grants for eligible entities to cover the costs of developing a plan to reduce GHG pollution, requiring that at least one eligible entity in every state receives an award. The IRA requires the plans to include "programs, policies, measures, and projects that will achieve or facilitate the reduction of greenhouse gas air pollution."[10] EDF is aware that several New Mexico-based organizations are providing specific comments to this docket that include recommendations on ensuring Tribal governments are engaged, benefitted, and empowered through this program and we encourage EPA to closely review their recommendations. Below we incorporate some recommendations aligned with these principles, as we understand them. Additionally, as applicable, Tribal consultation should be a requirement for all governmental applicants, such as those discussed below from states and municipalities.

a. EPA should target roughly $5 million per state geography for GHG reduction planning, while retaining flexibility to reallocate resources if there is uneven need.

In the event there are limited planning applications from some states, less investment could be appropriate. For states with significant GHG abatement potential, and the ambition to take meaningful action, greater planning investment funds could be allocated. Such flexibility shall take into full consideration any tribal planning applications, in particular ensuring resources are allocated to fund planning efforts designed to inform an application for an implementation grant.

i. For state-level applicants, EPA should prioritize awarding grants to state Air Pollution Control Agencies

For state-level applicants, EPA should prioritize awarding greenhouse gas air pollution planning grants under § 60114(b) to state air pollution control agencies because these agencies are the best positioned *state-level* entities to achieve § 60114(b)'s goals of developing statewide plans for the reduction of greenhouse gas air pollution–an objective that hinges critically on the amount of GHG pollution emitted overall in a state. State air pollution control agencies are already charged with reducing and mitigating air pollution in their state and frequently have ample existing

[10] Section 173(b)

authority to control and abate air pollution.[11] State air agencies have developed expertise regarding both the sources of air pollution within their state as well as methods to prevent or mitigate that pollution and enforce state programs, often monitoring and regulating GHG emissions from a wide variety of sources.[12]

This combination of state-level statutory authority and expertise makes them ideal candidates to partner with EPA to develop statewide plans under the Greenhouse Gas Air Pollution Planning Grant program that include "programs, policies, measures, and projects that will achieve or facilitate the reduction of greenhouse gas air pollution." § 60114(b). Indeed, many state air pollution control agencies have already developed and implemented regulations to reduce greenhouse gas pollution in their state,[13] demonstrating the ability of these agencies to effectively reduce greenhouse gas emissions. State air pollution control agencies also have decades of experience working with EPA to implement federal air pollution rules and standards, such as the National Ambient Air Quality Standards under Clean Air Act section 110 and emission limitations for existing sources under section 111(d), which should make coordination with EPA in the plan-evaluation process and implementation of a new program faster and more effective. Overall, state air pollution control agencies are a natural fit for statewide § 60114(b) grants, and by awarding grants to these agencies, EPA will be leveraging these agencies' existing authority to regulate air pollution, experience, and expertise to ensure timely and expert development of statewide plans that are both highly impactful and cost-effective in reducing statewide greenhouse gas emissions.

ii. **Tribal applicants should be prioritized for planning grants.**

In addition to the recommendation that state and other governmental applicants must demonstrate they have undertaken adequate consultation with Tribal governments above, EPA should do concerted outreach focused on supporting tribes that may be interested in a planning grant and ensure resources and capacity are provided to assist tribes, if needed. Tribes should also be eligible for both direct grants and pass-through grants under this program, should be prioritized for investment, and treated as distinct from states in receiving grants (i.e., a grant

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[11] For example, in Oregon the Environmental Quality Commission "may establish air quality standards including emission standards for the entire state or an area of the state." ORS § 468A.025(3). In Wisconsin, the Department of Natural Resources shall "[p]repare and develop one or more comprehensive plans for the prevention, abatement and control of air pollution in [the] state." Wis. Stat. § 285.11. In North Carolina, the Environmental Management Commission is directed to "develop and adopt…air quality standards applicable to the State as a whole or to any designated area of the State…" N.C. Gen. Stat. § 143-215.107(a)(3). In New Jersey, the Department of Environmental Protection has the "power to formulate and promulgate, amend and repeal codes and rules and regulations preventing, controlling and prohibiting air pollution throughout the State or in such territories of the State as shall be affected thereby…" N.J. Stat. § 26:2C-8(a).

[12] For example, Colorado's Air Quality Control Commission has implemented a greenhouse gas emission reporting rule and requirements for reducing emissions from some sources. 5 CCR 1001-26.

[13] For example, the California Air Resources Board has implemented a cap-and-trade system for greenhouse gas emissions. 17 CCR 95801. Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia are all part of a regional greenhouse gas trading program for power plant emissions. *See* State Statutes and Regulations at https://www.rggi.org/program-overview-and-design/state-regulations.

going to a state government, for example, should not preclude a tribe from that state from receiving a grant).

iii. **For municipal applicants, EPA should prioritize municipal air pollution control agencies or other city-level entities that are well-positioned to implement regulatory programs.**

Many large cities/municipalities, including their local air pollution control agencies, are well-positioned to implement regulatory programs that can drive quantifiable emissions reductions (e.g., building codes, municipal fleet conversion, energy efficiency requirements, etc.). Cities/municipalities across the country also have experience coordinating, designing, and implementing cross-cutting programs at the local level that can reduce GHG pollution and in ways that recognize the importance of ensuring benefits accrue to environmental justice, low-income, and other communities. Indeed, local government agencies are on the front lines of climate change and can be well-equipped to drive progress through this program and serve their communities.

EPA should ensure extensive outreach, technical support, and other specialized resources are provided for localities throughout the entire process related to aid in applications they seek to provide for a planning and/or implementation grant and any assistance in how best to coordinate with states, Tribes, other localities, etc. Additionally, numerous coalitions exist to support cities/municipalities and could also be important partners and potential grantees to consider under this program.

iv. **EPA shall prioritize planning grants based on three criteria**: 1) largest percentage of emissions under the jurisdiction of the entity, 2) scope of the planning entity's regulatory authority, and 3) likelihood that the entity will apply for an implementation grant that meets the implementing grant criteria outlined below in section IV.4.

b. EPA should award planning grants to efforts that are evaluating strategies to reduce greenhouse gas pollution consistent with the best available science, including the rapid emissions decline necessary to limit average warming to 1.5°C.

Alongside action to swiftly reduce short-lived pollutants to slow the rate of warming, avoiding the worst impacts of climate change requires securing reductions consistent with staying within estimated carbon budgets, which are derived from persistent and consistent emissions cuts. As such, it is critical for states to plan and implement policies that achieve both annual emissions targets—such as the U.S. Nationally Determined Contribution to reduce emissions 50-52% by 2030—as well as *cumulative* reductions in climate pollution consistent with a rapid decline toward science-based goals. In its Sixth Assessment Report,[14] the IPCC assessed modeled

[14] See Summary for Policymakers of the Working Group III contribution to IPCC Sixth Assessment Report, available at: https://www.ipcc.ch/report/ar6/wg3/downloads/report/IPCC_AR6_WGIII_SPM.pdf.

emissions pathways, including those that limit global average temperature increase to 1.5°C[15] with no or limited overshoot[16] – demonstrating the rapid pace of emissions cuts necessary. All pathways assessed by IPCC to limit warming to 1.5°C with no or limited overshoot assume immediate action after 2020; the average of these pathways includes near-term emission reductions of 24% below 2020 levels by 2025 and 43% below 2020 levels by 2030, with a linear decline between those benchmarks (for the sum of all greenhouse gas emissions, using the standard carbon dioxide-equivalent metric with a 100-year GWP).[17] The area beneath this emissions trajectory represents the cumulative emissions level under such a pathway – and underscores the rapid pace of emission reductions necessary to limit the overall amount of cumulative climate pollution consistent with scientific recommendations. State leaders need to act quickly to implement policies and regulations that reduce emissions with the urgency the problem demands – with a consistent and persistent downward trajectory over the course of this decade that aligns with estimated carbon dioxide budgets.[18] EPA should ensure that grants are awarded to support states in planning and implementing regulatory strategies that rapidly cut climate pollution, consistent with a 1.5°C pathway.

c. EPA should require all planning grants to incorporate regulatory measures and/or programs to mitigate GHG pollution that can be adopted by the planning entity.

As outlined below, EPA can ensure rigor in plan implementation by requiring state air agencies (or other agencies, if applicable) to detail and demonstrate their ability to secure quantifiable, additional, verifiable and enforceable GHG reductions in sectors where they propose to reduce emissions. Regulatory or other authority will be an essential ingredient for ensuring that plans are able to achieve significant GHG reductions and should be considered as a factor in EPA's evaluation of plans. EPA should encourage planning grant applicants to develop a plan that is implementation-grant eligible.

d. EPA guidance should establish that planning grants must be leveraged for specific activities and deliverables that will be included in the plan.

Along with criteria outlined below in section IV.4, award of an *implementation* grant should be contingent upon states or entities having delivered certain planning outputs. Recommendations for activities and deliverables that should be required in plans as follows:

i. The entity has completed a recent, statewide emissions inventory. The inventory should have been prepared within the past 2 years from the time of submission of the planning grant. Statewide emissions inventories should be based on

[15] This category includes modeled emissions pathways that "limit warming to 1.5°C in 2100 with a likelihood of greater than 50%, and reach or exceed warming of 1.5°C during the 21st century with a likelihood of 67% or less." *Id*, pg. 25.
[16] IPCC defines "limited overshoot" as "exceeding 1.5°C global warming by up to about 0.1°C and for up to several decades." *Id.*
[17] Data used to calculate these benchmarks is available at: https://ipcc-browser.ipcc-data.org/browser/dataset?id=3878.
[18] IPCC Special Report on Global Warming of 1.5°C. Available at https://www.ipcc.ch/sr15/chapter/chapter-2/.

reasonable, transparent assumptions and the most recent available data and, at a minimum, should be consistent with the EPA GHG inventory tool in methodology, form, and data;

ii. The entity should include details on its plans for statewide public engagement, including specific outreach to environmental justice, energy-producing, and low-income communities, timeframe for the engagement, forums and modes of engagement envisioned, key partners or stakeholders, resources needed, and other information relevant to outreach;

iii. The entity should include a comparison and evaluation of multiple *enforceable* regulatory and policy scenarios across a variety of criteria including:

   A. Analysis of cumulative GHG emission abatement, as well as locally harmful co-pollutant reductions, on the 2030, 2035, and 2040 time-horizon
   B. Cost-per-ton of GHG emissions reduced.

3. EPA Administrative Costs Funding

The IRA allocates three percent ($142.5 million) of the total funding for the Greenhouse Gas Air Pollution Implementation Grants for administration of the program, including to provide technical assistance to eligible entities, to develop a model plan, and to model the effects of plans. While discrete funding exists to help states and entities with various needs for developing their plans, there are opportunities to leverage the administrative funds for broader uses to serve individualized and cross-cutting purposes for states and entities. Examples of broadly useful technical information could include things like toolkits on addressing emissions in various sectors and multi-sector program design, conducting public outreach and education about emissions reduction programs, utilizing EPA and other data sources, providing guidance on Environmental Justice outreach best practices and approaches, tools to assess/quantify Environmental Justice, low-income, and disadvantaged communities impacts, and developing a credible economy-wide business-as-usual range of projected emissions. EDF has several recommendations regarding additional ways to deploy these administrative funds to encourage plans that maximize GHG reductions, to support education on developing plans and the opportunity to use the funds, to enable collaboration among states and entities, and to ensure plans are geared towards spurring *additional* pollution reductions.

a. EPA should consider using a portion of these allocated funds to provide the technical expertise needed for entities to develop plans that maximize the GHG reductions they will achieve. Those entities newer to GHG reduction planning could benefit from a number of EPA technical resources and the other external technical resources that EPA can command (e.g., technical consulting firms and agencies, nonprofit experts, respected “think tanks”). For states and entities with experience crafting GHG plans, there may still be resource constraints that prevent development of plans that reflect the latest information on emissions data, economics and cost curves, Environmental Justice and other impacts, policy tools, or compliance obligations for emitting sources that have material impacts on GHG planning. These states and entities could benefit from proffered EPA technical capacity and resources. Many states, for example, may

have developed GHG plans as part of legislative or regulatory obligations that may be outdated, or have specific parameters or limitations that could curtail the potential effectiveness of the plan in maximizing GHG reductions across all sectors. EPA should consider conducting an initial survey as soon as possible for states and key stakeholders that solicits input and guidance on what specific technical expertise would be most useful for those that plan to craft plans and on their preferred avenues for accessing such resources. EPA also held workshops with community groups on specific technical issues, including a workshop on the treatment of biomass in spring 2016.[19] Additionally, EPA provided technical support documents for emission performance rate and goal computation, new source complements to mass goals, and GHG mitigation measures, among others to aid in planning activities.[20]

b. **In addition to EPA's own outreach, EPA should support efforts to convene eligible entities and stakeholders to support the understanding of the opportunity to use the funds to support each state or entity's own priorities**. EPA has flexibility in how it funds planning and projects and should ensure that states, cities, and other appropriate third-party entities and conveners – that may have greater or different reach than the agency can access on its own – have funding and support to educate their stakeholders on the opportunity provided by the climate pollution reductions grants program. This could take the form of funding webinars, development of materials or websites, meetings or activities to connect stakeholders, and other methods for information-sharing and providing education about the program. Efforts could be focused on one or multiple sectors, various constituencies, and local, state, Tribal, or regional levels.

c. **EPA should provide convening support for states that may benefit from working together on a joint implementation application**. States may determine that there are new or existing multi-state structures they would like to develop or expand as part of the planning process and implementation processes for this program. EPA should consider providing funds that support such convenings of states that are for the express purpose of developing individual and/or collective plans related to this program (that meet the criteria and other recommendations in these comments that the pollution reductions envisaged are truly additional and that the efforts seek to maximize GHG reductions). EPA has supported networks of state air agencies, like the Northeast States for Coordinated Air Use Management and the Ozone Transport Commission, for example, to deal with a variety of air pollution issues and coordinate, develop, and implement state-specific and multi-state plans. The Regional Greenhouse Gas Initiative is one example of a collective of states that could consider pursuing a joint implementation grant application to accelerate the program's emissions reductions from covered electric generating units in the region.

[19] National Conference on State Legislatures, "Clean Power Plan Implementation What States Need to Know," January 2016, available at https://legacy-assets.eenews.net/open_files/assets/2016/01/12/document_cpp_01.pdf

[20] EPA, Clean Power Plan Final Rule Technical Documents, August 2015, available at https://archive.epa.gov/epa/cleanpowerplan/clean-power-plan-final-rule-technical-documents.html

d. EPA should ensure the funding is invested in plans that, if implemented, will provide additional climate benefits. As discussed in section III and section IV.4.a.i. of these comments, these grants are intended to provide *additional* climate pollution reductions that would not have occurred otherwise, including from state or federal regulatory or legislative policy, other sections of the Inflation Reduction Act, or the Infrastructure Implementation and Jobs Act. EPA must undertake due diligence in its assessment of plans submitted for these competitive grants to ensure projects contained therein represent additional tons of GHG reduced. EPA should make it clear upfront to states and entities that are seeking planning and/or implementation grants that emissions reductions are required to be demonstrably additional and ensure states and entities have the tools and resources to do so. EPA can use part of its administrative funding to provide technical assistance to states and entities to undertake any modeling or assessments needed to establish GHG inventories, baselines, policy cases, and more that can help ensure their plans adhere to the additionality and other criteria.

4. Implementation Grants

a. Non-discretionary Implementation Grant Eligibility Requirements

The statute directs the Administrator to competitively award implementation grants, subject to "…such conditions based on its performance in implementing its plan submitted under this section and in achieving projected greenhouse gas air pollution reduction…" (section 137(c)(3)) In order to ensure that grants are awarded to plans that achieve reductions in greenhouse gas pollution, as required by statute, ***EPA should make implementation grants contingent on achieving quantifiable, additional, verifiable and enforceable emission reductions beginning no later than in 2025***.

i. Plans must be designed to achieve *quantifiable* and *additional* reductions in greenhouse gas pollution.

The statute requires applications for implementation grants to include "…information regarding the degree to which greenhouse gas air pollution is projected to be reduced in total and with respect to low-income and disadvantaged communities." (section 137(c)(2)) Moreover, the statute conditions grant disbursement on "…achieving projected greenhouse gas air pollution reduction…" (section 137(c)(3)) To satisfy these requirements, plans must be designed to achieve *reductions* in greenhouse gas pollution that are quantifiable and additional to those that would have otherwise occurred. In applying for implementation grants, entities must estimate the quantity of greenhouse gas pollution that is projected to be reduced, cumulatively, from implementation of planned policies, measures, and programs.

To qualify for implementation grants, plans must drive reductions that are additional to projected state-level abatement under a business-as-usual (BAU) emissions trajectory. In general, a BAU scenario can be defined as the projection of emissions in the absence of the policy measured being considered for implementation. Developing a transparent and credible BAU scenario is

essential for quantifying the reductions that are projected to occur as a result of policy implementation. To be credible and transparent, a BAU scenario should accurately reflect current laws and regulations and make clear any assumptions used such that EPA, state policymakers, and the public can use the projection as an effective and realistic benchmark against which to assess the quantitative abatement potential of the policy.

ii. Plans must be designed to achieve *enforceable* and *verifiable* reductions in greenhouse gas pollution and must include direct emissions reporting requirements.

EPA must ensure that plans include enforceable and verifiable strategies that are capable of *achieving* reductions in greenhouse gas pollution. To be eligible for implementation grants, plans should include regulatory measures that, if enforced, will lead to both quantifiable and *verifiable* reductions—enabling EPA to disburse full grant awards after verifying that near-term projected reductions have, in fact, occurred and are enforced. As such, EPA will need to monitor emissions outcomes before and after implementation of the policy, measure, or program. Implementation grants must be contingent on entities adopting direct emissions reporting requirements for sources covered under the plan if state-specific reporting data is not available federally, as this information is essential for EPA to verify that reductions are achieved, and thus, to disburse the full grant award.

iii. Plans must achieve reductions beginning no later than 2025.

The IRA directs EPA to competitively award $4.75 billion in implementation grants "…subject to such conditions based on its performance in implementing its plan submitted under this section and in achieving projected greenhouse gas air pollution reduction…" (section 137(c)(3)) EPA must distribute implementation funds by September 30, 2026. (section 137(a)(2)) As such, in order for an eligible entity to satisfy the terms and conditions of an implementation grant—and thus qualify for full grant disbursement—EPA must verify before September 30, 2026, that initial projected reductions in greenhouse gas pollution have been realized and that the regulation in place is designed to ensure future abatement will materialize. Given that federal emissions reporting covering the prior year is due by March 31st each year,[21] plans must be designed such that implementation will ensure greenhouse gas pollution reductions occur starting no later than in 2025. All implementation grants must result in reductions between 2023 and 2030.

iv. Plans must include step-by-step timeline for proposing, adopting, and implementing the regulatory measures and/or program that will secure projected GHG abatement.

To ensure plans are capable of achieving pollution reductions on the required timeline, implementation grants should ensure plans include specificity on both the regulatory tools and *a swift timeline for enacting policies* that achieve the necessary reductions. Plans should include a regulatory measure or set of regulatory measures that, if enforced, will achieve projected greenhouse gas reductions—and a specific timeline for state regulators to enact those policies such that reductions begin to occur no later than in 2025.

[21] https://www.epa.gov/ghgreporting/learn-about-greenhouse-gas-reporting-program-ghgrp

b. Competitive Criteria for Implementation Grants

In addition to the non-discretionary eligibility requirements, EPA should evaluate and competitively award grants that score highest across the following criteria.

i. Greenhouse gas pollution abatement potential

EPA should award implementation grants to maximize the *volume* of quantifiable, additional, enforceable, and verifiable reductions in greenhouse gas pollution. The key metric for evaluating the efficacy of a framework to tackle climate pollution is the level of cumulative reductions over time: the sooner states cut emissions, the greater the cumulative reductions — and the easier it becomes to ensure we are on a reduction trajectory consistent with our national and state climate targets. As such, EPA should evaluate the near- and long-term abatement potential of grant applications and prioritize plans with regulatory measures that, if implemented, would reduce the most cumulative greenhouse gas pollution over time.

ii. Certainty of greenhouse gas reductions

EPA should prioritize plans that are capable of limiting greenhouse gas pollution to amount certain—in particular, plans that, if implemented, would ensure a declining trajectory in greenhouse gas pollution *over time*. Measures that include a firm, declining limit (or cap)—source-specific, sector-specific, or multi-sector— on mass-based emissions provide the greatest possible certainty of achieving projected reductions in greenhouse gas pollution and meeting climate targets.

While performance- and technology-based standards can often guarantee the *rate* of emissions or technology uptake—and can secure quantifiable reductions from BAU projections—overall emissions will still fluctuate depending on activity levels. For example, how many commercial buildings and how big they are will determine overall emissions levels from the buildings sector—even if there is a strict performance standard for how "clean" a particular building must be. As such, EPA should prioritize plans that will implement backstop "emission control" options—policies that limit overall pollution from either a source, a sector, or multiple sectors—that in turn ensure the projected emission reductions are achieved.

iii. Pollution reductions in low-income and disadvantaged communities

While the Climate Pollution Reduction Grants program is designed to address greenhouse gas emissions (globally harmful pollutants), addressing co-pollutants in climate program design is extremely valuable to help reduce ongoing and significant local air pollution disparities in disadvantaged communities. The statute requires grant applicants to quantify "…the degree to which greenhouse gas air pollution is projected to be reduced in total *and with respect to low-income and disadvantaged communities*…" (emphasis added).[22] As such, EPA should prioritize

[22] Clean Air Act § 137, 42 U.S.C. § 7437 (as amended by Inflation Reduction Act of 2022, Pub. L. No. 117-169, § 60114 (2022)).

plans that incorporate and maximize targeted measures to reduce greenhouse gas pollution—and the co-pollutants emitted alongside greenhouse gases—in low-income and disadvantaged communities.

For example, Washington State's Climate Commitment Act incorporates measures to identify and monitor air pollution in overburdened communities, the authority for the regulator to place additional greenhouse gas restrictions on major pollution sources in overburdened communities including further limitations on the use of offsets, a requirement to set community-specific limits on local air pollution, and the requirement for the regulator to issue an enforceable order that those targets be met. In 2020, EDF filed a regulatory petition with the Colorado Air Quality Control Commission to adopt an enforceable cap on greenhouse gas emissions—including inflexible, source-specific greenhouse gas pollution limits for facilities that directly contribute to disproportionate pollution burdens.[23] For those sources, the program was designed to limit compliance flexibility such that pollution reductions and health benefits accrue directly in the communities where environmental injustices are most acute. These provisions demonstrate that greenhouse gas regulations can be designed to achieve deep reductions in both climate pollution *and* locally harmful air pollution—while directing air quality and other program benefits to overburdened communities.

iv. Mitigation of consumer costs

EPA should prioritize plans that mitigate costs to consumers—incentivizing states to adopt climate pollution regulations that deliver significant climate, air quality, and cost savings benefits. Multiple regulatory features can be deployed to mitigate consumer costs, such program designs that drive the least cost emission reductions across multiple sectors—minimizing overall abatement costs in the state—and program designs that generate and reinvest revenue in the state. Adopting a revenue-generating regulatory program can enable the state to reinvest program value in ways that reduce costs to consumers, including by investing in projects that help support pollution reductions in low-income and disadvantaged communities or by providing direct rebates to households or utility customers. Additionally, states and others may have existing or opportunities to build offices or programs that can help aid consumer costs and economic transition to a clean energy economy. These programs and offices could potentially be considered eligible for funding under this program, in tandem with strong regulatory requirements.

c. Grant Amounts.

EDF recommends that EPA directly link the value of competitive implementation grant awards to the projected greenhouse gas pollution abatement from enforceable measures included in the plan. Such measures must meet the criteria outlined in IV.4.a, result a high degree of certainty that the projected abatement will come to fruition if the regulation is adopted and implemented, and have specific near-term deadlines for adoption and implementation.

[23] Environmental Defense Fund, Petition to Colorado Air Quality Control Commission https://www.edf.org/sites/default/files/documents/Proposed%20Amendments%20to%20Regulation%2022%20Text%20and%20SBAP_0.pdf

EPA should consider awarding a consistent amount for every ton of carbon dioxide equivalent reduced, along with award bonuses for specific types of reductions.

i. **EPA should determine an appropriate base $/ton award value**. One approach could be to set a minimum amount assuming that the full ~$4.7b will be utilized to secure the remaining "gap" in cumulative emissions abatement between current U.S. projections and an emissions trajectory through 2030 or 2035 consistent with a 1.5c pathway. This approach would ensure competitive resources are available for any state that delivers an implementation grant-eligible plan/application, and that resources are available to provide some incentive to meet the full need. Another approach would be to determine a portion of U.S. emissions that EPA is hoping to use this program to reduce—i.e., closing 25-30% of the abatement gap between now and 2030. This would allow the value of each reduction to be higher, providing a stronger incentive to mitigate a smaller portion of the overall reductions necessary.

    A. **If states Opt-Out of Pursuing Implementation Grants, EPA should adjust upward base $/ton award value.** EPA will know early in the planning stages whether entities from all 50 states are pursuing implementation-grant eligible plans. EPA can recalibrate projected award amount in real-time, creating stronger incentive for states developing implementation plans to be as ambitious in terms of emission abatement as possible. EPA can also recalculate base award amount once competitive grant recipients are chosen, dividing ~$4.7b by total projected abatement from grantees.
    B. **EPA Should Consider Multipliers/Bonuses for High-Priority Abatement Projected Co-Pollutant Reductions in Environmental Justice Communities:** EPA should consider providing a multiplier for any implementation grant that is driving reductions in locally harmful air pollution *alongside the GHG reductions* that demonstrably decrease the pollution burden in EJ communities. EPA could explore providing added financial incentive to direct GHG emission reductions towards EJ communities by providing added value-per-ton of pollution reduced. The IRA also includes a number of programs that demonstrate a clear proclivity towards pollution reductions in EJ communities.[24]
    C. **Economy-wide Implementation Plans:** EPA should consider providing a bonus for implementing comprehensive regulatory strategies (a regulation or suite of regulations) that cover roughly 80+% of a state's emissions and put the state on track to achieve net-zero emissions economy-wide.

[24] White House, "FACT SHEET: Inflation Reduction Act Advances Environmental Justice," August 2022, available at https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/17/fact-sheet-inflation-reduction-act-advances-environmental-justice/

D. **Harder to abate sectors:** EPA should consider multipliers for direct regulatory strategies that cover industrial sector sources (non-power sector) or liquid or gaseous fuels.

d. Implementation Grants for non-regulatory initiatives.

i. For any remaining resources after utilizing the investment strategies and priorities above, States and entities applying for an implementation grant should be allowed to apply to use the funding for specific projects that reduce GHG, provided a few conditions are met:

C. If the project is directly supported by IRA dollars from other EPA, DOE, or US Treasury program (i.e. the Production Tax Credit or Investment Tax Credit, 45Q credits, etc.) or IIJA funds, the applicant must demonstrate that the project would achieve additional greenhouse gas abatement if it received additional funding via an implementation grant.

D. Applications for projects must include GHG abatement projections and must be based on reasonable assumptions.

e. Additional Implementation Grant Application Specifications.

i. States and entities applying for implementation grants should detail what activities and purposes they intend to use grant resources to fund. This could include activities like providing rebates to electric, gas, and other consumers, state regulatory program management and staffing, and public communications and engagement.

ii. As soon as practical, EPA should provide guidance to states and entities about what the appropriate uses of grant dollars will be under the program. EPA has precedent for funding a wide array of activities that support statutory and other programs and should consider ways to ensure flexible, but highly focused investment of these resources to advance the goals of this section of the IRA. Specific activities and resources that should be considered acceptable use of grant funding include:

A. Staffing at agencies overseeing implementation grant related programs and activities,

B. Technical support, including for external services from contractors, firms, and others across a range of expertise and issues,

C. Other program implementation work necessary to achieve reductions in greenhouse gas pollution projected in the grant application,

D. Re-granting to partners, localities, and other entities that will be essential in achieving the outcomes and deliverables related to the implementation grant or to address compliance cost issues, inequities in certain communities or low-income consumers that may result from implementation.

Respectfully submitted,

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