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Inflation Reduction Act of 2022 Doubles Down on Environmental Justice

Today, August 16, 2022, President Biden signed into law the fiercely negotiated and long anticipated Inflation Reduction Act of 2022 (“IRA”). Among other things, the IRA provides a significant boost, including approximately \$60 billion in funding, to a wide variety of projects and programs addressing Environmental Justice (“EJ”) issues. Beginning with his first day in office, President Biden has made EJ a central theme of his administration, mobilizing a whole-of-government approach to tackling this important issue. Over the past year and a half, the specific contours of this cardinal focal point have gradually begun to take shape as EPA, DOJ, and other federal agencies have announced regulatory and enforcement initiatives focused on EJ. With the passage of the Bipartisan Infrastructure Bill in November 2021, the federal government announced significant funding directed to EJ projects. Under the Administration’s Justice40 Initiative, 40 percent of grants and other environmental funding are being directed toward projects focused on EJ communities. And now, with the passage of the IRA, the Biden Administration has directed an additional \$60 billion to help fund those efforts. This Client Alert focuses on eight of the most significant EJ initiatives funded under the IRA.

1. GREENHOUSE GAS REDUCTION FUND

Notably, the IRA (Section 60103) will amend the Clean Air Act (“CAA”) to create a new “Greenhouse Gas Reduction Fund.” This fund will provide \$27 billion in financial and technical assistance grants to states, tribal governments, nonprofits, and other eligible recipients to enable communities to deploy or benefit from technologies that combat climate change and reduce other forms of air pollution. Importantly, \$15 billion—\$7 billion in funds for zero-emission technologies and another \$8 billion in other qualifying projects—are specifically dedicated to providing financial and technical assistance in low-income and disadvantaged EJ communities.



2. ENVIRONMENTAL AND CLIMATE JUSTICE BLOCK GRANTS

The IRA (Section 60201) also amends the CAA to provide \$2.8 billion in environmental and climate justice block grants to states, tribes, municipalities, and nonprofits for financial assistance to address clean air and climate pollution in disadvantaged communities. Another \$200 million is designated to provide technical assistance. As described in the IRA, these grants can be used to fund a variety of programs and activities, including:

- Community-led air and pollution monitoring, prevention, and remediation
- Investments in low- and zero-emission and resilient technologies and related infrastructure
- Mitigating climate and health risks from urban heat islands, extreme heat, wood heater emissions, and wildfire events
- Climate resiliency and adaptation
- Reducing indoor toxics and indoor air pollution
- Facilitating engagement of disadvantaged communities in state and federal advisory programs, rulemakings, and other processes

3. NEIGHBORHOOD ACCESS AND EQUITY GRANTS

Further, the IRA (Section 60501) provides \$1.893 billion to the Federal Highway Administration (“FHA”) to fund a neighborhood access and equity grant program. These funds would be used to improve walkability, safety, and affordable transportation. In addition, the IRA (Section 60501(d)) dedicates over \$1.1 billion to the FHA for projects in economically disadvantaged or underserved communities.

4. ENVIRONMENTAL AND CLIMATE DATA COLLECTION

In addition, the IRA (Section 60401) directs \$32.5 million to the Council on Environmental Quality (“CEQ”) to, among other things, support data collection efforts to track disproportionate burdens of pollution and climate change on EJ communities, as well as to ensure that any mapping or screening tool (such as EPA’s environmental justice screening and mapping tool EJScreen and HHS’s new Environmental Justice Index) is accessible to those community members.

5. GRANTS TO REDUCE AIR POLLUTION AT PORTS

The IRA (Section 60102) also amends the CAA to provide \$3 billion in investment to help reduce air pollution and carbon emissions at and surrounding our nation’s ports, with \$750 million specifically earmarked for those ports in non-attainment areas. These grants would include, among other things, qualified climate action plans to reduce air emissions at ports that include a strategy to address effects on low-income and disadvantaged near-port communities.

6. HEAVY DUTY VEHICLE EMISSION REDUCTIONS

Additionally, the IRA (Sections 60101 and 60104) allocates \$60 million to EPA to reduce diesel emissions from vehicles servicing goods movement facilities in low-income and disadvantaged EJ communities, and \$400 million to upgrade school buses, garbage trucks, and transit buses in non-attainment areas. In all, the IRA allocates \$1 billion for clean heavy-duty vehicles.



7. FUNDING TO ADDRESS AIR POLLUTION

The IRA (Section 60105) further provides \$3 million to EPA for air quality monitoring—such as fence-line monitoring, air quality sensors, methane monitoring, and air screening monitoring—in low-income and disadvantaged EJ communities. The EPA and DOJ have already announced pollution monitoring and enforcement priorities directed to EJ communities, and recent enforcement settlements have included fence-line monitoring. The IRA adds funding to collect the data necessary to those activities.

8. FUNDING TO ADDRESS AIR POLLUTION IN SCHOOLS

The IRA (Section 60106) also appropriates \$37.5 million to EPA to reduce air pollution in schools located in low-income and disadvantaged EJ communities as well as an additional \$12.5 million for technical assistance related to those efforts.

CONCLUSION

These are just some examples of the broad-reaching effects the IRA will have on EJ issues in addition to the significant EJ funding under the Bipartisan Infrastructure Act. When coupled with the Biden Administration's existing and anticipated initiatives and policies focused on Environmental Justice, the IRA is set to be a game-changer on EJ issues as well as the Administration's efforts on green energy and climate change. According to the Senate's summary of the bill, the IRA "Focuses investments into disadvantaged communities to ensure that communities that are too-often left behind will share in the benefits of the transition to a clean economy."¹ By expanding the resources available to them, the IRA offers communities, nonprofits, and tribal governments increased leverage in EJ conversations and negotiations nationwide.

King & Spalding's market-leading Environmental, Health and Safety; Toxic Tort; State Attorney General; and Special Matters teams work hand-in-hand with our Real Estate; Energy & Infrastructure Projects; Construction; and Private Equity teams to ensure our clients are ready to respond to the changing regulatory and enforcement framework around EJ issues and the potential impact of EJ on ongoing and future litigation and negotiations. Check [here](#) for the latest news and insights written by the King & Spalding EJ team.



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¹ Summary of the Energy Security and Climate Change Investments in the Inflation Reduction Act of 2022 at 1, available at https://www.democrats.senate.gov/imo/media/doc/summary_of_the_energy_security_and_climate_change_investments_in_the_inflation_reduction_act_of_2022.pdf.