

RAIN-2021-G02

EPA Intergovernmental Review

Notification Date: June 16, 2021

Purpose: This Recipient/Applicant Information Notice (RAIN) informs recipients and applicants about how to determine which EPA financial assistance programs and activities are subject to Intergovernmental Review requirements.

Summary: Intergovernmental Review (IR) is a process established by Executive Order 12372 that provides states along with directly affected area-wide, regional and local governments an opportunity to provide EPA with comments on proposed financial assistance projects or direct EPA development activities.¹ Some states have adopted Single Points of Contact (SPOC) for coordinating IR pursuant to Executive Order 12372.² EPA implemented the Executive Order in [40 CFR Part 29](#) as part of a common rule. EPA financial assistance programs subject to IR are identified in a list EPA maintains on the web page [EPA Financial Assistance Programs Subject to Executive Order 12372 and Section 204 of the Demonstration Cities and Metropolitan Development Act and Section 401 of the Intergovernmental Cooperation Act](#). This list also includes information on which EPA financial assistance programs or activities that SPOCs have selected for review.

Background: Executive Order 12372 cites two primary statutes as the substantive basis for the IR requirement--Section 401 of the Intergovernmental Cooperation Act of 1968 (Section 401) and Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (Section 204). As provided in [40 CFR 29.3](#), EPA financial assistance programs subject to IR are those which EPA identifies in the Federal Register. EPA issued a [Federal Register Notice](#) on November 24, 2020 advising the public that the only EPA financial assistance programs subject to IR are those in which IR is required by section 401 and section 204 or compelling policy reasons indicate that IR is appropriate. Essentially, EPA financial assistance programs that fund land use planning, construction of facilities, remediation of contaminated soils and other land restoration activities are subject to IR under Section 401 and Section 204. All EPA financial assistance for tribes is not subject to IR.

The financial assistance programs EPA identifies subject to IR are the only EPA programs under which IR comments may be submitted to EPA although state or local laws may establish requirements for coordination of requests for Federal funding that cover a broader range of programs and activities. The November 20, 2020 [Federal Register Notice](#) also described EPA's policy of posting and maintaining the list of financial assistance programs and activities subject to IR on [EPA Financial Assistance Programs Subject to Executive Order 12372 and Section 204 of the Demonstration Cities and Metropolitan Development Act and Section 401 of the Intergovernmental Cooperation Act](#), rather than posting changes to the list in future Federal Register Notices. Additionally, EPA identifies financial assistance programs subject to IR in the Federal Assistance Listings available from [SAM.gov](#).

Related Resources:

[40 CFR Part 29](#)

¹ This RAIN focuses solely on IR requirements for EPA financial assistance programs. IR for direct EPA development activities such as construction of EPA facilities is conducted under other processes.

² The Office of Management and Budget maintains a state [Single Point of Contact list](#).

[EPA Financial Assistance Programs Subject to Executive Order 12372 and Section 204 of the Demonstration Cities and Metropolitan Development Act and Section 401 of the Intergovernmental Cooperation Act](#)