



**Testimony of Jim Macy, Director, Nebraska Department of
Environment & Energy and
President, Environmental Council of the States**

**To the U.S. Senate
Subcommittee on Interior, Environment, and Related Agencies
Addressing the FY21 Budget for the U.S. Environmental Protection Agency,**

On behalf of the Environmental Council of the States (ECOS), the national nonprofit, nonpartisan association of state and territorial environmental agency leaders, I submit this testimony on Fiscal Year 2021 (FY21) appropriations for the U.S. Environmental Protection Agency (EPA) proposed for funding at \$6.658 billion. EPA's 50th anniversary falls on December 2, 2020 so this budget represents an important milestone in our joint efforts to protect human health and the environment.

In March, ECOS sent a [letter the leaders of your Subcommittee](#) and its House counterpart requesting additional funding to support state environmental agencies whose budgets and workloads have been impacted by the public health crisis and response to the novel Coronavirus. We now reiterate that request and emphasize that the financial and workload impacts of the crisis will continue long after the most acute public health danger has receded.

State environmental agencies are the engines of environmental progress in our nation. Under America's system of cooperative federalism, Congress established federal environmental laws such as the Clean Air Act (CAA), Clean Water Act (CWA), Safe Drinking Water Act (SDWA), and Resource Conservation and Recovery Act (RCRA) with the intent that states take the lead for implementation following EPA rule promulgation. Today, states exercise more than [90 percent](#) of the delegable authorities under these and other federal laws. You can learn more about the tangible environmental results states have delivered on our [ECOS Results](#) portal.

State environmental agencies depend on federal funding to do our shared work, and appreciate this critical congressional appropriation to meet federally delegated and authorized obligations. [ECOS has documented that the federal government provides, on average, 27 percent of state environmental agencies' budgets.](#) The U.S. Congress included provisions in the CAA, CWA, SDWA, and RCRA to provide assistance to states to operate these federal programs primarily through State and Tribal Assistance Grants (STAG), in particular Categorical Grants. [Through an ECOS resolution](#), states urge the U.S. Congress and EPA to financially support state implementation efforts commensurate with the complexity and breadth of federal requirements so we may fulfill our obligations to our communities. Please consider the following requests:

I. Support State Responsibilities to Implement Federal Programs and Protect Local Resources

During the past several years, states and EPA have done considerable evaluation and alteration to the state-federal division of responsibility for environmental regulatory programs. ECOS has facilitated many of the high-level discussions on this topic through our work on cooperative federalism, and many of these conversations have been oriented toward

shifted responsibility from EPA toward the states. Federal funds are essential to our ability to support the core environmental programs, including the administration of the programs on permitting, monitoring, inspections, data management and reporting, standards setting, and technical assistance.

States are also largely carrying out the responsibilities over air quality monitoring, state research, and other program implementation activities. These efforts could be negatively impacted by a shift of STAG Categorical Grant funds for particulate air quality programs from CAA §103 grants, which do not require a state funding match, to CAA §105 grants, which require a 40% state match or Maintenance of Effort. This change could amount to trade-offs or inconsistency among states in monitoring networks if these federal funds are not maintained.

In FY02, STAG Categorical Grants were \$1.1 billion enacted and are at \$1.1 billion enacted in FY20 – eighteen years later. States continue to implement and manage new and withdrawn regulations, and despite some new programs and targeted increases, most STAG grant programs have been flat-funded for many years. We ask that Congress account for increasing state implementation costs in federal funding levels and push back against the proposed CAA §103-§105 funding shift and similar policy changes at states' expense.

II. Increase State and Tribal Assistance (STAG) Categorical Grants.

STAG Categorical Grants fund a wide range of work by state environmental agencies. Much of that work is critical core implementation activity, but these funds also support IT modernization and increased expectations by the regulated community and the public for increasing data transparency, addressing emerging contaminants, finding creative solutions to local problems, and promoting effective interagency partnerships. All of these activities are important.

One example of a state's use of STAG funds to build partnerships comes from the **Michigan** Department of Environment, Great Lakes, and Energy (EGLE). Its supplemental use of STAG Beaches Act funds helped the agency, in partnership with local health departments, to develop and implement an improved technique to monitor beaches for *Escherichia coli* (E. coli) bacteria. The new testing method can produce results in as little as three hours, compared to 18-24 hours with traditional methods. The state used a baseline from traditional methods and conducted a multi-year effort to evaluate the new value for the qPCR method to open or close beaches. Without federal assistance, EGLE would have had to direct funds toward maintaining traditional monitoring approaches and would have been severely limited in developing and implementing new technologies that provide results and protection more quickly. The FY21 President's Budget request for EPA proposes to eliminate Beaches Categorical Grants.

STAG categorical grants play a vital role in helping states implement projects that deliver positive economic benefits for their communities. For instance, the **Minnesota** Pollution Control Agency estimates that the proposed reduction in the Brownfields Response Program would prevent approximately one to two million Minnesotans from receiving economic and public health benefits resulting from cleaning up polluted lands and restoring developable property – and thus tax base – to communities across Minnesota. The **Wisconsin** Department of Natural Resources (Wisconsin DNR) notes in its FY18-19 report to EPA that it uses its CERCLA Sec.

128(a) grant (Brownfields) in part to empower “micro communities,” sites that are generally less than 10 acres and have petroleum or hazardous substance contamination that can be assessed for less than \$35,000, to take charge of their brownfields. The state awards contractor services requests which alleviates the administrative burden for these small communities of managing a grant. Wisconsin further notes in its comprehensive report on “The Economic and Fiscal Impact of Wisconsin’s Brownfields Investments” 12,400 permanent jobs were generated in underserved communities. The need for this work to transform “eyesores to assets” and to continue to provide public health and environmental protection for other core work is high across the country. States must address emerging contaminants as they arise. In one instance, the **Missouri** Department of Natural Resources received hypoxia assistance Clean Water Act 104(b) grant funds and plans to establish a point-to-nonpoint source nutrient exchange program to reduce nutrient runoff in the state, conserve farmland, and improve the quality of Missouri’s lakes and streams. EPA’s FY21 budget request also includes a new Categorical Grant of \$15 million for hypoxia assistance to fund research and policy programming aimed at reducing harmful algal blooms (HABs) caused by nutrient pollution. There are many more examples where federal funds have helped states with HABs and other emerging contaminants such as per- and polyfluoroalkyl substances (PFAS) at a time when states are struggling to identify and respond to PFAS contamination in our communities. States and EPA thus need to work together.

States thank Congress for preserving STAG categorical grants over the past years, and ask that Congress further support the program in the FY21 budget.

III. Drinking Water and Clean Water Infrastructure Critical Support via the State Revolving Fund (SRF) Loan Program.

STAG SRF funds support critical state-level investments in the local infrastructure that provides our citizens safe drinking water, sanitation, and clean aquatic environments. Because much of that infrastructure is aging or inadequate, states depend on the funding that Congress provides through the SRF program. The American Society of Civil Engineers estimates that our nation faces more than [\\$271 billion](#) in wastewater infrastructure needs. The situation is even more staggering on the drinking water side, where EPA’s most recent assessment cites a [\\$472.6 billion need](#) for infrastructure investments.

The extensive infrastructure needs continue to grow along with our populations and the advancing age of our existing facilities. In 2017, ECOS documented these needs in reports such as our [State Water and Wastewater Project Inventory](#), which describes the top 20 “shovel-ready” water and wastewater projects in each state. States have also shown the impact of these projects on water quality, and have demonstrated creative infrastructure solutions. In November 2019, the **Tennessee** Department of Environment & Conservation and a sister agency began an apparent first-of-its-kind application of SRF funds to a project aimed at addressing the growing problem of municipal water loss estimated to be 50 billion-gallons per year that resulted in lost revenue of \$84 million annually. The small, rural town of Oliver Springs will take part in a pilot project to develop and implement a plan and tools to control future water loss. That story is expertly told in this video — [Transforming Water Infrastructure in Oliver Springs](#). The plan will help educate other communities facing similar challenges, especially small and disadvantaged communities. SRF funds from Congress to states serve as a significant resource that is critical to protecting and modernizing local communities.

IV. Preserve and Expand the STAG Multipurpose Categorical Grant.

Since FY16, Congress has provided flexibility in federal funding that allows states to address local needs and priorities and provides funding for continued creativity and vitality of state-led environmental regulation. Some of the creative ways states plan to deploy and stretch the FY18-19 Multipurpose funds include:

Wisconsin DNR – Supporting the development and coordination of multi-agency PFAS Coordinating Council as established by the Governor, the framework for a statewide PFAS strategy, and implementation of that strategy.

New Mexico Environment Department (NMED) – Funding five projects including:

- Transitioning NMED’s IT systems to API-driven architecture. API-driven architectures make data easy to connect to many types of software. The adoption and expansion of these architectures has led to the necessity for, and evolution of, these type platforms.
- Enhancing work already underway by the U.S. Geological Survey to update regional low-flow regression equations for ungauged streams in New Mexico by providing funds for additional flow statistics necessary for total maximum daily loads and National Pollutant Discharge Elimination System (NPDES) effluent limits.
- Conducting an NPDES gap analysis to identify regulatory and programmatic gaps, including determining the costs required to support the program in New Mexico, and actions necessary to eliminate the gaps to assume the program.

Iowa Department of Natural Resources – Supplementing the asbestos National Emission Standards for Hazardous Air Pollutants program. Stakeholders have requested additional outreach to cities, counties, schools, contractors, and others to explain the public health implications of asbestos exposure, the situations when asbestos remediation may be needed, and ways to comply with asbestos requirements.

Hawaii Department of Health – Overseeing Red Hill Underground Storage Tank (UST) facility improvements and developing an inspection manual for field constructed tanks and airport hydrant systems. The Red Hill Bulk Fuel Storage Facility, unlike any other in the United States, supports military operations in the Pacific and can store up to 250 million gallons of fuel.

The Multipurpose funds are an important source of flexible funding to states, and we hope Congress will continue to preserve and expand this resource.

V. Avoid Rescission and Impoundment of STAG Funds.

States work closely with EPA to speed the distribution and expenditure of federal funds. ECOS members were relieved to see STAG rescissions discontinued in the FY20 Appropriations bill as rescission would reduce available funds before a state receives them and can result in uncertainty and delays in obligating pass-through funding. We hope that this promising development can be sustained and that your subcommittee will discourage impoundment of enacted appropriations.

ECOS thanks the subcommittee for considering the views of state environmental agencies as you prepare the FY21 budget for EPA. We would welcome further discussion with you about how federal funding can support state-level work to protect human health and the environment. Please do not hesitate to call us at (202) 266-4920 or to email Executive Director Don Welsh at dwelsh@ecos.org.