



Pete Ricketts
Governor

STATE OF NEBRASKA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Jim Macy

Director
Suite 400, The Atrium
1200 'N' Street
P.O. Box 98922
Lincoln, Nebraska 68509-8922
Phone (402) 471-2186
FAX (402) 471-2909
website: <http://deq.ne.gov>

The Honorable James M. Inhofe
Chairman
Committee on Environment and Public Works
United States Senate
Washington, DC 20510-6175

Dear Senator Inhofe:

We appreciate the opportunity to share our experience and concerns with meeting ever increasing and challenging regulatory demands. First, let me say that the Nebraska Department of Environmental Quality (NDEQ) does an amazing job achieving regulatory compliance, working proactively to benefit Nebraskans.

As the primary agency in the State of Nebraska for administering the majority of federally delegated environmental programs, we take pride in our service to the public and the regulatory community by implementing these federally delegated programs as cost effectively and efficiently as possible. While Nebraska has a good working relationship with EPA Region VII recent EPA headquarters regulatory actions have snowballed. EPA's compulsive tinkering with standards and limits, often before States have had a reasonable chance to comply, makes it difficult to reconcile these often competing priorities. Some wastewater treatment facilities, for example, can barely complete one plant upgrade before they are asked to meet another more stringent requirement. These upgrades take considerable time and are costly—our communities are strained to constantly make such upgrades before the loan for the previous upgrade is paid off.

Nebraska like many states has a concern with affordability and sustainability of environmental programs in our communities as well as the ability for the community to continue to exist in the coming years. We appreciate when EPA listens to us, such as on the availability of Integrated Management for Clean Water Act activities. While this is a great start it does not go far enough. Integrated Management Plans should consider all federal requirements and their impact on a community, not only Clean Water Act issues. This would allow communities to strive towards long term goals in a sustainable manner.

Funding often does not fully support the level of effort needed to effectively implement these new federal regulations. EPA has never adequately considered the costs to a State to develop new state regulations and the program features to implement the federal rules. We find we are too often diverting state resources from other equally important programs to address the federal environmental priority of the moment. Nebraska has, like many states, had to deal with increased federal mandates and the erosion of our federal funds. We believe a harder look at streamlining federal requirements to avoid unnecessary duplication of effort, by agencies and regulated sources alike, would be worthwhile before adding to already overburdened small businesses and administrative staff.

With respect to Nebraska's air quality program, we have many significant obligations under the Clean Air Act. Nebraskans are fortunate that despite continued challenges, the state is currently in attainment with the National Ambient Air Quality Standards. As you are aware, the Clean Air Act requires the EPA to review these standards every five years, which puts us in a position of continuously implementing ever-evolving programs. These include new efforts, not only the "core" of our clean air activities and the day-to-day responsibilities that are the foundation of our programs. Issuing preconstruction permits, conducting inspections, and developing state implementation plans are core functions. In addition, just in the past year, we have had to undertake new initiatives, such as modeling for sulfur dioxide in accordance with the EPA vs Sierra Club Consent Decree.

Finally, fully recognizing the importance of improving air quality, the Clean Power Plan is a case in point of EPA imposing costs on states that in the interim divert valuable agency time from other priorities described above. Since the rule was first proposed in June 2014, the NDEQ has devoted three fulltime staff to work on this new federal initiative, before we have even put pen to paper to develop a proposed plan. The proposed CPP rule was significantly and arguably wrongfully altered without proper notice. Too often EPA mandates new regulations with little state input and these are changed without adequate notice and involvement. States must work in a litigation environment which is a waste of resources when proposed regulations like the CPP and WOTUS are struck down by the courts.

The CPP rule is complicated and efforts to seek clarification on "specifics" are often not adequately resolved, because EPA staff "did not think of these issues" when they drafted the CPP rule. A case in point is Nebraska's Public Power District proposed retrofit of a boiler to accommodate burning hydrogen gas. Because the CPP rule is so focused on elimination of fossil fuels, true green technology advancements are difficult to implement without considerable negotiation at EPA headquarters. When states write rules we have to be able to both defend and interpret the rules for our regulated constituency.

This is an unhealthy dynamic. The diversion of resources away from meeting permitting responsibilities, addressing complaints from the public and general community and regulatory outreach creates animosities that do not bode well for future success.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Macy", written over the typed name and title.

Jim Macy
Director