



**OFFICIAL MEETING OF THE  
NATIONAL AND GOVERNMENTAL ADVISORY COMMITTEES  
(NAC/GAC)**

**SUMMARY  
FINAL**

**April 25, 2013**

EPA East Building  
1201 Constitution Avenue, NW  
Washington, D.C. 20460

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## **Call to Order and Introductions**

*Oscar Carrillo, Designated Federal Officer (DFO), Office of Federal Advisory Committee Management and Outreach (OFACMO), U.S. Environmental Protection Agency (EPA)*

Mr. Oscar Carrillo provided an official welcome to the National Advisory Committee (NAC) and Governmental Advisory Committee (GAC) members and other participants. He introduced himself as the DFO for the NAC and GAC, both of which arose from the North American Free Trade Agreement (NAFTA) in 1994. He noted that this was the first NAC/GAC meeting to use the videoconference format and thanked the participants for their patience and flexibility as they and EPA adapt to the new technology. Mr. Carrillo then reviewed the meeting agenda. For the breakout sessions, the NAC and GAC were provided with new teleconference access numbers and Adobe® Connect videoconferencing hyperlinks. For the NAC/GAC Chairs Report-Outs, the Committee members were to rejoin using the original videoconference access information. Mr. Carrillo then introduced Ms. Cynthia Jones-Jackson, Acting Director, OFACMO.

## **Opening Remarks**

*Cynthia Jones-Jackson, Acting Director, OFACMO, EPA*

Ms. Jones-Jackson welcomed members and called the roll. She noted that two NAC members, Mr. David L. Markell (Florida State University) and Mr. Michael J. Robinson (General Motors Company), did not have access to the videoconferencing for this meeting but were participating via teleconference. Ms. Jones-Jackson explained that a new format for the NAC/GAC meetings had been adopted because of the federal government's current budget situation. President Obama's March 2013 Executive Order mandated that all nondefense federal spending be reduced by 5 percent. Other agencies, including EPA, were compelled to reduce their spending further. This has led to furloughs for EPA employees and reductions in other spending. Together, the April and October 2012 NAC/GAC meetings had cost the Agency \$40,000. She recognized the concerns of many of the committee members that the remote format would affect the meetings negatively and thanked them for their patience and understanding.

## **Welcome and Overview of the Agenda**

*Octaviana Trujillo, Chair of the GAC*

*Brian Houseal, Chair of the NAC*

Ms. Jones-Jackson introduced Mr. Brian Houseal (Adirondack Council), Chair of the NAC, and Dr. Octaviana Trujillo (Pascua Yaqui Tribe), Chair of the GAC. Dr. Trujillo welcomed participants to the NAC/GAC's first videoconference meeting. She reported that prior to this meeting, she and Mr. Houseal had a productive meeting with Ms. Michelle DePass, who serves as Deputy Assistant Administrator to EPA's Office of International and Tribal Affairs (OITA). Ms. DePass had emphasized the importance of the NAC/GAC's comments and recommendations to EPA. There might be the opportunity for a face-to-face meeting of the committees in the future. Mr. Houseal provided his greetings to the committee members and thanked the members of the NAC and GAC, as well as EPA staff, for their participation. He predicted that the new remote meeting format will present challenges to the group; he welcomed comments from the NAC members after the meeting on how to improve future videoconferences. Mr. Houseal thanked the members who attended the February 2013 meeting with Jane Nishida, Director, Office of Regional and Bilateral Affairs, OITA, and Ms. Jones-Jackson, and Mr. Houseal expressed gratitude for the members' input on the Commission for Environmental Cooperation (CEC) Operational Plan.

## **Update on U.S. Priorities and Guidance: Council Session**

*Michelle DePass, Deputy Assistant Administrator, OITA, EPA*

Ms. Jones-Jackson introduced Ms. DePass, Deputy Assistant Administrator of OITA. Ms. DePass expressed her deep appreciation of the members' willingness to volunteer their time to serve on the NAC/GAC and congratulated the committee chairs, Dr. Trujillo and Mr. Houseal. She welcomed and congratulated the new members.

Ms. DePass agreed with Ms. Jones-Jackson's assessment of the new meeting format as being challenging. She asked that the participants inform her after the meeting of what had and had not worked about the new format. She offered some suggestions on how the committees might use the available resources most effectively, including holding small pre-meeting conferences and convening small meetings of subsets of the members at satellite locations. She promised that OFACMO would facilitate any solutions that the members envisioned.

Ms. DePass noted that cross-border issues had been recognized as very important by former EPA Administrator Lisa Jackson. Deputy Administrator Bob Perciasepe and Administrator-nominee Gina McCarthy, as well as the rest of the senior leadership at EPA, share Ms. Jackson's commitment to these issues.

Ms. DePass thanked the members for their comments and valuable input on the CEC's 2013 Operational Plan. The new Operational Plan reflects the CEC's resolution, formed at the 2012 New Orleans Council Session, to focus on fewer, more high-impact projects. Especially in these times of limited financial resources, it is important to all three Parties to be able to show concrete results from the CEC's projects to their citizens. The CEC identified three primary strategic priorities: ecosystem and community resilience, low-carbon growth and greening the economy. The annual work plan expresses the need for greater alignment of projects with the second and third priorities during the last phase of the CEC's Strategic Plan.

The NAC/GAC's charge was to review the new draft Operational Plan and provide advice on its success in meeting the objectives determined during the 2012 Council Session. EPA is seeking feedback from the committees on whether the CEC has achieved its goal of sponsoring fewer, more results-oriented projects. EPA also is seeking advice on implementation of the Submissions on Enforcement Matters (SEM) Taskforce recommendations and the CEC Communications Strategy, which is ongoing. Last year, a successful roundtable meeting was held at the Woodrow Wilson Center to discuss the work of the CEC. Another such meeting is planned for this year, and EPA seeks the NAC/GAC members' input on topics and invitees. Ms. DePass invited the NAC/GAC committees to meet with stakeholders as well.

Ms. DePass noted that the committee members had asked at the October 2012 NAC/GAC meeting for a briefing on how EPA incorporates tribal priorities into its activities. Tribal priorities are integrated into the Agency's regional activities in every region except Region 3, which does not include any federally recognized tribes. EPA's focus on environmental justice includes even those tribes that are not recognized. There are tribal grants and all of EPA's regulations impact the tribes. Former EPA Administrator Jackson elevated tribal concerns by creating OITA. Ms. DePass introduced Ms. JoAnn Chase, Director of the American Indian Environmental Office. The Agency conducts a successful, mandatory training program for its staff on addressing tribal concerns. EPA collaborates with the National Tribal Caucus to identify tribal environmental priorities and associated resources needed to address those priorities. In October 2012, Ms. Jackson and Ms. Chase visited the Tohono O'odham Nation in Arizona, where they learned about environmental concerns (e.g., migrant waste, mining tailings, waste treatment) and solutions (e.g., the tribe's modular bathroom project, a concrete replacement manufacturing facility, a partnership with Tohono O'odham Community College to produce solar energy on mining tailing hills).

Ms. DePass thanked the NAC/GAC members for their commitment and emphasized the importance of border work to OITA.

### ***Member Comments and Discussion***

Ms. Edna A. Mendoza (Arizona Department of Environmental Quality), GAC member, noted that her department had received funding in the past from EPA and the Bureau of Land Management to develop a website documenting efforts in the cleanup of waste discarded by cross-border migrants. She will forward a hyperlink to the website to the NAC/GAC members. Ms. DePass expressed her interest in the project.

Mr. John M. Bernal (Pima County Public Works Administration), GAC member, expressed his gratitude that the Administrator had visited his local area and extended an invitation to future administrators.

Dr. Trujillo asked Ms. Chase to describe the highlight of the visit, and Ms. Chase responded that she had been most moved by the personal stories of the Tohono O'odham Community College students and their commitment to a clean and healthy environment.

## **Commission for Environmental Cooperation (CEC) Operational Plan Status, Goals for CEC Vision**

*Irasema Coronado, Executive Director, CEC Secretariat*

Dr. Trujillo introduced Ms. Coronado, Executive Director of the CEC Secretariat. Ms. Coronado shared the critical path to approval of the CEC's 2013–2014 Operational Plan, including a period for public consultation on the Operational Plan by the Joint Public Advisory Committee (JPAC) that ends on June 14, 2013; the JPAC providing advice to the Council on the draft Operational Plan (by June 19, 2013); and the Council's final endorsement (by July 11, 2013). The Operational Plan describes the CEC's work for 2013–2014 in terms of three clusters (climate change/air quality, greening transportation in North America and waste in trade in North America), as well as cross-cutting projects.

The Climate Change/Air Quality Cluster explores cycling of “black,” “blue” and “green” carbon, including measuring emissions and sinks, mapping blue and green carbon, and mitigating black carbon. Proposals in this cluster include the AIRNow project, the Blue-Carbon proposal, the North American Black Carbon Emissions Estimation Guidelines, modeling and assessing forest carbon dynamics and climate change mitigation options, the North American Information Online Platform on Climate Change, improving green building construction conditions, and improving indoor air quality for Alaskan Natives and other indigenous communities in North America.

The goal of projects in the Greening Transportation in North America Cluster is to lower emissions from ground and maritime transportation, including projects on greening the North American truck and bus manufacturing supply chain, greening transportation at the border and reducing emissions from maritime transportation of goods in North America.

In the Waste Trade in North America Cluster, the storyline is greening the end-of-life cycle, facilitating trade and establishing enforcement protocols throughout the life cycle. Proposals in this cluster include enhancing environmental law enforcement, reducing the negative impacts from selected vehicle batteries and managing electronic waste (e-waste).

Proposed cross-cutting projects are conservation and sustainable use of North American grasslands, enhancing environmental law enforcement, the Big Bend-Rio Bravo collaboration for landscape conservation; enhancing understanding of chemicals in products; and closeout of environmental monitoring/assessment, chemical inventory and mercury activities in Mexico. The Alternate Representatives approved tracking of pollutants and transfers in North America as a regular CEC program.

Ms. Coronado noted that the CEC and JPAC also are coordinating on activities to celebrate the CEC's 20th anniversary. Ms. Coronado stated that she was happy to answer questions from the NAC/GAC members, and they were welcome to contact her via email after the meeting as well.

### ***Member Comments and Discussion***

Mr. Gerald Wagner (Blackfeet Tribe), GAC member, asked whether the CEC was considering a transboundary land conservation project in Montana. He observed that the Blackfeet Nation borders Glacier National Park and the tribe would like to be involved in the project in Waterton-Glacier International Peace Park. Ms. Coronado replied that it is important that the Blackfeet Tribe play a role in the activity, but the CEC is concerned with trilateral issues, and it has not decided whether to focus its efforts on the site; if the International Peace Park is selected, she will inform the Blackfeet Tribe.

Ms. Therese H. Goodmann (City of Dubuque, Iowa), GAC member, asked how the CEC plans to enhance enforcement in North America. Ms. Coronado answered that the United States (including EPA's Office of Enforcement and Compliance Assurance [OECA]), Mexico (La Procuraduría Federal de Protección al Ambiente) and Canada (Environment Canada's Enforcement Branch) collaborate on enforcement, which has been a priority of the CEC since its inception, but the Work Plan is very general now about the projects on which the CEC will focus.

Dr. Ivonne Santiago (University of Texas at El Paso), NAC member, stressed the importance of including brown carbon in carbon sources/sink modeling. Ms. Coronado agreed, explaining that the CEC's approach was to start by modeling blue and green carbon; the CEC's goal is to establish a standardized emissions monitoring program (similar to the United States and Canada's AIRNow program) across the three member nations to provide input for tri-national carbon modeling and a basis for the Commission's climate change platform.

Mr. Raymond Lozano (New Detroit—The Coalition), NAC member, emphasized the need to address the environmental impacts of the bus and truck supply chain. He pointed out that production and emissions are linked. Ms. Coronado offered to share information on the outcomes of the projects in last year's Operational Plan with the NAC/GAC. She stated that the CEC's project on greening the automotive supply chain had been very successful, and the CEC plans to continue and broaden the project by considering larger vehicles.

Mr. Houseal asked about the CEC's plans to commemorate its 20-year anniversary. Ms. Coronado responded that events will be coordinated with the JPAC, and a calendar will be posted on the CEC's website.

Dr. Trujillo thanked Ms. Coronado for joining the NAC/GAC when the committees met with Mr. James Anaya, United Nations Special Rapporteur on the Rights of Indigenous Peoples, on the status of indigenous peoples in North America. Dr. Trujillo expressed concern about the impact of the Keystone XL pipeline project on indigenous peoples. Ms. Coronado replied that a representative from the project recently addressed the JPAC at a meeting to which leaders of the First Nations were invited, but unfortunately, attendance was sparse; she encouraged the NAC/GAC members to reach out to the First Nations about this issue. Mr. Houseal congratulated EPA for having rejected the U.S. State Department's environmental assessment of the impacts of the pipeline, which he characterized as an unusual and courageous response by the Agency.

## **Question and Answer Period on Operational Plan and North American Partnership for Environmental Community Action (NAPECA) Grants**

*Sylvia Correa, Senior Advisor for North American Affairs, OITA, EPA*

Dr. Trujillo asked Ms. Sylvia Correa, Senior Advisor for North American Affairs, OITA, whether she could provide the NAC/GAC with general remarks on the Operational Plan. Ms. Correa responded that the Alternate Representatives provided a general sense of how they wanted to move forward on the CEC's activities. There were 22 proposed projects for the Operational Plan. Ms. Correa thanked the NAC/GAC for their comments on those projects. The 22 projects did not reflect sufficiently the guidance that the Ministers provided to the Council at the July 2012 Council Session. The Administrator and the Secretariat directed the CEC to focus on projects that would show measurable results. The Council reexamined the proposed projects and concluded that although there was good coverage of the topics of climate change and greening transportation, more emphasis was needed in the area of waste in trade.

For the cluster of greening transportation, maritime emissions were chosen as a target because although they represent only a small fraction of the global carbon emissions (approximately 3%), they contain fine particulate matter, which has very significant health effects. Within the greening transportation cluster, proposals also will be focused on transportation at the border, an increasingly important issue as U.S. trade with Mexico and Canada increases.

The waste trade in North America cluster proposals included Spent Lead-Acid Batteries (SLABs), e-waste and law enforcement related to e-waste.

The subject of the cross-cutting projects included grasslands conservation, environmental law enforcement and Big Bend-Rio Bravo landscape conservation.

Ms. Correa indicated that all of these proposed projects are subject to approval by the Alternate Representatives. A draft list was needed to meet the timeline of receiving input from the NAC/GAC and providing a draft to the Council in July 2013. The clustering process was used to ensure better responsiveness to the guidance from the Administrator and Council to have fewer activities and focus on those that will produce measureable environmental results.

## **Update on Submissions on Enforcement Matters (SEM) Trilateral Review Taskforce**

*Jocelyn Adkins, OITA/Office of General Counsel (OGC), EPA*

Ms. Adkins, OITA/Office of General Counsel (OGC), updated the NAC/GAC members on the activities of the SEM Trilateral Review Task Force. The charge questions regarding the SEM process that were provided to the NAC/GAC were based on the Council's directives received from the Party officials.

In collaboration with the JPAC and CEC Secretariat, the Taskforce established a draft online SEM Portal, the purpose of which is to assist the public in preparing submissions and understanding the Article 14 guidelines for submissions. The SEM Portal is designed to make the approval process faster and provide a consistent message and information about the process. It contains links to a registry of cases and other resources. The materials on the Portal that were provided for review by the NAC/GAC members are "snapshots" of Web pages from the Portal website and copies of the JPAC's comments on the Portal. The "live" version of the Portal also is available online, and Ms. Adkins offered to provide a hyperlink to it to those members who were interested. The NAC/GAC's charge is to review the Portal and provide comments. Ms. Adkins expressed confidence that the SEM Portal will be ready for presentation to the Council at its session on July 10, 2013.

Ms. Adkins described the progress made in complying with mandatory and target deadlines in the SEM process, which the Taskforce will report on to the Council at its July 2013 session. In the past, the Council had expressed concern about the long time to process submissions. Since the adoption of the guidelines on compliance with the timeframes for the SEM process, there has been almost 100 percent compliance. An exception was a submission on wind farms; the deadline was missed by 14 days because of difficulties in obtaining translation services. The required action when a deadline in the process is expected not to be met is to provide a written explanation, which was done in the case of the wind farm submission.

The Taskforce collaborated with the Secretariat and a developer to prepare a tracking database for the SEM process. The database identifies those submissions that are active and provides information on whether deadlines in the process for those submissions have been met. If deadlines are not met, a hyperlink to an explanation of the delay is provided. The database will be updated daily.

The Council also directed the Taskforce to develop long-term monitoring and assessment of the SEM process. The purpose of the monitoring and assessment is to inform the Parties of problems as they arise. Ms. Adkins asked the NAC/GAC members to suggest options for monitoring and assessment. One possibility is to hold regular, agenda-driven meetings on SEM issues among representatives of the Parties, the Secretariat and the JPAC.

The Council needs assistance from the NAC/GAC on developing and implementing a long-term public outreach strategy. There has been discussion between the Taskforce and the Secretariat on this topic. The public needs to be informed about the revision of the SEM process and the creation of the SEM Portal. One concern is that in Mexico, only approximately one-third of the population has access to the Internet. The Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) codifies a similar process to the SEM that includes a public outreach program involving library talks, town hall meetings and posting messages. The Taskforce plans to contact representatives from the CAFTA-DR to learn more about their public outreach.

In a recent development, the Alternate Representatives asked the Taskforce to develop guiding principles for preparing Factual Records. Many are very long and difficult for the lay reader to understand. It was also recommended that a short (2–3 page) executive summary would be helpful. A new charge to the NAC/GAC is to provide ideas on guiding principles to follow in preparation of Factual Records. Ms. Adkins noted that Mr. Markell had suggested consulting those who had made submittals in the past for ideas on how to change the process. The Taskforce plans to amend the JPAC's 2011 survey of SEM submitters to solicit ideas for how the submittal process might be changed. The Taskforce aims to finalize the documents that it plans to send to the Council by May 31, 2013. Ms. Adkins encouraged the NAC/GAC members to provide the Taskforce with their comments, formally or informally, and indicated that she would send the Taskforce's draft documents to the NAC/GAC members for their review.

### ***Member Comments and Discussion***

Mr. Markell thanked Ms. Adkins for her update on the status of the SEM Trilateral Review Taskforce. He inquired whether followup on Factual Records was occurring. He suggested that providing such followup would be valuable to the citizens and is part of good governance. Ms. Adkins replied that the CEC Council members had made a political commitment in July 2012 to provide a report-out to the JPAC on submissions that were terminated after the Party response stage (e.g., the United States plans to provide a report-out on the SEM submission on coal-fired power plants), but the NAC/GAC was welcome to raise the issue of followup in its advice letter even if that was not included in the NAC/GAC's charge. Mr. Carrillo agreed on the appropriateness of providing such advice.

Via the Adobe® Connect "chat box" function, Ms. Mendoza asked whether a submission only can be considered if it is aimed at enforcement rather being a possible attempt to gain an advantage by a



competitor. Mr. Mendoza asked Ms. Adkins to clarify whether the wording on page 13 of the SEM Portal was an attempt to discourage submissions. Ms. Adkins answered that Article 14 addresses concerns of harassing an industry or a competitor attempting to gain advantage.

Ms. Adkins thanked the NAC/GAC members and offered to provide answers to any additional questions from the NAC/GAC members.

Mr. Houseal drew the committee members' attention to the charge questions. The NAC/GAC needs to submit their response to the charges in an advice letter to the EPA Administrator. He and Dr. Trujillo will compile the members' input to draft the letter.

## **Update on Article 13 Spent Lead-Acid Battery (SLAB) Report**

*Laura L. Coughlan, Office of Solid Waste and Emergency Response (OSWER), EPA*

Mr. Carrillo asked the members of the public with comments whether their comments were in reference to the SLAB Report. If so, he offered to postpone the public comment period until after Ms. Coughlan's presentation. There was no objection to this change to the draft agenda.

Ms. Coughlan presented the timeline for the development of the SLAB Report, which was released on April 15, 2013. The report contained six main recommendations: (1) the Canadian and Mexican governments should commit to achieving the same levels of environmental and health protection in the secondary lead industry as those of the United States; (2) Canada, Mexico and the United States should improve tracking of SLAB import and export; (3) Mexico should establish a regulatory framework for the industry that is equivalent to that of the United States and includes comprehensive monitoring of lead air emissions, standards for stack and fugitive lead emissions, an ambient lead standard, blood lead testing for workers (with a medical removal limit), stormwater and hazardous waste management plans, standards for secondary lead smelting facilities (construction, operation and closure), remediation standards for lead-contaminated sites, pollutant release reporting requirements, deterrence of clandestine recycling operations and transboundary SLAB imports; and allocation of sufficient resources to achieve the framework's goals; (4) the three Parties should ensure that accurate and comparable information on lead emissions in North America is publically available through a central repository of performance data, a catalogue of emissions data specific to secondary lead smelters, and support of Mexico's Pollutant Release and Transfer Registry (PRTR) initiative on lead from secondary lead smelters; (5) the three governments should collaborate with the North American secondary lead smelting industry to support adoption of best practices by supporting Mexico's comprehensive battery stewardship program and seeking trilateral stakeholder input on market-based mechanisms to improve the industry; and (6) the North American governments should cooperate to assist Mexico by developing a plan for implementing the recommendations in the SLAB Report, making available high-quality performance information on the secondary lead smelting sector and sharing enforcement intelligence information.

Ms. Coughlan asked for questions from the committee members.

### ***Member Comments and Discussion***

There being no comments from the members of the NAC/GAC, Mr. Carrillo solicited comments from the public.

## **Public Comment Period**

Mr. Gerard Manley (RSR Corporation) introduced himself as the Vice President for Environment, Health and Safety Compliance at RSR Corporation, which operates three secondary lead smelters in the United States. He observed that the SLAB Report documents the export of SLABs to Mexico in significant quantities, a situation which he said could not continue. NAFTA was not intended to support trade that

exploited lower workplace and environmental standards. He cited the SLAB Report as providing evidence of a lack of regulatory supervision in Mexico. Mr. Manley called for placing a temporary ban on the export of SLABs to Mexico until Mexico and the United States can ensure that lead is well-regulated at SLAB processing facilities in Mexico. Equivalent standards for enforcement and compliance are needed. He maintained that there is no safe level of lead exposure and characterized U.S. export of SLABs to Mexico as a threat to Mexico's environment, workforce and general public. The CEC's purpose is to prevent such situations. Mr. Manley also had submitted written comments (see Appendix D) for consideration by the committees. Mr. Houseal responded that Mr. Manley's comments would be entered into the meeting record.

Mr. Keith McCoy (Johnson Controls, Inc.) stated that he represents the largest lead battery manufacturer in the world. His company operates recycling facilities. He asked how the CEC plans to move forward on the issue of SLABs and how the CEC Operational Plan will coordinate with the SLAB Report.

Ms. Coughlan responded that the CEC has proposed a project with trilateral support that will increase monitoring and help Mexico implement best practices at SLAB facilities, but the details of the project still are being developed.

Mr. Houseal asked for additional public comments. There being none, the Public Comment Period was closed.

## **Joint Public Advisory Committee (JPAC) Report-Out**

*David Angus, Chair, JPAC*

Mr. Carrillo introduced and welcomed Mr. David Angus (Winnipeg Chamber of Commerce), Chair of the JPAC. In December 2012, the JPAC held its regular session and workshop in Mérida, Yucatán, Mexico, focusing on reducing ecosystem vulnerability. Some of the ideas discussed at the session included using the North American Environmental Atlas to identify areas that provide disturbance control, ecosystem services and protection from the impacts of climate change; engaging in place-specific efforts to decrease vulnerability; and defining and communicating ecosystem vulnerability. The JPAC's 2012 report *Resilient Future: Voice of North Americans on Policy and Action* identified drivers of shock and stress to ecological health and resilience, as well as responses to these threats.

Mr. Angus discussed the JPAC's activities in 2013. The Committee appreciated the opportunity to provide input on the CEC's Operational Plan, including reviewing the executive summaries of the proposals. After the public comment period, the JPAC will provide its advice to the Council on the draft Operational Plan on June 19, 2013. Some of the JPAC's comments from review of the executive summaries included the need to clarify the relevancy throughout North America of addressing indoor air for indigenous populations and recommendations for increasing emphasis on environmental enforcement. The JPAC also noted support for specific projects, including the project on the greening bus and truck supply chain, greening transportation at the borders, improving support for green building construction and reducing emissions from maritime goods movement. Another area of focus for the JPAC has been to work with the SEM Task Force by establishing a Work Group to provide feedback on the SEM Portal.

The JPAC planned three sessions in 2013. The April 2013 JPAC session in Calgary, Alberta, Canada, focused on energy. The keynote speakers explored energy issues, many of which are unique to each nation. There were a large number of comments related to transportation. The meeting planned for July 2013 in Mexico will emphasize sustainable transportation. At the October meeting in Washington, D.C., the JPAC will focus on commemorating the CEC's achievements, as well as discussing what the Commission could have done better, during the 20 years since its inception. The JPAC will solicit feedback from the public on NAFTA and JPAC.

## ***Member Comments and Discussion***

Mr. Houseal thanked Mr. Angus for his service to the CEC as JPAC Chair. He noted EPA's recent opposition to the State Department's environmental assessment for the Keystone XL pipeline. He asked Mr. Angus whether the North American carbon trading regime had been discussed at the JPAC meeting. Mr. Angus replied that there had been significant discussion about carbon pricing, including mechanisms for collaboration among the three nations, but there had been no specific discussion of the pipeline.

Mary L. Klein (NatureServe), NAC member, applauded JPAC's focus on energy issues. She emphasized the urgency of energy issues because of their effects on the environment, communities and economics. She asked whether the Committee had discussed land use change. In addition, she inquired about the JPAC's advocacy for developing new energy sources. Mr. Angus answered that the primary approach that the Committee has considered to energy issues is one of subsidies (i.e., inhibition of growth in the alternative energy because of subsidies to the oil and gas sector vs. investing in research and development in alternative energy technologies); in addition, shale gas had been discussed as a replacement for coal-fired energy generation.

Mr. Carrillo read a chat box comment from Anna Romero-Lizana (World Trade Center), NAC member, which described a Missouri initiative to assist residents in leasing or purchasing solar panels.

## **Committees Meet in Separate Sessions**

### ***GAC Session***

Mr. Carrillo called the roll. Dr. Trujillo led a discussion about the procedures that the GAC could follow to respond to the charge questions. It was recognized that reconvening both committees for report-outs from the Chairs was impractical at this meeting, given the technical limitations of the videoconference format. Dr. Trujillo proposed that she meet separately with Mr. Houseal via teleconference after the meeting for the report-out session. Mr. Carrillo indicated that the target for the NAC/GAC to submit its advice letter typically was 1 month after the meeting, which would be May 25, 2013. Ms. Adkins, however, needs feedback about the SEM Portal on a shorter timescale (i.e., by May 2, 2013). Dr. Trujillo pledged the GAC's commitment to extending their best efforts to provide the Administrator with high-quality advice despite the less-than-ideal meeting conditions.

The GAC members discussed how to submit their input on the charge questions to Dr. Trujillo. Mr. Roger Vintze (California Department of Toxic Substances Control) suggested that the committee members send their comments to Dr. Trujillo for compilation. Ms. Cristina Viesca-Santos (El Paso County Attorney's Office) agreed, noting the need for time to synthesize the information that had been presented at this meeting. A 2-day meeting is preferable because the additional day provides such an opportunity. Ms. Mendoza indicated that she had many comments on the SEM Portal and asked about the best way to convey them to Dr. Trujillo. Mr. Carrillo offered to provide the committee members with Microsoft® Word versions of the charge questions and SEM Portal so that they could add their comments using the track changes feature. Dr. Trujillo asked the GAC members to provide her with their comments on the charge questions by April 30, 2013. After she compiles the GAC member's comments, Dr. Trujillo will forward the compilation to the members to discuss during a short teleconference. The GAC members agreed to a teleconference on May 2, 2013, at 4:00 p.m. Eastern Daylight Time.

Mr. Carrillo requested feedback on the videoconference format from the GAC members. He will send the members a hyperlink to a survey so that they can provide EPA with feedback about the format and propose future agenda items. This information will be conveyed to Ms. DePass and OFACMO staff.

Dr. Trujillo thanked the GAC members for their time and their patience in adapting to the new videoconference meeting format.

Dr. Trujillo adjourned the GAC Session at 4:23 p.m.

### ***NAC Session***

Mr. Houseal called the roll. He thanked the NAC members for their attendance and proposed the following agenda for the NAC session: the impact of the videoconference format on the NAC's ability to provide advice to EPA and the charge questions. Mr. Houseal emphasized his commitment to the CEC and the democratic process embodied by serving on the NAC. On the occasion of the 20th anniversary of the CEC, it was important to support the Commission and the tri-national process. Mr. Houseal noted that the problem-solving ability of the committee arose from the intelligence and diverse background of its members. It was important, valuable and—he believed—achievable for the NAC to provide input to the Administrator; he stated, however, that the videoconference format made collective, synergistic discussion among the committee members difficult. He observed that at this meeting, there was relatively little discussion among members and more 2-way interaction between the members and EPA. In addition, participating from a remote location made concentrating on the discussion more difficult. Mr. Houseal asked the members to send him their comments, questions and suggestions about the process after the meeting.

Dr. Michael K. Dorsey (Dartmouth College) responded that in his experience, remote meetings of large groups are difficult, but the video feed provided by Adobe® Connect, which allows Microsoft® PowerPoint presentations to be shared, represents a significant improvement over an audio-only remote meeting. Dr. Dorsey suggested that the committee make their concerns about the difficulty of providing advice using the videoconference format known to the EPA Administrator.

Mr. Timothy A. Bent (Bridgestone America) stated his opinion that the videoconference format made engagement difficult.

Ms. Klein maintained that the NAC will be able to accomplish its mission using a combination of videoconferences and face-to-face meetings, but it will be essential for the group to have at least one or two in-person meetings annually. One approach that the NAC could use is to decide what part of the committee's work should be done interactively and what should be done via teleconference. Ms. Klein expressed skepticism that resources for a limited number of face-to-face meetings could not be found if EPA's funding was being reduced only by 5 percent. She also stated that in her experience, engagement was possible in meetings conducted remotely. Ms. Klein noted that using this technology requires practice and developing skills. In this meeting, technological difficulties had interfered with conducting the meeting.

Dr. Santiago acknowledged the disadvantages and difficulties of not being able to meet in person, but she said that the reality was that the members must learn to use the new technologies. It will be more difficult, however, to provide EPA with the input from the NAC that is needed.

Mr. Lozano expressed regret that meeting remotely made it impossible for any informal interactions to occur among the committee members and with EPA staff. He suggested that the committee members contact their congressional representatives to inform them of the limitations that reduced funding imposed on the NAC members' ability to perform their functions. Mr. Houseal seconded Mr. Lozano's suggestion.

The committee members discussed procedural rules. Ms. Romero-Lizano suggested that the members use the chat feature to indicate that they would like to speak. Dr. Dorsey noted that Adobe® Connect also has a feature allowing participants to raise their hands. In addition, he suggested that membership on the NAC be conditional on being able to attend scheduled meetings. Ms. Klein recommended training for EPA staff to allow more time for questions from the committees. Based on her teleconferences with other groups that have limited resources, Dr. Santiago suggested the following ground rules: (1) all participants must mute their phones; (2) no cell or speaker phones may be used; and (3) participants must send a note to the

chair when they have a question or comment, and after being recognized by the chair, they will be given a number to indicate when it will be their turn to speak. Mr. Lozano agreed with the importance of improving the process and the rules proposed by Dr. Santiago.

Mr. Houseal offered to produce a written summary of the NAC's discussion on the videoconference process.

Ms. Jones-Jackson responded that the process of conducting FACA meetings using videoconferencing still was being refined by EPA. She supported the idea of developing housekeeping rules for meetings. Ms. Jones-Jackson thanked Mr. Houseal for his leadership of the NAC. Mr. Mark Joyce (Associate Director, OFACMO) acknowledged the difficulties that the committees had experienced using the new meeting technology, expressed gratitude for the committee members' patience and promised that EPA will strive to improve the process.

In regard to the charge questions, Mr. Houseal stated that the committee had not received a copy of the CEC's Operational Plan. He will request one from EPA for the members. He asked the NAC members to reflect on Ms. Adkins' point that people who do not have access to the Internet will not have access to the SEM Portal.

Ms. Romero-Lizano expressed concern about the large percentage of the Mexican population (approximately two-thirds) without access to the Internet. She proposed that the CEC consider initiatives through public institutions (e.g., schools, medical facilities) to solicit feedback from Mexicans on the SEM Portal. Ms. Klein suggested that the CEC enlist individuals who have protested about online access to the SEM process to test the SEM Portal. Mr. Lozano noted that he had been unable to locate in the handout on the SEM Portal where submissions are tracked.

Ms. Stephanie McCoy (OFACMO) reported that Mr. Carrillo, who was in attendance at the GAC session, had proposed that Mr. Houseal and Dr. Trujillo report out to each other on the individual sessions after this meeting was adjourned. The NAC members voted unanimously to approve this proposal.

Mr. Houseal adjourned the NAC Session at 4:24 p.m.

## **Action Items**

- ✧ Ms. Coronado will share information on the outcomes of the projects in last year's Operational Plan with the NAC/GAC.
- ✧ Ms. Adkins will send the SEM Taskforce's draft documents to the NAC/GAC members so that they might provide the Taskforce with formal or informal comments.
- ✧ Mr. Carrillo will provide the NAC/GAC members with Microsoft® Word versions of the charge questions and SEM Portal to facilitate making comments.
- ✧ The NAC members should send their comments, questions and suggestions about the videoconference process to Mr. Houseal via email.
- ✧ Mr. Houseal will summarize the NAC's discussion on the videoconference process.
- ✧ Mr. Houseal will request a copy of the CEC's Operational Plan from EPA for the NAC members.
- ✧ The GAC members will provide Dr. Trujillo with their comments on the charge questions by April 30, 2013.

- ✧ Dr. Trujillo will compile the comments on the charge questions from the GAC members and forward the compilation to the members.
- ✧ The GAC members will discuss the compiled comments during a short teleconference on May 2, 2013, at 4:00 p.m. Eastern Daylight Time.
- ✧ Dr. Trujillo and Mr. Houseal will meet via teleconference for the report-out session.
- ✧ Mr. Carrillo will send the NAC/GAC members a hyperlink to a survey so that they can provide EPA with feedback about the videoconference format and propose future agenda items.

## Summary Certification

*I, Octaviana V. Trujillo, Chair of the Governmental Advisory Committee, and I, Brian Houseal, Chair of the National Advisory Committee, certify that the meeting minutes for the date of April 25, 2013, are hereby detailed, contain a record of the persons present, and give an accurate description of matters discussed and conclusions reached and copies of all reports received, issued or approved by the advisory committees. My signature date complies with the 90-day due date after each meeting required by GSA Final Rule.*



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Octaviana V. Trujillo  
Chair, GAC

7/21/2013

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Date



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Brian Houseal  
Chair, NAC

7/19/2013

---

Date

## Appendix A: Meeting Participants

### NAC Members

**Brian Houseal, Chair**

Executive Director  
Adirondack Council

**Timothy A. Bent**

Director  
Environmental Affairs  
Bridgestone America

**Jorge Chapa, Ph.D.**

Professor  
Institute of Government and Public Affairs  
University of Illinois at Urbana-Champaign

**Michael K. Dorsey, Ph.D.**

Assistant Professor  
Environmental Studies Program  
Dartmouth College

**Abbas Ghassemi, Ph.D.**

Executive Director  
Institute for Energy and Environment  
New Mexico State University

**Mary L. Klein**

President and CEO  
NatureServe

**Raymond Lozano**

Director  
Race Relations and Cultural Collaboration  
New Detroit—The Coalition

**David L. Markell, J.D.**

Steven M. Goldstein Professor  
College of Law  
Florida State University

**Michael J. Robinson**

Vice President  
Sustainability and Global Regulatory Affairs  
General Motors Company

**Anna Romero-Lizana**

Director  
International Business Development  
World Trade Center

**Ivonne Santiago, Ph.D.**

Professor  
College of Engineering  
University of Texas at El Paso

### GAC Members

**Octaviana V. Trujillo, Ph.D., Chair**

Tribal Council Member  
Pascua Yaqui Tribe

**John M. Bernal**

Deputy County Administrator  
Pima County Public Works Administration

**Ginny Broadhurst**

Executive Director  
Northwest Straits Commission

**Salud Carbajal**

First District Supervisor  
County of Santa Barbara

**Katherine L. Gajewski**

Director of Sustainability  
Mayor's Office of Sustainability  
City of Philadelphia

**Therese H. Goodmann**

Assistant City Manager  
City of Dubuque, Iowa

**Dale G. Medearis, Ph.D.**

Senior Environmental Planner  
Environmental & Planning Services  
Northern Virginia Regional Commission

**Edna A. Mendoza**

Director  
Southern Regional Office  
Office of Border Environmental Protection  
Arizona Department of Environmental Quality

**Cristina Viesca-Santos, J.D.**

Assistant County Attorney  
Environmental Crimes Unit  
El Paso County Attorney's Office



**Roger Vintze**  
Manager  
Enforcement and Emergency Response Program  
California Department of Toxic Substances  
Control

**Gerald Wagner**  
Director  
Blackfeet Environmental Program  
Blackfeet Tribe

#### **Designated Federal Officer**

**Oscar Carrillo**  
Office of Federal Advisory Committee  
Management and Outreach  
U.S. Environmental Protection Agency

#### **EPA Participants**

**Jocelyn Adkins**  
International Environmental Law Practice Group  
Office of General Counsel  
U.S. Environmental Protection Agency

**Gloria Allen**  
Office of Federal Advisory Committee  
Management and Outreach  
U.S. Environmental Protection Agency

**Geraldine Brown**  
Office of Federal Advisory Committee  
Management and Outreach  
U.S. Environmental Protection Agency

**JoAnn Chase**  
Director  
American Indian Environmental Office  
Office of International and Tribal Affairs  
U.S. Environmental Protection Agency

**Sylvia Correa**  
Senior Advisor  
North American Program  
Office of International and Tribal Affairs  
U.S. Environmental Protection Agency

**Laura Coughlan**  
Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency

**Michelle DePass**  
Assistant Administrator  
Office of International and Tribal Affairs  
U.S. Environmental Protection Agency

**Noah Dubin**  
Office of International and Tribal Affairs  
U.S. Environmental Protection Agency

**Patrick Huber**  
Office of International and Tribal Affairs  
U.S. Environmental Protection Agency

**Cynthia Jones-Jackson**  
Acting Director  
Office of Federal Advisory Committee  
Management and Outreach  
U.S. Environmental Protection Agency

**Mark Joyce**  
Associate Director  
Office of Federal Advisory Committee  
Management and Outreach  
U.S. Environmental Protection Agency

**Deborah Kopsick**  
International Compliance Assurance Division  
Office of Enforcement and Compliance  
Assurance  
U.S. Environmental Protection Agency

**Marissa McInnis**  
American Indian Environmental Office  
Office of International and Tribal Affairs  
U.S. Environmental Protection Agency

**Stephanie McCoy**  
Office of Federal Advisory Committee  
Management and Outreach  
U.S. Environmental Protection Agency

**Deborah Lake-Hinkle**  
Office of Federal Advisory Committee  
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U.S. Environmental Protection Agency

**Jane Nishida**  
Director  
Office of Regional and Bilateral Affairs  
Office of International and Tribal Affairs  
U.S. Environmental Protection Agency

**Pam Teel**

Office of Regional and Bilateral Affairs  
Office of International and Tribal Affairs  
U.S. Environmental Protection Agency

**Other****David Angus**

Chair  
Joint Public Advisory Committee of the  
Commission for Environmental Cooperation  
Winnipeg Chamber of Commerce

**Christopher Bryant**

Bergeson & Campbell, P.C.

**Irasema Coronado**

Executive Director  
Secretariat  
Commission for Environmental Cooperation

**Deborah Grout**

U.S. Department of State

**Gerard Manley**

RSR Corporation

**Keith McCoy**

Executive Director  
Public Policy  
Johnson Controls, Inc.

**Contractor Staff****Jennifer G. Lee, Ph.D.**

The Scientific Consulting Group, Inc.

## Appendix B: Meeting Agenda



### Official Meeting of the National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation

#### TELECONFERENCE AGENDA

Thursday, April 25, 2013

12:00 – 4:15 p.m. (Eastern Daylight Time)

Call-in number: (866) 299-3188; Code: 202-233-0072

EPA East Building, Room 1132

1201 Constitution Avenue, NW

Washington, D.C. 20460

- 
- |            |   |
|------------|---|
| 12:00 p.m. | <b>Call to Order and Introductions</b><br>Oscar Carrillo, Designated Federal Officer, EPA   |
| 12:05 p.m. | <b>Welcome and Overview of Agenda</b><br>Octaviana Trujillo, Chair of the Governmental Advisory Committee<br>Brian Houseal, Chair of the National Advisory Committee  |
| 12:10 p.m. | <b>Opening Remarks</b><br>Cynthia Jones-Jackson, Director, Office of Federal Advisory Committee<br>Management and Outreach (OFACMO), EPA                              |
| 12:15 p.m. | <b>Update on U.S. Priorities and Guidance: Council Session</b><br>Michelle DePass, Assistant Administrator, Office of International and Tribal<br>Affairs (OITA), EPA |
| 12:40 p.m. | Question and Answer Period  |
| 12:55 p.m. | <b>Commission for Environmental Cooperation (CEC) Operational Plan Status,<br/>Goals for CEC Vision</b><br>Irasema Coronado, Executive Director, CEC Secretariat      |
| 1:10 p.m.  | Question and Answer Period  |

- 1:25 p.m.      **Question and Answer Period on Operational Plan and North American Partnership for Environmental Community Action (NAPECA) Grants**  
Sylvia Correa, Senior Advisor for North American Affairs, OITA, EPA
- 1:35 p.m.      **BREAK**
- 1:45 p.m.      **Update on Submissions on Enforcement Matters (SEM) Trilateral Review Taskforce**  
Jocelyn Adkins, OITA/Office of General Counsel, EPA
- 2:00 p.m.      Question and Answer Period
- 2:15 p.m.      **Update on Article 13 Spent Lead-Acid Battery (SLAB) Report**  
Laura L. Coughlan, Office of Solid Waste and Emergency Response, EPA
- 2:30 p.m.      Question and Answer Period
- 2:45 p.m.      **PUBLIC COMMENT PERIOD**
- 3:00 p.m.      **Joint Public Advisory Committee (JPAC) Report-Out**  
David Angus, Chair, JPAC, CEC
- 3:10 p.m.      Question and Answer Period
- 3:25 p.m.      **BREAK**
- 3:30 p.m.      **Committees Meet Separately**  
*GAC stays in same room*  
*NAC connects to separate electronic room*
- 4:05 p.m.      **NAC/GAC Chairs Report-Outs**
- 4:15 p.m.      **ADJOURNMENT**

## Appendix C: Charge Questions for April 2013 NAC/GAC Meeting

### SEM CHARGE QUESTIONS: NAC/GAC MEETING

~ APRIL 25, 2013 ~  
WASHINGTON, D.C.

#### 2012 Council Session—SEM Directives

At the 2012 Council Session, the Council directed Party officials to work with the Secretariat and the JPAC (and from a U.S. perspective, with the NAC and GAC) to accomplish the following:

1. Establish an online SEM portal, by the 2013 Council Session, to assist members of the public in understanding the SEM process and preparing a SEM submission.
2. Immediately track compliance with mandatory and target SEM deadlines and provide a report-out on compliance at the July 2013 Council Session.\*
3. Present longer term monitoring and assessment (M&A) options for Council consideration at the 2013 Council Session.
4. Develop and implement an overall long-term SEM public outreach strategy.\*\*

#### U.S./EPA Administrator SEM Charge Questions

In support of the above Council directives, the United States would welcome thoughts from the NAC and GAC regarding, in particular, the following SEM subjects:

- **SEM ONLINE PORTAL**: Review and provide any comments they might have on the attached draft version of the SEM portal.
- **LONGER-TERM Monitoring & Assessment (M&A)**: Provide input on possible options for longer-term SEM process implementation M&A.
- **PUBLIC OUTREACH**: Provide input on the development and implementation of a long-term SEM public outreach strategy.

#### NOTE: NEW CHARGE

The Alternate Representatives just recently tasked the SEM Task Force with providing the Council, by the 2013 Council Session, with recommendations for overarching Factual Record (FR) guiding principles designed to improve the quality, accessibility and value of FRs. This being the case, the U.S./EPA seeks NAC and GAC input on substantive and/or process ideas regarding the development of such principles.

For instance, a potential “guiding principles” might involve:

- Preparing Final Factual Records that are written in a concise, clear and reader-friendly manner so as to render them understandable and of use to all members of the public.

- Preparing Final Factual Records that include concise and streamlined Executive Summaries (e.g., 2–3 pages at most?) that enable the reader quickly to understand the scope and key issues of concern addressed in the Factual Record.

## Appendix D: Written Comments Submitted for the April 2013 NAC/GAC Meeting



COMMENTS OF RSR CORPORATION  
OFFICIAL MEETING OF THE NATIONAL AND GOVERNMENTAL ADVISORY COMMITTEES TO THE  
U.S. REPRESENTATIVE TO THE COMMISSION FOR ENVIRONMENTAL COOPERATION  
APRIL 25, 2013

Gerard Manley  
Vice President, EH&S Compliance, RSR Corporation

RSR Corporation (RSR) appreciates the opportunity to provide these comments to the National and Governmental Advisory Committees to the U.S. Representative to the Commission for Environmental Cooperation (CEC). My name is Gerard Manley, and I am RSR's Vice President for Environment, Health and Safety Compliance. RSR's subsidiaries operate three secondary lead smelters in the U.S. and the issue of spent lead-acid battery exports is of paramount interest and concern to the company.

Before sharing our specific comments, RSR wishes to commend the CEC's diligence in investigating the issue of battery exports to Mexico. The work is hard and time-consuming, but absolutely essential. CEC's recent report -- "Hazardous Trade? An Examination of US-generated Spent Lead-acid Battery Exports and Secondary Lead Recycling in Canada, Mexico, and the United States" -- demonstrates that spent lead-acid batteries are being exported to Mexico in alarming quantities, where they are recycled at facilities that operate in what appears to be the near complete absence of a meaningful environmental and worker safety regulatory regime. This practice cannot continue. As the CEC report states, we must "avoid development that may seek to exploit lower environmental standards."

A tenet of the North American Agreement on Environmental Cooperation (NAAEC) is that continent-wide trade and investment, made possible by the North American Free Trade Agreement (NAFTA), should not be pursued on the basis of lower environmental standards or lax enforcement. Yet that is precisely what is occurring with battery exports to Mexico, and the CEC report provides further evidence of this practice. The CEC report paints an alarming portrait of a virtually non-existent regulatory regime in Mexico that is being exploited. In no other forum is the "race to the bottom" in environmental regulation that was feared by the crafters of NAFTA more evident than in the growing surge of batteries exported to Mexico.

RSR generally supports the recommendations in the report, but urges that the U.S. place a temporary hold on exports of spent lead-acid batteries to Mexico. This will allow the competent authorities of the U.S., Canada, and Mexico time to implement the appropriate measures to ensure that exports will be managed in a manner that is fully protective of human health and the environment across the continent. As CEC notes, a consensus in the scientific community finds that there is no safe level of lead. Allowing the tsunami of lead-acid batteries to continue to be exported to Mexican facilities sentences those working in or living near these facilities to a lifetime of increased lead burden in their bodies.

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Telephone: (214) 631-6070, Fax: (214) 631-6146

A level playing field is necessary. Ensuring functionally equivalent environmental and health protections throughout North America is a necessary predicate to economic equivalency. Only by enacting and implementing equivalent technical standards and achieving equivalent levels of enforcement and compliance can we avoid the creation of pollution havens.

The urgency of achieving regulatory equivalency cannot be overstated. The human cost, as recognized by CEC, to the many regulatory gaps, failures, and deficiencies documented in the report cannot be overstated. This cost is paid by illness, disease, shortened life span, and unfulfilled human potential by smelter workers and their families (especially children) in communities exposed to excessively high levels of toxic air pollutants from these smelters.

The governments of Canada, Mexico, and the U.S. should work closely together with the North American secondary lead smelting industry to develop strategies to support the adoption of best practices. RSR stands ready, willing, and able to assist and to engage in a dedicated collaborative effort -- together with the three NAFTA governments, industry partners, and all core private and public stakeholders -- to achieve this goal.

At-risk populations cannot afford to wait until Mexico's federal legislative bodies unite to take major legislative action. In our comments on the draft final report, RSR suggested a framework for important actions to be taken *immediately* by key industry decision-makers in coordination with important public sector, community, and non-governmental organization (NGO) leaders on a coordinated regional basis.

RSR believes that CEC's investigation of this matter clearly demonstrates that Mexico is in violation of Part II, Article 3 of NAAEC. Article 3 states that:

Recognizing the right of each Party to establish its own levels of domestic environmental protection and environmental development policies and priorities, and to adopt or modify accordingly its environmental laws and regulations, each Party shall ensure that its laws and regulations provide for high levels of environmental protection and shall strive to continue to improve those laws and regulations.

CEC notes that important gaps remain in Mexico's overall regulatory framework, as well as with respect to the prevailing environmental and public health standards in the U.S. Specifically, Mexico:

- Lacks regulations that establish lead emission limits from stacks and that contain requirements to control fugitive emissions;
- Lacks regulations that require facilities to have management plans to address storm water discharges and releases of lead to the soil;



- Has not issued final regulations that would address outstanding hazardous waste management plans in the industry;
- Has not issued an official standard addressing the construction, operation, and closure of secondary lead smelters;
- Has yet to complete a standard for remediation of sites contaminated with lead (and other pollutants); and
- Does not have a blood lead level standard that includes a protocol for the medical removal of workers who exceed the specified levels.

Moreover, the U.S. strengthened its ambient air standard for lead in 2008. Thus, Mexico's ambient air standard is ten times less stringent than that of the U.S. Also, Mexico's network of ambient air monitoring is incomplete. Air quality data for lead concentrations near all secondary lead smelters are unavailable, and no data are publicly available on stack emissions from secondary lead smelting facilities. Adding insult to injury, the requirement that companies report pollution release data is not applied and enforced consistently across the secondary lead smelting industry. Over 50 percent of the secondary lead smelters in Mexico have not reported their lead emissions.

CEC's findings can leave little doubt that Mexico does not ensure "that its laws and regulations provide for high levels of environmental protection." Moreover, due to its failure to enforce its own regulations, such as they are, Mexico is similarly in violation of Part II, Article 5 of NAAEC. In light of this, the U.S. should, as noted above, halt immediately exports of spent lead-acid batteries to Mexico until that country can document that it has standards that are protective and enforced.

RSR urges the U.S. to require the use of hazardous waste manifests to track international shipments of batteries from the U.S. and to require exporters to obtain a certificate of recovery from the recycling facility. Unlike Canada and Mexico, the U.S. does not require the use of manifests for international shipments of batteries. Indeed, it could be argued that by not requiring manifests the U.S. is in violation of the international agreements.

In conclusion, exports of batteries from the U.S. to Mexico threaten Mexico's environment, general population, and the workforce within the Mexican secondary lead industry. As battery recyclers in the U.S. implement controls and procedures necessary to comply with new standards, there is now, and will continue to be, a surging tide of scrap batteries sent to Mexican facilities that fail to meet protective standards, all in the name of processing the batteries at a lower cost. This is an unacceptable outcome in that the purpose of CEC is to prevent such events from occurring.

Thank you.