Correspondence Management System
Control Number: AX-11-001-7074
Printing Date: October 13, 2011 01:34:47

Citizen Information

Citizen/Originator: **Hunzinger, Robert E.**
Organization: Gainsville Regional Utilities
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Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-7074	**Alternate Number:**	7975 9699 3092
Status:	Pending	**Closed Date:**	N/A
Due Date:	Oct 27, 2011	**# of Extensions:**	0
Letter Date:	Oct 6, 2011	**Received Date:**	Oct 12, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	AA-OAR-Assistant Administrator - OAR	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: Daily Reading File- Gainesville Regional Utilities' Petition for Reconsideration and stay of EPA's Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States"

Instructions: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy
R4 - Region 4 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OAR	Oct 13, 2011	Oct 27, 2011	N/A
	Instruction: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR				
Sabrina Hamilton	OAR	OAR-OAP	Oct 13, 2011	Oct 25, 2011	N/A
	Instruction: DX - DIRECT REPLY - - PREPARE RESPONSE FOR THE SIGNATURE OF THE DIVISION DIRECTOR.				

Supporting Information

Supporting Author: N/A

GAINESVILLE REGIONAL UTILITIES

GENERAL MANAGER

October 6, 2011

Via Overnight Mail

Ms. Lisa P. Jackson, Administrator
Environmental Protection Agency
Ariel Rios Federal Building
Mailcode 1101A
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Re: Gainesville Regional Utilities' Petition for Reconsideration and Stay of EPA's Final Rule titled "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States" 76 Fed. Reg. 48,208 (Aug. 8, 2011) (Docket No. EPA-HQ-OAR-2009-0491)

Dear Ms. Jackson:

Gainesville Regional Utilities (GRU) is a multi-service utility owned by the City of Gainesville. GRU is the 5th largest municipal electric utility in Florida. Our combined services make us the most comprehensive utility service provider in the state. We serve approximately 90,000 retail and wholesale customers in Gainesville and surrounding areas, offering Electric, Natural Gas, Water, Wastewater, and Telecommunication Services. Currently GRU electric generation is primarily fossil fuel-based with non fossil generation representing less than 10% of our energy supply. GRU, as a member of the Florida Municipal Electric Association (FMEA), actively participated in the Clean Air Interstate Rule (CAIR) development and has installed, at significant cost, air pollution control equipment to meet CAIR emission reductions requirements. We have provided substantive comments on the proposed Clean Air Transport Rule (CATR) and CATR Allowance Allocation NODA.

As outlined in our previous comments on EPA's proposed transport rule, GRU believes that EPA has abandoned important provisions of the CAIR Rule that appear to have little to do with the Court remand of the rule. GRU has serious concerns with the more aggressive implementation schedule and specific electric generating unit (EGU) reduction requirements imposed in the Cross State Air Pollution Rule (CSAPR). There appears to be no mandate by the United States District of Columbia Court of Appeals ("Court") that would require the CSAPR compliance schedule to be more stringent than CAIR. Further, there appears to be no Court ordered requirement for the additional reductions of NO_X and SO_2 beyond those established in the CAIR Rule. GRU believes that EPA should only address the specific Court remand of CAIR and that follows the Court directive "to preserve the environmental benefits of the CAIR rule" by adopting a transport rule that achieves the original CAIR SO_2 and NO_X reductions within the CAIR timelines. EPA's new emission requirements and protocols for determining significance levels beyond those validated by the Court are unjustified and will leave EPA unnecessarily open to potential lawsuits.

GRU is a member of both the Florida Municipal Electric Association (FMEA) and the Florida Electric Coordinating Group (FCG) and we endorse their petitions for reconsideration and stay of CSAPR.

GRU has carefully evaluated the provisions and supporting documents for the CSAPR and has concluded that changes from the proposed CATR to the CSAPR are so significant as to justify a reconsideration and re-proposal of the rule. In addition, GRU believes that the adverse economic impacts of this rule on the Florida economy and Florida electric consumers are sufficient to justify a decision by EPA to stay the rule until the agency is able to consider the unresolved issues we have identified below and re-propose a rule to address these concerns.

Background: EPA developed the original transport rule, CAIR, through a transparent process with numerous opportunities for stakeholder input and agency feedback. The regulatory impact assessment (RIA) for the resulting rule demonstrated that CAIR would achieve all of EPA's Clean Air Act air quality objectives with a minimal impact to the electric generating industry's fuel mix and consumer energy costs as illustrated by EPA's description of the results of CAIR listed below.

"*This rule will result in the deepest cuts in sulfur dioxide (SO_2) and nitrogen oxides (NO_X) in more than a decade.*

- *On March 10, 2005, the Environmental Protection Agency (EPA) announced the Clean Air Interstate Rule (CAIR), a rule that will achieve the largest reduction in air pollution in more than a decade. This action, called the "Interstate Air Quality Rule" when it was proposed in January 2004, offers steep and sustained reductions in air pollution as well as dramatic health benefits at more than 25 times greater than the cost by 2015.*

- *Through the use of the proven cap-and-trade approach, CAIR achieves substantial reductions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X) emissions and is a powerful component of the Administration's plan to help over 450 counties in the eastern U.S. meet EPA's protective air quality standards for ozone or fine particles.*

- *SO_2 and NO_X contribute to the formation of fine particles and NO_X contributes to the formation of ground-level ozone. Fine particles and ozone are associated with thousands of premature deaths and illnesses each year. Additionally, these pollutants reduce visibility and damage sensitive ecosystems.*

- *By the year 2015, the Clean Air Interstate Rule will result in:*
  -- $85 to $100 billion in annual health benefits, annually preventing 17,000 premature deaths, millions of lost work and school days, and tens of thousands of non-fatal heart attacks and hospital admissions.
  -- nearly $2 billion in annual visibility benefits in southeastern national parks, such as Great Smoky and Shenandoah.

-- significant regional reductions in sulfur and nitrogen deposition, reducing the number of acidic lakes and streams in the eastern U.S."[1]

Several parties brought suits in the United States Court of Appeals for the District of Columbia, which resulted in an eventual remand of CAIR for three key flaws. First, the structure of the CAIR cap and trade program could not in theory prevent a significant ambient impact if an upwind state over relied on purchased allowances for compliance. Second, the use of a fuel factor in NO_X allowance allocations was disallowed. Third, Acid Rain allowances could not be used for the CAIR cap and trade program. However, the Court found no issues with the methodology EPA selected to screen for significant downwind impact nor did the Court impose a definitive deadline to correct CAIR's flaws. In fact, the Court made a deliberate decision not to honor the requests of some petitioners for a firm deadline for the Agency to correct the flaws in CAIR.[2] For this reason, GRU reasonably assumed that EPA would amend CAIR to address those flaws identified by the Court and proceeded to develop their compliance strategies accordingly.

On August 2, 2010, EPA proposed the CATR which not only corrected the CAIR defects identified by the Court, but increased the stringency of the SO_2 and NO_X emission caps well beyond those in CAIR. On July 6, 2011, the Clean Air Transport Rule was renamed the Cross-State Air Pollution Rule and signed by the EPA Administrator. Major changes were made in emission reduction requirements from CAIR to CATR to CSAPR regarding states covered and emission caps as illustrated in Table 1.

Table 1. Allowance Allocations for EPA's Proposed and Adopted Transport Rules

TransportRule	SO_2 Allocation 2012 (tons)	SO_2 Allocation 2014 (tons)	NO_X Annual Allocation 2012 (tons)	NO_X Annual Allocation 2014 (tons)	NO_X OS Allocation 2012 (tons)	NO_X OS Allocation 2014 (tons)	Total States Covered
CSAPR	3,270,978	2,064,887	1,205,808	1,127,255	591,038	556,748	28*
CATR	3,893,870	2,500,003	1,376,312	1,376,312	641,614	641,614	32**
CAIR	3,673,995	2,571,796	1,521,707	1,268,094	na	na	26

Oklahoma Ozone season only includes DC*

In adopting CSAPR, EPA has gone well beyond correcting the remand flaws in CAIR and has created enormous additional compliance burdens on electric utilities and their customers without apparent justification. After spending $141 million to meet the CAIR, GRU will have nearly a 27% reduction in allowances to meet CSAPR requirements as compared to CATR.[3]

[1] Source: the EPA CAIR website www.epa.gov/cair/basic.html

[2] Case: 05-1244 State of North Carolina v. Environmental Protection Agency, Petitions for Rehearing Document: 01215418702

[3] The GRU system would have received 513 Ozone Season allowances with CATR and 377 with CSAPR.

Specific Issues and Provisions of CSAPR that Warrant Reconsideration of the CSAPR Rule

EPA's general assumption that utilities should have anticipated that substantial additional changes to CAIR beyond the Court remand is unreasonable. EPA has stated in a recent Congressional hearing on CSAPR and in correspondence to an affected utility that the utility industry had ample warning to prepare for the CAIR replacement rule.[4] GRU strongly disagrees. EPA held few if any public workshops or meetings before publishing CATR or the final CSAPR. This is in stark contrast to the open and transparent stakeholder process that resulted in CAIR. This lack of an open and transparent process in developing CSAPR resulted in GRU proceeding with $141 million in capital air pollution control projects that ended up actually penalizing GRU under CSAPR for the early emission reduction actions that EPA encourages.

EPA needs to reconsider CSAPR in light of the cumulative impact of other rules being adopted for the electric utility industry. The electric utility industry is facing numerous new restrictions and significant additional capital costs due to EPA's aggressive rule making agenda. These include:

- The Utility Air Toxics Rule
- New Source Performance Standards for Green House Gases
- 316 (b) Cooling Water Intake Standards
- New Coal Combustion Residuals Standards
- And $PM_{2.5}$ and Ozone National Ambient Air Quality Standard revisions

GRU believes that the cumulative impact of these rules must be evaluated to quantify the benefits to the environment and the costs to the economy. To do less fails to appreciate the serious economic crisis facing our state and the country.

CSAPR fails to consider that GRU and many other utilities designed its CAIR compliance plan with Clean Air Mercury Rule (CAMR) requirements in mind. To meet the timelines established by EPA for CAIR and CAMR, GRU committed to purchase and install a dry FGD scrubber and an SCR system for its Deerhaven #2 coal-fired unit. The selection of a dry FCG scrubber and SCR allowed GRU to meet both the CAIR SO_2 reduction requirements while also achieving the mercury reductions required by CAMR. In addition, the dry FGD scrubber allows GRU to conserve water resources while creating a potential byproduct.

During the development of CAIR, EPA specifically considered the co-benefits of complying with CAMR as well as best available retrofit technology (BART) requirements and national visibility goals. In contrast, GRU analyses indicate that the air pollution control (APC) systems that we have installed to meet CAIR will marginally allow us to meet utility system CSAPR cap based on 2010 emissions but may not achieve proposed reductions required in Utility Air Toxic Rule without additional mercury controls. The fact that GRU spent $141 million to meet the

[4] Honorable Gina McCarthy's testimony September 15, 2011 House Science and Technology Committee; EPA response letter from Robert Perciasepe Deputy Administrator to Luminant.

requirements of CAIR and CAMR only to find out that compliance is uncertain with EPA's replacement rules is disappointing to say the least.

Florida Ozone Season NO_X allowances reductions with CSAPR represent over 89% of the total CSAPR allowance cap. While the total number of Ozone Season NO_X allowances was reduced by 5.03 % for 2012 and 10.54 % for 2014 for the Ozone Season program with CSAPR compared to CATR, Florida's reduction comprised over 89% of that reduction in 2102 and nearly 43% in 2014 (see Table 2.). This disproportionate reduction in the allocation of Ozone Season allowances is especially unfair considering that Florida utilities have more installed BACT NO_X controls systems and lower NO_X emission rates than the majority of states in the Ozone season program. It appears ironic that the deployment of "state of the art" APCs by GRU and other Florida utilities resulted in much greater NO_X ozone season reductions for Florida. This is due to the assumption by EPA that Florida can reduce NO_X tons cheaper (<$500/ton) since high efficiency NO_X APCs are already in place for Florida electric utilities. However, as will be explained later, EPA wrongly ignores the annualized capital expense borne by GRU consumers to purchase this equipment.

Table 2. Comparison of Florida Ozone Season NOx Allowance Reductions Compared to Regional Reductions

Transport Rule	NO_X OS Allocation 2012 (tons)	NO_X OS Allocation 2014 (tons)	Florida NO_X Allocations 2012 (tons)	Florida NO_X Allocations 2014 (tons)	Florida % of 2012 CSAPR NO_X Reductions	Florida % of 2014 CSAPR NO_X Reductions
CATR	622,338	622,338	55,222	55,222		
CSAPR	591,038	556,748	27,262	27,262		
% Reduction	5.03%	10.54%	50.63%	50.63%	89.33%	42.63%

Data Source CSAPR and CATR Unit Data Bases

EPA's decision to reduce Ozone Season NO_X allocations based on the assumption that states with utilities that installed APCs prior to CSAPR have no capital costs punishes early reductions and the deployment of high efficiency APCs. GRU operates some of the lowest emitting gas and coal-fired electric generating units in the CSAPR region, which employs a best available control technology (BACT) flue gas desulfurization (FGD) scrubber and an SCR. The result was that states with a large number of electric generating units with good historical environmental performance received fewer allowances than those states with much poorer emission reduction histories. This is illustrated in Table 3, which shows the NO_X emission rates that GRU must achieve for CSAPR compliance during the ozone season when compared to the average compliance emission rate for the CSAPR states in the ozone season program.

Table 3. CSAPR Ozone Season NOx Compliance Emission Rate Comparison (based on 2010 emissions)

Control Area Sources	2012 (lb/MMBtu)	2014 (lb/MMBtu)
CSAPR Regional Average	0.1026	0.0967
GRU CSAPR Required Average	0.07239	0.07239

Source: EPA CSAPR Unit Allocation Database

The Cross State Clean Air Rule unit allowance allocation methodology is poor public policy for several reasons.

First, the CSAPR allowance allocation methodology violates a key cap and trade success principle. The proposed allocation method fails to allow utilities to choose to over-control their emissions at electric generating units (EGUs) where it is cost-effective and under control at sources where it is less cost-effective. For example, if under CAIR an 80% removal of SO_2 would achieve compliance and running at 95% removal could generate surplus allowances for sale, the proposed transport rule would not allow that benefit for installing expensive pollution controls. Specifically, CSAPR awards allowances based on the lowest historical emissions of the unit which allows only minimal opportunity for very well controlled units to generate surplus allowances.

Second, the CSAPR punishes aggressive early emission reductions. Unlike the CAIR rule, by reducing allowances to those who installed expensive APC equipment, EPA is actually financially punishing utilities for both early compliance and aggressive emission reductions.

Third, CSAPR allowance allocation methodology will hurt future proactive emission reductions by industry. The shift away from the CAIR allocation methodology, one that rewards over control and early emission reductions, to a transport rule methodology that punishes the very same behavior, will create a long lasting chilling effect on future proactive emission reductions by industry.

EPA methodology for determining state allowance allocations is poor public policy and punishes GRU that in good faith installed APCs to meet CAIR and other CAA requirements. GRU as a municipal utility is owned by the community we serve. Our citizens expect us to provide not only reliable and economical electric power and also superior environmental performance from our utility operations. It is noted that many of our state's investor owned utilities have a similar consumer expectations. We believe that EPA's claim that Florida can provide very cheap NO_X reductions (<$500/ton) during the Ozone Season is based on the assumption that only the incremental cost of removing an additional ton of NO_X needs to be considered as opposed to including the capital cost of the APCs added to meet CAIR or a BACT

limit. GRU strongly disagrees. The capital costs of these systems will typically be paid for over 20 years. Our consumers are paying for those reductions. As seen in Table 4, below, the typical cost for removing a ton of NO_X with an SCR greatly exceeds $500/ ton. GRU's costs for removing a ton of NO_X with our SCR system are about $2,300/ton.[5]

Table 4. EPA Projected SCR NOx Reduction Cost

Source	Capital Cost ($/MMBtu)	O&M Cost ($/MMBtu)	Annual Cost ($/MMBtu)	Cost per Ton ($/ton)
Large Gas Turbine	5,000 - 7,500	3,500	8,500	3,000- 6,000
Coal PC Unit	10,000 - 15,000	300	1,600	2,000 -5,000

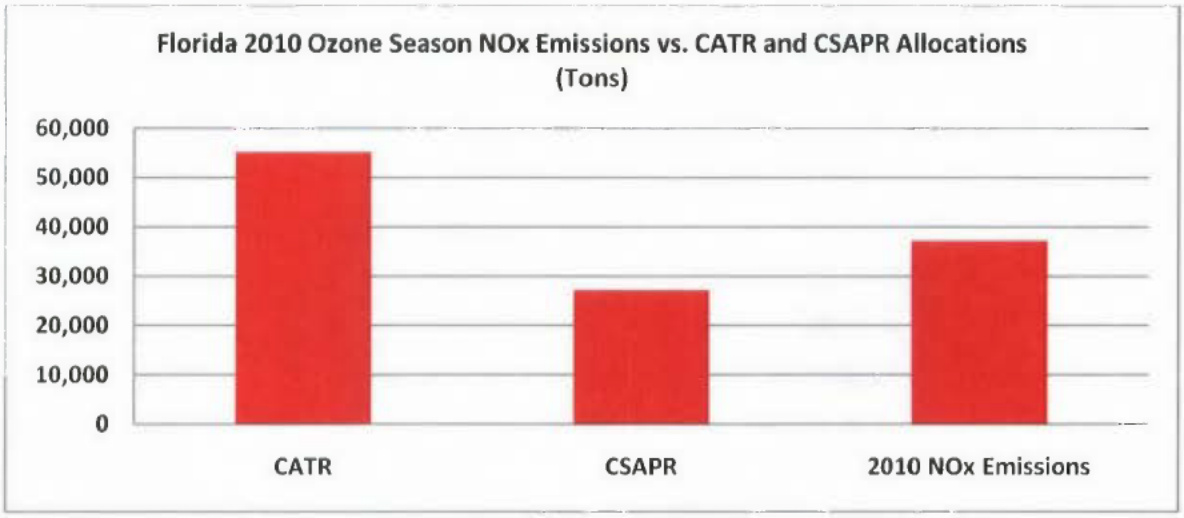
Source Air Pollution Control Fact Sheet EPA-452/F-03-032

By failing to recognize the true cost for GRU and other Florida utilities to remove NO_X emissions, EPA has increased the NO_X reduction requirements on a state with one of the lowest NO_X emission rates in the CSAPR program. Such allocation decisions by EPA will stifle future air pollution control projects that go beyond the minimum requirements to comply with environmental standards.

Without warning, EPA cut Florida Ozone Season Allowance by 50% with CSAPR Compared to CATR. While Florida was removed from the CSAPR annual emission cap programs for SO_2 and NO_X, Florida remains in the Ozone Season cap and trade program. Florida received 55,222 Ozone Season NO_X allowances under the proposed CATR but only 27,262 allowances under the final CSAPR. In 2010 the state of Florida emitted about 37,000 tons of NO_X which would place Florida in compliance under the CATR but out of compliance under CSAPR. In other words, the air pollution control systems that GRU and other Florida utilities installed to meet CAIR would allow compliance under the proposed CATR but not the final CSAPR. The CSAPR state assurance provision will limit the allowances Florida can purchase from other states to about 5,800 tons while having a deficit based on 2010 emissions of about 10,000 tons. This means that over 4,000 tons of additional NO_X reductions must be obtained within the state.

[5] Based on GRU's retrofit of its Deerhaven #2 unit to meet CAIR and CAMR requirements.

Graph 1. 2010 Florida Ozone Season NO_X Emissions Compared to CATR and CSAPR Allocations



EPA has stated in numerous public forums that CSAPR caps will likely be lowered with each lowering of the $PM_{2.5}$ or Ozone NAAQS. Since EPA's allowance allocation methodology punishes states with lower emission rates and highly efficient APCs, the future impact of CSAPR on the Florida economy could be severe.

EPA Air Quality Modeling Subjecting Florida to the CSAPR is Suspect. EPA modeling shows that Florida NO_X emissions cause a significant impact on the Ozone NAAQS attainment maintenance in Texas while having no significant impact on maintenance areas or non-attainment areas in much closer states including Alabama, Georgia, and Louisiana. Our initial review of EPA modeling results indicates that Florida's NO_X reductions will provide over 70% of the interstate transport reduction for Houston Texas when 7 states appear to significantly impact Houston's Ozone NAAQS attainment. In addition, GRU was not able to determine the relative accuracy that EPA attributes to the air quality model used for CSAPR. EPA's determination of Florida's significant impact on Texas does not seem reasonable.

The Court remand of CAIR did not require EPA to reduce regional and state caps. Florida utilities installed hundreds of millions of dollars worth of "state of the art" air pollution control systems on existing EGUs to meet CAIR. Many other EGUs were built with "state of the art" pollution controls that could comply with the CAIR caps. EPA's decision to reduce the emission caps for CSAPR below those of CAIR and even CATR was not required by the Court. EPA's decision to move the compliance "goal post" with CSAPR will result in many Florida generating units, with best available control technology (BACT), being unable to meet their unit emission caps

The CSAPR Usurps the Role of the States. In light of the stringent CSAPR compliance schedule, the Environmental Protection Agency has imposed Federal Implementation Plans (FIPs) on affected states, including Florida, rather than permitting states the time required to develop State Implementation Plans (SIPs). This stringent compliance schedule was not mandated by the Court.

Lowering the Screening Criteria for Determining a Significant Impact Was Not Required By the Court Remand of CAIR. By lowering the significance threshold in CSAPR for upwind state impact on downwind states, EPA has expanded the number of states regulated and reduced the emission caps beyond that of CAIR. In CSAPR, the significance screening level was set at 1% of the NAAQS as opposed to retaining the levels in CAIR. **This change establishes a criterion that will continually reduce the significance screening level with every revision of a NAAQS without any future consideration of whether each screening level decrease is justified.** For example, in the case of the Ozone NAAQS, this new method of determining significance lowered the CAIR threshold of 3 ppb to 0.85 ppb, which is a 270% reduction. If EPA revises CSAPR to accommodate the 2008 Ozone NAAQS, the screening level would drop to 0.75 ppb or an additional 12% reduction. As adopted, CSAPR will create a continual series of transport rules in response to future Ozone and $PM_{2.5}$ NAAQS revisions starting as soon as late this year. If EPA maintains its rigid compliance timelines, this will likely create a permanent "FIPing" of the states and derailing Congressional intent on how the SIP program was designed to work under the Clean Air Act.

EPA did not fully consider Florida transmission constraints and reliability impacts with implementing CSAPR and the lost opportunities to reduce emissions in other CSAPR states. GRU is a joint owner in The Energy Authority (TEA) , an independent corporation that buys and sells wholesale power for its 7 members throughout the country. GRU is well aware of the transmission constraints on whole power purchases entering the state of Florida. Currently Florida's transmission into the state is about 3600 MW and is nearly fully subscribed so imported power will not solve Florida's compliance issues. However, the situation with power exported from the state is also an issue. There is capacity for nearly 900 MW of power to flow north, generated with a Florida Ozone Season emission rate 40% below the CSAPR Ozone Season compliance average based on 2010 emissions. However, CSAPR allowance constraints could limit the generation of low emission energy for export.

GRU respectfully requests that EPA grant our petition to reconsider the CSAPR and re-propose the rule to address the issues we have raised. We also urge EPA to stay CSAPR and continue to enforce CAIR until a re-proposed CSAPR is adopted.

If you have questions or wish additional information on our petition, please contact Robert W. Klemans, PE at (352) 393-1283 or Robert L. Kappelmann, PE at (904) 819-6938.

We appreciate your consideration of our petition.

Sincerely,

Robert E. Hunzinger
General Manager

Correspondence Management System
Control Number: AX-11-001-7206
Printing Date: October 13, 2011 04:19:24

Citizen Information

Citizen/Originator: **DeShazo, Diane L.**
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Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-7206	**Alternate Number:**	876897031401
Status:	For Your Information	**Closed Date:**	Oct 13, 2011
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 5, 2011	**Received Date:**	Oct 13, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	N/A	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File-EPA-HQ-OAR-2009-0491 State of Georgia's Petition for Reconsideration and Stay of the Cross-State Air Pollution Rule
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OGC - Office of General Counsel -- Immediate Office
OP - Office of Policy
R4 - Region 4 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OAR	Oct 13, 2011
Sabrina Hamilton	OAR	OAR-OAP	Oct 13, 2011

History

Action By	Office	Action	Date

10/1 M&D

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October 5, 2011

VIA FEDERAL EXPRESS **(8768 9703 1401)**

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20004
(202) 272-0167

Re: EPA-HQ-OAR-2009-0491
State of Georgia's Petition for Reconsideration and Stay of the Cross-State Air Pollution Rule

Dear Administrator Jackson:

Enclosed please find the State of Georgia's Petition for Reconsideration and Stay of the United States Environmental Protection Agency's Final Rule, Federal Implementation Plans; Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 Fed. Reg. 48208 (Aug. 8, 2011), commonly referred to as the Cross-State Air Pollution Rule or CSAPR. Georgia's petition articulates the reasons why Georgia believes EPA should reconsider CSAPR decisions that are unique to Georgia and details the harm that Georgia will suffer if the rule is implemented on January 1, 2012 as currently scheduled.

We appreciate your consideration of this matter, and welcome the opportunity to discuss these issues further with EPA staff. Please contact me at (404) 657-3977 or ddeshazo@law.ga.gov if you have any questions or require further information.

Sincerely,

Diane L. DeShazo

DIANE L. DeSHAZO
Senior Assistant Attorney General

Enclosures

Correspondence Management System
Control Number: AX-11-001-7075
Printing Date: October 13, 2011 10:24:31

Citizen Information

Citizen/Originator: **Bainwol, Mitch**
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Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-7075	**Alternate Number:**	1Z5F66W40197163644
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Oct 6, 2011	**Received Date:**	Oct 13, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	N/A	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File-Changes to U.S. Retail Gasoline
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OAR	Oct 13, 2011
Sabrina Hamilton	OAR	OAR-OTAQ	Oct 13, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OAR	Oct 13, 2011
Sabrina Hamilton	OAR	Forwarded control to OAR-OTAQ	Oct 13, 2011

Alliance OF AUTOMOBILE MANUFACTURERS

Mitch Bainwol
President and CEO

October 6, 2011

The Honorable Lisa P. Jackson
Administrator
USEPA Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20004

RE: Changes to U.S. Retail Gasoline

Dear Administrator Jackson:

EPA has long recognized that vehicle technology and the fuel employed with that technology need to work in concert as an integrated "system" so that vehicles can operate efficiently and achieve the lowest technologically and economically feasible emissions targets. The prior Tier 2/LEV II rules coupled vehicle emission reductions with improved fuel quality. The upcoming Tier 3/LEV III rules that EPA and the California Air Resources Board are developing should continue this approach, also requiring cleaner fuels to be provided in the marketplace.

The Tier 3/LEV III rules should include a nation-wide retail gasoline sulfur cap of 10 parts per million (ppm). Excess sulfur "poisons" the catalyst, reducing its ability to remove exhaust emissions. Prolonged exposure to excess sulfur can permanently diminish the catalyst's effectiveness even after steps are taken to purge the catalyst of sulfur. Current Tier 2 gasoline sulfur caps, combined with broad compliance flexibilities (*e.g.*, allowing fuel producers to calculate averages across refineries), allow a wide and unpredictable range of actual sulfur content in the marketplace. Going forward, this situation will compromise automakers' ability to meet the upcoming Tier 3/LEV III standards and hinder the introduction of advanced technology systems needed to meet anticipated future fuel economy and greenhouse gas regulations.

Currently, the U.S. ranks 46th globally in its gasoline sulfur limit. EPA's current standard is well behind the standards of Japan and the European Union, where sulfur levels in retail gasoline may not exceed 10 ppm. It is therefore timely for the U.S. to put a 10 ppm cap in place.

In addition to facilitating compliance with future vehicle requirements, a 10 ppm sulfur cap would immediately reduce emissions of vehicle sulfur oxides in the existing fleet by an estimated 15,626 tons per year. The exhaust emissions of legacy vehicles, current production vehicles and future production vehicles would all benefit, as would all on-highway and non-road gasoline engines, all large and small gasoline engines, and even stationary and mobile power sources.

Enclosed is our White Paper with an in-depth discussion of the need to reduce market gasoline sulfur. In addition to sulfur reductions, the Alliance supports reducing summer gasoline vapor pressure, a change that will help reduce overall mobile source emissions by decreasing evaporative emissions. Furthermore, to help achieve future requirements for the reduction of greenhouse gas emissions, we also recommend increasing the minimum market gasoline octane rating, commensurate with increased use of ethanol. Adding ethanol to gasoline increases its octane rating. To attain necessary octane levels, it is important that refiners not be permitted to reduce base gasoline octane ratings in light of the additional octane contribution from higher ethanol.

We would be happy to discuss our recommendations in more depth with you. If you or your staff have specific questions regarding these recommendations or any comments provided within this letter, please contact Julie Becker, Vice President for Environmental Affairs at the Alliance (202-326-5511; jbecker@autoalliance.org).

Sincerely,

Mitch Bainwol

MB/sf

Enclosures

cc: Gina McCarthy, Assistant Administrator, OAR
Margo T. Oge, Director, OTAQ

Alliance OF AUTOMOBILE MANUFACTURERS

August 24, 2011

ALLIANCE OF AUTOMOBILE MANUFACTURERS

WHITE PAPER:

WHY EPA TIER 3 MARKET GASOLINE SULFUR LIMITS NEED TO BE SIGNIFICANTLY LOWER, ESPECIALLY FOR MY 2017+ VEHICLES

Introduction

EPA is preparing to propose a new Tier 3 regulation by the end of 2011, one component of which would reduce the average level of sulfur in marketplace gasoline below the existing Tier 2 sulfur standard. The members of the Alliance of Automobile Manufacturers have been engaged with the Agency to express their vital interest in the content of the proposal, and to underscore support for a meaningful reduction in retail market fuel sulfur content nationwide.

EPA's current Tier 2 market gasoline sulfur standard essentially imposes three limits:

- 30 ppm maximum annual average at the refinery gate;
- 80 ppm per gallon maximum/cap at the refinery gate, measured on a batch basis;
- 95 ppm per gallon maximum/cap at the retail fuel pump.

The Tier 2 gasoline sulfur regulation was promulgated in 2000. Starting in 2004, for the six years of the implementation phase in, EPA provided a generous amount of flexibility to oil companies, including: corporate-wide averaging, inter-refinery trading, small refiner exemptions, a slower phase-in for Rocky Mountain region facilities, and a mechanism for hardship waivers, among others. In the aggregate, these have had the effect of "masking" some chronically high sulfur market gasoline supplies in certain areas, which cumulatively may have adversely affected vehicle catalyst performance and durability, and emissions in those markets.

The specific new Tier 3 vehicle emissions limits, and changes in fuel sulfur limits, are still in development. It has been suggested that EPA is considering reducing the individual refinery annual average maximum from 30 ppm to 10 ppm. However, EPA is also considering the implications of retaining the existing per gallon caps (80 ppm refinery gate; 95 ppm retail pump) versus lowering them (*e.g.,* to 20 and 25 ppm, respectively). This White Paper explains why a proposal to keep the 80/95 ppm Tier 2 sulfur caps is adverse to Agency goals for the auto industry.

It is also critical that in designing Tier 3, EPA not unduly delay uniform sulfur limits at the retail pump, by providing another set of flexible compliance measures to refiners as were used in Tier 2. The Alliance does not oppose flexibility for the oil industry *per se*, but the retail gasoline provided should be compatible with Tier 3 vehicle needs in order to meet both fuel

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economy/GHG requirements [including pending new limits for MY 2017[1]] and pending Tier 3 emissions reductions. The new lower sulfur fuel must be in the marketplace nationally for these vehicles in a timely manner to protect the vehicles, consumers, and the environment.

High sulfur cap limits and/or over-broad implementation flexibility (*e.g.*, in calculating averages across refineries) that allow a wide and unpredictable range of actual sulfur content among different geographic areas and over time, will handicap automakers' ability to introduce new advanced technology systems needed to meet the pending 2017 Fuel Economy/GHG regulations and maximize reductions in vehicle emissions. This approach would fail to treat the vehicle and the fuel as a system, and put an unfair proportion of the total regulatory burden on the auto industry.

Sulfur's Adverse Impact on Current and Future Emission Controls

Gasoline sulfur poisons all types of vehicle emission control devices and reduces their ability to reduce tailpipe emissions. For the three-way catalysts (TWC) used on nearly all existing gasoline-powered light duty vehicles in the U.S., the reduced efficiency caused by sulfur poisoning requires automakers to over-design their vehicles (if/when possible to do so) to meet emission standards. This over-design often involves the increased use of expensive and scarce precious metals in the catalyst, which ultimately makes the vehicle more expensive (and prone to catalyst theft). Furthermore, if the sulfur level is high enough, such design compromises may not be possible.

In all cases, even where over-design enables a vehicle to meet its emission standards, the actual emissions from a vehicle with a sulfur-poisoned catalyst will be higher than they otherwise would be. Since chronic sulfur poisoning may be only partially reversible, the impact on catalyst efficiency is cumulative. Thus, all conventional emissions—including HC, CO, NOx, PM and toxics—will increase as a result, depending on the amount and duration of the sulfur exposure. Sulfur also will affect the vehicle's fuel economy and greenhouse gas emissions adversely, due to the additional energy and operational steps that need to be taken to cope with the sulfur poisoning.

The reversibility of the poisoning, especially over time, in a vehicle chronically exposed to higher sulfur retail gasoline, is an important issue. When the Tier 2 regulation was adopted, it was believed that the sulfur poisoning could not be reversed without physically replacing the catalyst.[2] Over time, technology improvements did enable some reversibility, although at a cost of lower fuel efficiency.[3] Even so, sulfur will always cause at least some permanent impairment of the catalyst, and this impairment causes increased concern as the vehicle accumulates mileage, and as emission standards become more stringent. Under Tier 2, vehicles must continue to meet emission standards through 120,000 miles of driving, and the Tier 3 regulation is anticipated to require compliance with tougher standards of driving.

Reversing the sulfur poisoning requires very high temperature operation from time to time, but TWC subject to leaner exhaust hydrocarbon levels will have lower operational temperatures, making them easier to become and remain poisoned with sulfur. In addition, over time, repeated

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[1] New models are introduced during the previous calendar year, *i.e.*, MY 2017 vehicles are introduced during CY 2016.

[2] As a compliance measure, replacing the catalyst is prohibited.

[3] Removing sulfur from TWC requires increasing the fuel-air ratio and higher temperatures, among other things.

burn-off of the catalyst can damage the catalyst brick substrate, prematurely age it, and reduce catalyst durability.

Highway driving tends to produce higher exhaust temperatures than city driving, and if a vehicle is driven only in the city, its catalyst may not see the higher temperatures needed for sulfur burn-off, and as a result its emissions will be higher. Many, if not most, of these city vehicles will be located in ozone non-attainment areas. EPA should consider that many consumers may drive in a manner not conducive to catalyst burn off, yet are located in areas that need the emission reductions the most.

New technologies are under consideration as tools to help automakers meet stringent new fuel economy standards, and the significantly more fuel efficient, lean burn gasoline engine (compared to conventional engines) is one of these. This technology requires the use of different emission control devices, such as the Lean NOx Trap, similar to those used in diesel engines, to meet NOx emission standards. Lean NOx traps also have lower operational temperatures and will be more easily poisoned. These devices quickly and permanently lose their ability to function as the fuel sulfur level rises above 10 ppm.[4] Some of the individual automakers have already provided EPA with proprietary company-specific data on this point.

Recent Support for Reducing Sulfur: SAE 2011-01-0300, D. Ball, et al., *Effects of Fuel Sulfur on FTP NOx Emissions from a PZEV 4 Cylinder Applications*

Test data on sulfur's impact on very low emitting vehicles (*e.g.*, SULEV, PZEV, and Tier 2-Bin 2) remain scarce, especially at ultra-low sulfur levels and over a 150,000 mile compliance lifetime. This recent SAE study provides some insight. The authors measured the impact of test fuels containing 3 ppm and 33 ppm sulfur on NOx emissions from a 2009 MY PZEV Malibu. One important aspect of the evaluation was measuring the ability of different driving cycles to reverse the catalyst poisoning, and the potential for "NOx creep", *i.e.,* the incremental permanent reduction in catalyst efficiency as a result of repeated sulfur exposure. As the study notes, catalyst efficiencies for PZEVs need to exceed 99.4% for HC and 99.3% for NOx through 150,000 miles, and small changes in catalyst efficiency can have a large impact on tailpipe emissions.

The study found that sulfur levels of 33 ppm will affect "test to test" NOx stability during FTP testing, and that catalyst temperatures of 600°F, common in under-floor catalysts, can allow sulfur poisoning that affects NOx reduction efficiency and consistency of results. Using the US06 test cycle (high engine flow, high load) between FTP cycles, however, can increase catalyst temperature enough to help reverse the poisoning and improve "test to test" stability. According to the study, while the US06 can help mitigate sulfur poisoning, using a 3 ppm sulfur gasoline would eliminate the need to use such a cycle -- also, a 3 ppm fuel would reduce NOx emissions by 40% compared to the 33 ppm fuel, and/or allow lower levels of precious metals in the catalyst.

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[4] In 2000, the Association for Emissions Control by Catalyst (AECC) found: "The promising NOx adsorber technology that diesel and lean burn engines need requires sulphur levels significantly below 10 ppm. This will avoid compromising the lower fuel consumption and CO2 emissions by requiring frequent regeneration to remove the sulphur that is clogging the NOx adsorption capacity. See *Response to European Commission Consultation on the Need to Reduce the Sulphur Content of Petrol and Diesel Fuels below 50 parts per million*, July 2000, available at http://www.aecc.eu/en/Publications/Archive.html.

Lessons from Tier 2 US Gasoline Sulfur Regulation

Automakers found Tier 2 vehicle emission regulations much more stringent than expected, which in turn strengthened their call for the lowest possible gasoline sulfur levels. The Agency's choice of nominal 80 ppm/95 ppm sulfur caps for Tier 2 was already a much bigger compromise than should have occurred.

In addition, EPA's Tier 2 implementation scheme allowed sulfur levels to be significantly higher in the marketplace than the nominal legal limits for a considerable period after the rule's adoption. Besides giving most refiners two years after the 2004 effective date to phase in to the standard, the Agency gave an additional two years to small refiners and those in the Rocky Mountain region, and refiners could apply for hardship waivers that would allow an additional two years to comply. Thus the rule actually allowed six years to fully phase in the new fuel quality, with no provision to prevent local high sulfur areas during this period.

Moreover, EPA's 30 ppm limit was reached by averaging all batches *over a full year*, compared to California's low sulfur regulation (RFG Phase 2, implemented in 1996) which required averaging over a six month period. EPA imposed its 80 ppm per gallon cap at the *refinery gate,* and allowed retail gasoline to reach a 95 ppm cap at retail (and even this limit did not become absolute until 2011). California's Phase 2 regulation imposed its 80 ppm per gallon cap *at retail.* In its North American Fuel Survey (NAFS) the Alliance of Automobile Manufacturers was still finding U.S. retail gasoline with sulfur as high as 148 ppm in the summer of 2010.[5] While automakers would strongly welcome a significant lowering of average sulfur levels, they are greatly concerned about the possibility of high sulfur "hot spots" persisting at various retail points around the country if high caps are still allowed.

It is unclear when EPA will next revisit the issue of sulfur market fuel specifications, so the Agency should propose limits that will enable nationwide introduction of all emerging vehicle technologies for the foreseeable future.

Implications of Retaining the Tier 2 Sulfur Caps

Even with a much-needed, much lower annual sulfur average per refinery in place by 2016 (for MY 2017 vehicles) (and assuming no Tier-2 type averaging flexibility), retaining the *current* Tier 2 sulfur caps (80/95 ppm) in Tier 3 would be extremely problematic for autos, given the challenges of the 2017-2025 Fuel Economy/GHG rule and pending Tier 3 vehicle emission standards. Even if EPA reduces the refinery annual average sulfur limit considerably below the current 30 ppm, the prospect of continuing to allow up to 95 ppm sulfur *retail* gasoline in the marketplace means consumers in some locations will be buying relatively high sulfur fuel for their vehicles, some of them on a regular basis.

In addition, automakers are very concerned about repeated exposure of such vehicles to high sulfur levels, because the accumulation of sulfur on their catalysts over time and miles will put them at an unfair (and unpredictable) disadvantage for in-use compliance testing. Under Tier 2

[5] The Alliance of Automobile Manufacturers North American Fuel Survey (NAFS) conducted in the summer of 2010 found regular gasoline in Kansas City containing 148 ppm sulfur. However, the first NAFS survey for 2011 (conducted in January 2011) showed all gasoline samples apparently compliant with the 95ppm sulfur retail standard.

standards, vehicles must comply with emission standards for 120,000 miles of driving (and many vehicles are in Sec. 177 states requiring *California* emissions limit compliance for 150,000 miles, but which are exposed to *federal* fuels rather than the benefit of California fuels). Under the Tier 3 rule, automakers anticipate that all vehicles will be required to comply with tighter emissions standards. Many will need to comply with the longer California useful life criterion. In addition, long-term usage patterns (e.g., predominantly urban driving versus high-load highway driving) will differently affect catalyst performance and durability. Adding the element of unpredictable levels of market fuel sulfur (geographically and over time) could affect future in-use testing results, especially if no sulfur preconditioning steps are applied.

Vehicles have reduced catalyst efficiencies during and after chronic higher sulfur exposures, and this can cause significantly higher emissions. Poor or incomplete reversibility will cause ongoing higher emissions wherever the vehicle travels, including ozone non-attainment areas. Furthermore, future gasoline is likely to contain more ethanol, which contributes to higher NOx emissions, so higher sulfur gasoline will exacerbate the likelihood of an emissions increase. These combined effects would set back state efforts to meet stringent ozone ambient air quality standards. Importantly for the states and the general public, even occasional vehicle exposures to sulfur levels as high as 95 ppm will cause significantly higher HC, NOx, PM and toxic emissions than the design capability of vehicles. As a result, EPA will risk failing to prevent air quality backsliding, which Congress required EPA to study specifically out of concern about ethanol's impact on emissions.[6]

Allowing retail sulfur levels as high as 95 ppm also will inhibit the introduction of new fuel efficient, lean burn gasoline engine technology, as already publicly noted by some automakers. These engines are capable of providing significantly improved fuel economy and greenhouse gas benefits compared to conventional engines, but they require emission control devices that are quickly poisoned as the fuel sulfur level rises above 10 ppm.

Countries and regions that have capped gasoline sulfur at 10 ppm (for example, Europe and Japan) have been able to enjoy the benefits of lean burn technology over the past decade. If EPA retains the 95 ppm retail cap, U.S. consumers will continue to be deprived of this fuel efficient option, and they will continue to wonder why other countries seem to have more advanced and a greater diversity of fuel efficient technologies than the United States.

Maintaining a 95 ppm retail sulfur cap would be damaging to the U.S. reputation as a leader in air pollution control because so many other countries and some cities have already achieved ultra-low sulfur levels in their gasoline.[7] In Canada, for example, according to the Alliance's North American Fuel Survey, the highest sulfur level recorded last summer (2010) was 32 ppm for regular grade and 20 ppm for premium, and since 2007, the levels there have been consistently below 40 ppm. In Mexico all premium grade samples in the Alliance surveys have had less than 52 ppm sulfur since 2007. In half of the cities sampled, regular grade samples have had less than 80 ppm sulfur since 2009.

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6. *See* 42 USC 7545(q). Though due in draft form by 2009, this analysis has not yet been published. EPA expects to work on this analysis in parallel with drafting the Tier 3 Proposed Rule.

[7]According to Hart's International Fuel Quality Center, as of May 2010, Japan, South Korea, Iceland, Greenland, and the countries of the European Union require less than 10 ppm sulfur gasoline. The U. S. ranks 44th in a ranking of the top 100 countries by gasoline sulfur standard stringency. *See* PR Newswire, "IFQC Ranks Top 100 Countries by Gasoline Sulfur Standards: Europeans' Major Progress Bumps U.S. to 44th Place," May 5, 2011, and IFQC, http://www.ifqc.org/NM_Top 5.aspx.

Automakers that engineer vehicles for the U. S. have waited a long time for lower fuel sulfur levels that harmonize with foreign standards, enable lean-burn technology, and make full use of advanced technologies. Maintaining existing U.S. high sulfur caps would inhibit needed technology and international harmonization of fuels and vehicle design, and waste scarce economic and commodity resources on over-sophisticated emission control systems.

Flaws in the Purported Reasons for Retaining the Tier 2 Sulfur Caps

The main argument against more stringent sulfur limits boils down to concern that a few, perhaps older or small refineries that supply U. S. retail gasoline might be unable to consistently produce a lower sulfur product.

This argument seems weak, given how long refiners have known about sulfur's effects and have been producing lower sulfur gasoline. As noted, California began requiring a low sulfur gasoline in 1996. In 1998 EPA imposed Federal RFG Phase 2 requirements—affecting about one third of the country's gasoline market. To comply with federal RFG2's required NOx reductions, refiners needed to substantially reduce sulfur. As a result, by 2000, refiners were well on their way to producing Tier 2 compliant gasoline, as shown in EPA's Fuel Trends Report 2008, which studied retail sulfur levels from 1995 to 2005. By 2005, several years after Federal RG2 implementation and one year after Tier 2 implementation, the Federal RFG summer retail average had already dropped to about 70 ppm from about 200 ppm in 1998. The annual average for all gasoline in 2005 was 92 ppm. It is very difficult to conclude that a lower sulfur retail limit would not be feasible in the U.S. A few stressed refineries should not drive the universally applicable prospective federal limits.

A second argument is that contamination during distribution through the finished product pipeline infrastructure contributes to retail gasoline sulfur levels and that this contamination cannot be further controlled. The Alliance would appreciate the opportunity to see what current data EPA or other stakeholders have, including any comparisons of past versus current samples showing the relative magnitude of sulfur contamination levels, or that support the need for a 95 ppm sulfur retail cap.

The same contamination concerns were voiced when EPA was developing the ultra-low sulfur diesel (ULSD) fuel standard in 2002. Yet the country has successfully converted to retail 15 ppm sulfur diesel fuel nationwide, using the same pipelines to distribute the fuel as used for gasoline. Further, since the 2002 ULSD rule, EPA has greatly reduced the sulfur levels in other petroleum products that move through the pipelines. Non-highway diesel fuel and fuel used for locomotive and marine applications will have to meet the same 15 ppm sulfur limit by 2014, before Tier 3 is implemented. Thus, it should be much easier to move ultra-low sulfur gasoline in pipelines in 2016-17 than it was in 2006, when ULSD began its phase-in. In addition, since most gasoline today contains 10% ethanol, the sulfur levels are further reduced (diluted) during blending after the fuel leaves the pipeline, which also provides refiners with some flexibility.

EPA Opportunity to Promote International Harmonization Regarding Sulfur Levels

The 2000 edition of global automakers' Worldwide Fuel Charter stressed the need for sulfur-free gasoline. Shortly afterward, Europe and Japan started moving toward a 10 ppm maximum sulfur standard. Both of these markets have now had ultra-low sulfur gasoline for several years. Other countries, including Canada and Mexico, also are moving to well below 80 ppm[8] consistent with

[8] Based on retail sulfur levels measured through the Alliance North American Fuel Survey, 2007-2011.

the goals of the UNEP-managed Partnership for Clean Fuels and Vehicles, in which both EPA and the oil industry participate.[9] In 2005, the PCFV conservatively recommended a 50 ppm sulfur limit for all countries, even those in Africa, while recognizing the benefits of further reduction, but keeping in mind the challenge presented for developing countries.

Conclusion

EPA should use its opportunity in Tier 3 to provide a strategy toward achieving a 5-10 ppm cap on sulfur in U.S. retail gasoline. Any issues relating to particular refinery capability, pipeline, or other sulfur contributions should be addressed individually, as part of the larger strategy to achieve this goal, but should not be used to change the goal itself. Allowing sulfur caps as high as 80 ppm at the refinery gate and 95 ppm at retail pumps to continue indefinitely in the US marketplace is unwarranted, would handicap maximizing vehicle emission reductions and achieving fuel economy and GHG standards, and would inhibit development and use of cleaner, more efficient combustion technologies.

The Alliance looks forward to additional opportunities to work with EPA and other stakeholders on the gasoline sulfur reduction challenge.

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[9] *See* Partnership for Clean Fuels and Vehicles, http://www.unep.org/transport/pcfv/partners/partners.asp); and Low Sulphur Campaign, http://www.unep.org/transport/pcfv/corecampaigns/campaigns.asp#sulphur). In 2005, the Partnership recommended that countries aim "To reduce sulphur in vehicle fuels to 50 ppm or below worldwide, concurrent with clean vehicles and clean vehicle technologies, with roadmaps and timelines developed regionally and nationally". *See* Summary of the Fourth Meeting of the Global Partnership for Clean Fuels and Vehicles, UNEP Headquarters, Nairobi, Kenya, 14-15 December, 2005, available at http://www.unep.org/transport/pcfv/PDF/4GPM-report-final.pdf.

APPENDIX 1: Overview of Pertinent Studies on Sulfur's Impact on Vehicle Emissions

1. According to EPA staff, a new EPA-designed and managed sulfur test program has been conducted. Results not yet publicly available.

2. SAE 2011-01-0300, D. Ball, et al., *Effects of Fuel Sulfur on FTP NOx Emissions from a PZEV 4 Cylinder Application.*

   The authors measured the impacts of test fuels containing 3 ppm and 33 ppm sulfur on NOx emissions from a 2009MY PZEV Malibu. An important aspect was the evaluation of the ability of different driving cycles to reverse the catalyst poisoning and the potential for "NOx creep," *i.e.,* the incremental permanent reduction in catalyst efficiency as a result of repeated sulfur exposure. Test data on sulfur's impact on very low emitting vehicles (e.g., SULEV, PZEV, Tier 2 Bin 2) are scarce, especially at ultra-low sulfur levels and over a 150,000 mile compliance lifetime, so these data begin to fill an important gap. As the study notes, catalyst efficiencies for PZEVs need to exceed 99.4% for HC and 99.3% for NOx through 150,000 miles, and small changes in catalyst efficiency can have a large impact on tailpipe emissions.

   The study found that sulfur levels of 33 ppm will affect test to test NOx stability during FTP testing, and that catalyst temperatures of 600°F, common in under-floor catalysts, can allow sulfur poisoning that affects NOx reduction efficiency and consistency of results. Using the US06 test cycle (high engine flow, high load) between FTP cycles, however, can increase catalyst temperature enough to help reverse the poisoning and improve test to test stability. According to the study, while the US06 can help mitigate sulfur poisoning, using a 3 ppm sulfur gasoline would eliminate the need to use such a cycle –also, a 3 ppm fuel also would reduce NOx emissions by 40% compared to the 33 ppm fuel, and/or allow lower levels of precious group metals in the catalyst.

3. Pembina Institute, *Fuel Quality in Canada*, prepared for the Association of International Automobile Manufacturers of Canada, November 26, 2008.

   This report concluded that reducing gasoline sulfur would lead to a direct reduction in SOx emissions. Additionally, it discussed other studies that found sulfur reduces the performance of three-way catalysts (TWC) and other after-treatment devices. By reducing sulfur content, these devices can work more effectively, leading to reductions in the emissions of VOCs, NOx and CO.

4. SAE 2008-01-0628. Y. Shen et al., *Effects of Gasoline Fuel Properties on Engine Performance.*

   This study aimed to provide technical support for automotive gasoline fuel quality standards to match new vehicle emission standards in Beijing, China. While the study found sulfur had little impact on the conversion efficiency of fresh catalysts, it did have an influence on the conversion efficiency of aged catalysts. Catalysts aged up to 100 hours with 50 ppm or 150 ppm sulfur gasoline increased the catalyst light-off temperatures, and when operated at high temperature, catalyst performance recovered only partly.

5. Joint EPA-Automobile Industry Tier 2 Vehicle Fuel Effects Test Program ("*MSAT Study*"), 2006; results presented as a Poster at the 17th CRC On-Road Vehicle Emissions Workshop, March 31-April 2, 2007.

   EPA and several automobile manufacturers cooperatively undertook the so-called MSAT Study to assess the emissions sensitivity of lower emission vehicles (Tier 2 or LEVII) to various fuel properties, primarily RVP, benzene and sulfur. The study tested five gasoline blends on nine Tier 2 vehicles with a fleet average emissions level below the Tier 2 Bin 5 standard (0.07 g/mi of NOx and 0.09 g/mi of NMOG). Four of the test fuels contained ultra-low sulfur levels (6 ppm for the base fuel and base fuel adjusted for RVP and benzene, and 5 ppm for the non-oxygenated commercial California fuel). The fifth test fuel was a 50th percentile commercial federal fuel containing 32 ppm sulfur.

   The study found the California test fuel was the best overall performer, significantly lowering benzene, NMHC and NOx emissions, and this was the only test fuel that caused a significant drop in tailpipe NMHC emissions. Sulfur could not have been the deciding factor in the NMHC results, however, because most of the test fuels had similar sulfur levels. Sulfur *was* the key factor in the NOx emission results, however, since the federal commercial fuel (with 32 ppm sulfur) had significantly higher average composite NOx emissions than all the other fuels tested (which contained either 5 or 6 ppm sulfur). The emission differences were quite large, representing emission decreases of 30% to 38% from the federal fuel's high mean of 0.056 g NOx/mi. Looked at another way, increasing the sulfur from 5 or 6 ppm to 32 ppm resulted in emission increases of 43% to 63%.

6. Worldwide Fuel Charter, 2006 Edition, available at www.autoalliance.org (click on Environment and Energy, to Clean Fuels).

   This document, produced by ACEA, the Alliance of Automobile Manufacturers, EMA and JAMA, and endorsed by automobile manufacturers from around the world, summarized several sulfur impact studies available at the time of publication.

7. CRC Project E-60, *The Effect of Fuel Sulfur on NH3 and Other Emissions from 2000-2001 Model Year Vehicles*, May 2003.

   This study, which was designed to measure NH3 production at the catalyst under the US06 and FTP test cycles using gasoline with 5, 30 and 150 ppm sulfur gasoline, also examined other emissions and found significant reductions of common criteria pollutants as well as N_2O as the sulfur was reduced. The impact of lower sulfur on aged catalysts (from in-use vehicles), especially for NOx and NHMC, was even bigger than on fresh catalysts.

8. Alliance of Automobile Manufacturers/Association of International Automobile Manufacturers, *Gasoline Sulfur/Oxygen Impacts Study*, conducted for the California Air Resources Board, 2001, available at www.autoalliance.org.

   This study examined the impact of sulfur levels at 1 ppm, 30 ppm and 100 ppm on LEV and SULEV technology vehicles. While the reductions for 1 ppm sulfur were less than predicted, the study did indicate greater sulfur sensitivity as the sulfur decreased below 30 ppm, and it provided support for modifying CARB's Predictive Model for newer vehicle technologies.

9. Association for Emissions Control by Catalyst (AECC), *Response to European Commission Consultation on the need to reduce the Sulphur Content of Petrol and Diesel Fuels below 50 parts per million,* July 2000, available at http://www.aecc.eu/en/Publications/Archive.html.

   This report by manufacturers of emission control equipment summarized the findings of several studies into the impact of sulfur on catalyst performance. The report included these comments on various studies relating to sulfur's impact on lean-burn gasoline engines and on three-way catalysts (as excerpted from the report):

   - Quissek et al. (ADA) showed DaimlerChrysler data showing >80% NOx conversion [with a lean NOx trap] on a DI petrol engine for 10 000 km on the EU III hot test on 8 ppm sulphur fuel but falling to <30% with 50 ppm sulphur fuel.

   - Hachisuka et al. (Toyota Motor Corp.) describe a new NOx storage-reduction (NSR) system for lean burn petrol engines being introduced into the Japanese market where sulphur levels in petrol are much lower. The first generation of NSR catalyst introduced by Toyota gave (after 100 hours of aging on fuel containing 500 ppm sulphur) NOx conversion one-eighth of the level obtained with a fuel sulphur of 30 ppm - but even at this level NOx conversion efficiency gradually decreases. Improvements of NOx conversion of 50% in the new catalyst still give limited application in Europe because of fuel sulphur levels. Toyota says "it is critical that sulphur content in fuels be reduced".

   - Johnson (Corning Inc.) published a comprehensive review of 1999 SAE papers on "Gasoline Vehicle Emissions". He cites the conclusion of Asunama et al (Toyota) that increased sulphate grain size results from higher petrol sulphur levels and this makes NOx trap desulphation more difficult. After aging for 16 000 km at various sulphur levels they showed that at 8 ppm fuel NOx conversion efficiency could be instantly returned to >90% by regeneration at 620°C whereas at 500 ppm sulphur 30 minutes regeneration restored conversion from <20% to only 50%. At 30 ppm sulphur 30 minutes regeneration restored NOx conversion from 75% to <90%.

   Regarding sulfur and three way catalyst research generally:

   - Most of the studies compare the tailpipe emissions using fuels with different sulphur levels and all conclude that the lower the sulphur level the lower the emissions on fresh or aged catalysts. There is however some evidence of a non-reversible interaction between the washcoat components and sulphur.

   From the report's conclusions:

   - For the existing fleet of vehicles lowering sulphur levels in petrol to below 10 ppm would give a reduction in emissions from all three-way catalyst equipped vehicles of up to 20%. US data indicates an enhanced effect on emissions at 30 ppm sulphur and it is known that sulphur affects catalyst performance all the way down to 0 ppm.

   - The promising NOx adsorber technology that diesel and lean burn engines need requires sulphur levels significantly below 10 ppm. This will avoid compromising the

lower fuel consumption and CO2 emissions by requiring frequent regeneration to remove the sulphur that is "clogging" the NOx adsorption capacity.

- The best option to allow the unconstrained development and introduction of new emission control technologies is to set a specification for sulphur levels at below 10 ppm for introduction as soon as possible. This will allow Member States to introduce tax incentives and for market forces to bring the ultra-low sulphur fuels to the market to allow the early introduction of the new technologies.
- Ultra low sulphur fuels are shown to reduce greenhouse gas emissions by:
    - Reducing CO2 emissions by allowing low fuel consumption vehicles, e.g. diesel and lean burn/petrol fuel injection, to flourish
    - Reducing emissions of greenhouse gases such as methane (CH4) and nitrous oxide (N2O) by allowing catalysts to more efficiently remove them.

APPENDIX 2: Additional Background on the History of Market Sulfur Regulation

In the early 1990s, the auto and oil industries produced significant new research documenting the adverse impact of gasoline sulfur on the effectiveness of three way catalysts.[1] The State of California acted on these findings by adopting the "Phase 2 Reformulated Gasoline" (California RFG2) regulation, which reduced gasoline sulfur levels across the state.[2] The California RFG2 sulfur standard, which was implemented in 1996, allowed refiners to meet either a flat limit of 40 ppm sulfur per batch or a 180-day average limit of 30 ppm sulfur.[3] In no case could the gasoline exceed an absolute per gallon cap of 80 ppm sulfur. California RFG2 proved highly effective not only at reducing vehicle emissions but also causing measurable reductions in ambient ozone levels.[4] Soon after, other states became interested in this achievement, leading the Ozone Transport Assessment Group to recommend that EPA adopt a regulation to reduce sulfur across the country.[5]

EPA agreed that reducing sulfur below the then current retail average of about 330 ppm sulfur and maximum retail level of 1000 ppm[6] would yield significant air quality benefits. Sulfur, in fact, was one of the key tools that was already being used in the late 1990s to improve the NOx performance of Federal RFG Phase 2.[7] As a result, in 1999 the Agency adopted nationwide gasoline sulfur controls in conjunction with Tier 2 vehicle emission standards, to be phased-in between 2004 and 2006.[8] EPA further modified the rule in connection with the 2002 ultra-low sulfur diesel fuel regulation (phased-in between 2006 and 2010), whereby it offered refiners additional flexibility in implementing the gasoline sulfur rule as an inducement to reduce sulfur in diesel fuel more quickly.[9] The specific sulfur limits adopted by EPA were somewhat more relaxed than in California RFG2, however, and by the time the federal limits were adopted in 1999, California already was well on the way to tightening sulfur further to a 30 ppm cap. Actual sulfur levels in that state have been driven even lower through the use of the Predictive Model.

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[1] *See* Coordinating Research Council, "Auto-Oil Emissions Program," found at http://www.crcao.com/reports/auto-oil/default.htm.

[2] For background on California's "Phase 2" gasoline rulemaking, *see* http://www.arb.ca.gov/fuels/gasoline/carfg2/carfg2.htm.

[3] Refiners also could meet alternative limits if they could show the fuel would produce at least the same amount of emission benefits. *See* http://www.arb.ca.gov/fuels/gasoline/pub/pub.htm.

[4] For one analysis of the rule's impact on air quality, *see, e.g.,* Larson, "An assessment of the impact of California's Phase 2 Reformulated Gasoline on ozone air quality," *J Air Waste Management Assoc.* 2001, Jan;51(1):37-48.

[5] *See* OTAG's source specific recommendation for gasoline at http://earth1.epa.gov/ttn/naaqs/ozone/rto/otag/finalrpt/chp6/final.htm.

[6] These commercial levels might have been higher but for various constraints imposed through pipeline contract limits and ASTM D4814 gasoline specifications, which are adopted by many states.

[7] EPA requires states to use Federal RFG2 in certain ozone non-attainment areas; much of the fuel sold on the east coast, west coast, Chicago and certain other limited areas is federal RFG2.

[8] EPA finalized the rule on December 21, 1999 and published it in the Federal Register on February 20, 2000 (*see* http://www.epa.gov/tier2/finalrule.htm). It was further corrected and amended several times between 2001 and 2006 (*see* http://www.epa.gov/tier2/amendments.htm). In 2000, California reduced sulfur levels further to a 30 ppm per gallon cap; while this limit fell short of the 10 ppm cap advocated by automakers, the state's regulatory approach (using a Predictive Model) in combination with increased ethanol levels has driven the maximum sulfur found in the Alliance surveys to well below 16 ppm since 2009 and below 12 ppm since 2010, with the averages approaching zero in some cases.

[9] *Ibid.*

APPENDIX 3: Executive Summary *National Clean Gasoline: An Investigation of Costs and Benefits*, Alliance of Automobile Manufacturers, June 2009

Introduction

The Alliance of Automobile Manufacturers (Alliance)[10] recently commissioned two studies examining the costs and benefits of introducing a cleaner national gasoline, defined as a Clean Air Act regulatory standard, into the U.S. market. The first study, conducted by Math*Pro*, Inc., investigated the refining costs of producing the proposed fuel standard, and the second study, conducted by Air Improvement Resources, Inc., investigated the standard's impacts on emissions from on-road gasoline-powered vehicles (excluding motorcycles). The Alliance designed the gasoline standard to reduce vehicle emissions and, importantly, to enable lean burn gasoline engines, which are a new, fuel efficient vehicle technology. The Alliance also sought to create a standard that could be used as a single national gasoline, eventually replacing the so-called boutique gasolines being sold in parts of the U.S. to reduce emissions. For study purposes, the Alliance named its proposed fuel "National Clean Gasoline" (NCG).

Fuel quality plays a critical role in vehicle operation and emissions because it affects the combustion process and can interact with vehicle components, including, but not limited to, emission control systems. Certain gasoline compounds—especially those containing sulfur—reduce the effectiveness of emission control systems, thereby causing vehicle emissions to increase.[11] As another example, gasoline's distillation characteristics affect combustion efficiency and smoothness, and its vapor pressure affects evaporative emissions. Depending on the property or contaminant, effects may occur immediately, build up gradually over time or be irreversible. Most importantly for policymakers, fuel quality may affect a vehicle's ability to comply with emission standards, deliver planned fuel economy, use certain technologies or satisfy customers. This is why vehicles and fuels must be viewed as a system.

Quality of National Clean Gasoline

In specifying NCG, the Alliance capped sulfur at 10 parts per million (ppm), which is significantly lower than current federal limits.[12] As noted, sulfur reduces the effectiveness of catalytic converters used to meet stringent U.S. and California vehicle emission standards. Manufacturers have been able to build compliant vehicles despite the sulfur levels found in federal gasoline, but vehicle emissions would be much lower if the sulfur levels were lower. As EPA seeks to reduce smog-forming emissions further, reducing gasoline sulfur levels would be a helpful control strategy. It would also help reduce emissions in California where sulfur levels

---

[10] The Alliance is a trade association of eleven car and light truck manufacturers—BMW Group, Chrysler, Ford Motor Company, General Motors, Jaguar Land Rover, Mazda, Mercedes-Benz, Mitsubishi Motors, Porsche, Toyota and Volkswagen.

[11] Metallic additives also reduce the effectiveness of emission controls, but the federal government and California prohibit their use in federal and California reformulated gasolines, respectively, and virtually all U.S. refiners refrain from using such additives in conventional gasolines.

[12] EPA regulations require gasoline produced for sale outside of California to have an annual average of no more than 30 ppm sulfur at retail with a per gallon cap of 80 ppm, but the EPA test tolerance limit allows an individual gasoline sample sold at retail to contain as much as 95 ppm sulfur. California rules require sulfur to be no more than 30 ppm, and the average today is about 9 ppm, which is better than the federal limit but still not as clean as gasoline standards in Europe and Japan, which allow a maximum of 10 ppm sulfur. Under its "Phase 3" gasoline regulation, California is scheduled to reduce its maximum per gallon sulfur limit to 20 ppm on December 31, 2011, and the average is expected to decline further.

are relatively low, even if the state did not adopt NCG, because vehicles coming into the state would be cleaner than they are now.

Sulfur is also important because certain new technologies require different emission control systems that are more sensitive to sulfur. Like diesel engines, lean-burn gasoline engines are very efficient at burning hydrocarbons, which improves the vehicle's fuel economy compared with similar vehicles using conventional spark ignition engines. Lean burn gasoline engines, however, are optimized for fuel economy, which can lead to higher engine-out NOx emissions, also like diesel. The higher NOx emissions require new, advanced emission control systems similar to those used in diesel vehicles to enable compliance with stringent U.S. and California emission standards, but the systems are quickly poisoned by sulfur. Lean burn gasoline technology can work acceptably only with gasoline containing less than 10 ppm sulfur (also called ultra-low sulfur gasoline or ULSG).

The Alliance constrained additional gasoline properties either to match existing federal or voluntary ASTM standards (e.g., benzene, driveability index), the lowest level acceptable for vehicle operation across the U.S. (e.g., vapor pressure) or to comply with EPA's Complex Model constraints (e.g., aromatics, olefins). Ethanol content was set at 10% by volume (the limit under existing federal regulations) to reflect the national ethanol mandate volumes required under the Renewable Fuel Standard in the Energy Independence and Security Act of 2007.

Table 1: Proposed National Clean Gasoline Specifications

Property	Units	Limit	Comments
Sulfur	ppm	10 max	Reduces emissions from the existing fleet and enables fuel efficient lean burn technologies. Regulated by EPA and California.
RVP	psi	7 max	Selected to match the lowest emitting value while maintaining acceptable vehicle operation. Regulated by EPA and some states.
Benzene	% v/v	0.62 avg	New EPA national toxics standard ("MSAT2").
Ethanol	% v/v	10 max	Current federal maximum.
Octane Regular Premium	(R+M)/2	 87 min 93 min	Based on industry practice. Limits apply at all altitudes.[13]

[13] In general, refiners select octane levels to meet consumer demand. The Alliance believes it is acceptable for Premium gasoline to be defined as having a minimum 91 octane ((R+M)/2).

Property	Units	Limit	Comments
ASTM Driveability Index[14]	*	1250 max	The ASTM voluntary standard, which is enforceable in some states. DI is important for engine calibration, engine performance and emissions.
Alliance Distillation Index[5]	*	1200 max	For sensitivity analysis (preferred Alliance DI limit).
Aromatics, Olefins, E200, E300	*		Unconstrained for NCG but indirectly regulated through EPA's Complex Model, which is used to certify gasoline compliance.

*No units apply but, in this context, temperatures are measured in degrees Fahrenheit.

Approach

The studies targeted 2010 as the earliest possible year for implementing the NCG specifications. The refining economics study was completed first, to provide baseline data for the emissions analysis. The study modeled NCG costs to reflect a phased rollout: first, it introduced NCG in current federal RFG areas; second, it replaced all low RVP gasolines with NCG; and third, it replaced all conventional gasoline with NCG. This sequence begins with the least-cost fuel replacement and moves on to progressively more costly fuel replacements. The study area covered most of the U.S. (PADDs[15] 1-3) and its gasoline pool but excluded the Rockies and West Coast states (PADDs 4 and 5) for reasons explained in the study.

The refining economics study estimated the refining costs of producing the specified new fuel in volumes consistent with the three implementation phases. This analysis was limited to examining refining costs; it did not include analyzing NCG's possible impacts on fuel distribution, price (which is determined by market forces) or other non-refinery factors. The primary analysis assumed a crude oil price of $51.20/barrel, which was the reference case projection derived by the Energy Information Administration for its 2007 Annual Energy Outlook (AOE2007).[16] The unprecedented rise in crude oil prices during 2008, however, led the Alliance to conduct a sensitivity analysis using a crude oil price of $125/barrel.

The emissions study used fuel quality estimates from the refining economics study as inputs to well-accepted and publicly available emissions modeling tools. For public policy purposes, it is insufficient to know how emissions change for one vehicle; models must be used to estimate the fleet-wide emission impacts, to accommodate variations in vehicle type, age, usage and other

[14] The Alliance used the ASTM Driveability Index limit, which applies at the refinery gate, as the basis for the study instead of its preferred Distillation Index, which applies at the retail pump, because recent changes have brought the ASTM limit much closer to the Alliance recommendation and because refiners are using the ASTM limit in the market. To determine the impact of imposing the Alliance Distillation Index with a tighter limit, a sensitivity analysis was conducted.

[15] "PADD" means Petroleum Administration Defense District; see www.eia.doe.gov for a map. Roughly, PADD 1 corresponds to the east coast, PADD 2 corresponds to the Midwest and PADD 3 corresponds to the gulf coast states.

[16] Energy Information Administration, "Annual Energy Outlook 2007 with Projections to 2030," Report #:DOE/EIA-0383(2007), February 2007, available at http://www.eia.doe.gov/oiaf/archive/aeo07/index.html (May 21, 2009).

factors, including fuel quality. Emissions also change year to year; this study looked at the emission changes between 2010 and 2020 for the same geographic area covered by the cost study. Recent results from an EPA study of toxic emissions from Tier 2 vehicles were included as part of a sensitivity analysis.

Findings

Refining Economics. The estimated average cost of producing the full volume of NCG, using the AEO2007 crude oil reference price estimate, is 2.75¢/gallon; the estimates are slightly lower for PADDs 1 and 2. The estimated marginal cost of introducing the last increment of NCG is about 3.9¢/gallon and slightly higher in PADDs 1 and 3. Improving the distillation index by using the Alliance's preferred Distillation Index equation and limit of 1200—i.e., tightening the distillation constraints further—would increase average refining cost by about 1¢/gallon in PADD 1 only; other regions would see no impact on average refining costs because their gasoline already meets this limit. The estimated marginal cost for the last increment of NCG is about 5¢/gallon, also only in PADD 1. These estimates pertain to average refining costs, and as such, they do not indicate costs that would be incurred by any individual refineries.

The sensitivity analysis using a higher crude oil price indicates that large increases in crude oil prices lead to moderately higher refining costs for producing NCG. With crude oil at $125/barrel, the estimated average cost of producing the full volume of NCG is about 4.5¢/gallon, an increase of 1.75¢/gallon compared with the estimates based on crude oil priced at $51/barrel. The corresponding estimated marginal cost of producing the last increment of NCG is about 6.5¢/gallon, which is an increase of about 2.5¢/gallon. Assuming no change in electricity and natural gas prices, each $10 change in the price of crude oil would lead to a change of about 0.24¢/gallon in the average cost of producing NCG.

Table 2. Estimated Refining Cost Changes

		Estimated Average Refining Cost, at Two Crude Oil Prices		Cost Impact of Higher Crude Price
Refining Cost of NCG	units	$51/bbl	$125/bbl	
Average cost	¢/gal	2.75	4.5	1.75
Average cost (Alliance DI sensitivity case)	¢/gal	3.75 (PADD 1 only)	*	*
Incremental cost	¢/gal	4	6.5	2.5
Incremental cost (Alliance DI sensitivity case)	¢/gal	8.75 (PADD 1 only)	*	*

*Not estimated.

Emissions. The emissions investigation found that NCG would have significant impacts on evaporative hydrocarbon (HC) and exhaust nitrogen oxides (NOx) emissions. Between the study years of 2010 and 2020 and on a per-PADD basis, evaporative HC reductions ranged from 12% to 19%, and exhaust NOx reductions ranged from 10% to 14%. Exhaust HC emissions also declined, ranging from 1% to almost 4% from their already very low baseline. The sensitivity analysis using newer Tier 2 emission impacts suggests these vehicles are more sensitive to fuel sulfur effects than the existing models indicate. Compared to the national on-road HC and NOx emissions inventory, these reductions are significant, especially if the estimates are conservative

as the sensitivity analysis suggests. This finding could be very important to states trying to meet more stringent ozone ambient air quality standards.

Table 3. Summary of Emission Reductions due to NCG

	2010	2015	2020
Exhaust HC	1 – 3%	1.5 – 3.5%	1.75 – 3.75%
Evaporative HC	12 – 19.5%	11.5 – 18.5%	11 – 18.5%
NOx	10 – 11%	12 – 13%	13 – 14%

Conclusion

These studies highlight the potential benefits and costs of improving national gasoline quality. The estimated costs are reasonable, even when crude oil prices are high. The emission benefits would be substantial. Additional benefits to gasoline supply accrue simply by eliminating the many boutique gasolines introduced over the years for air pollution control purposes. Introducing an ultra-low sulfur gasoline nationwide would enable automakers to introduce a new fuel efficient vehicle technology—lean burn gasoline engines—increasing the options for improving fuel economy for both automakers and consumers. All of these factors support improving fuel quality on a national basis as a feasible emissions control strategy that will also help the country meet other important national objectives.

Correspondence Management System
Control Number: AX-11-002-0298
Printing Date: December 06, 2011 03:04:31

Citizen Information

Citizen/Originator: **Coonerty, Ryan**
Organization: City of Santa Cruz
Address: 809 Center Street, Santa Cruz, CA 95060

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number: AX-11-002-0298 **Alternate Number:** Ryan
Status: For Your Information **Closed Date:** N/A
Due Date: N/A **# of Extensions:** 0
Letter Date: Nov 30, 2011 **Received Date:** Dec 6, 2011
Addressee: POTUS-President of the United States **Addressee Org:** White House
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: SNR-Signature Not Required **Signature Date:** N/A
File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File-The Santa Cruze City Council has adopted the attached resolution supporting the Cean Air Act.
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy
R9 - Region 9 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OAR	Dec 6, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OAR	Dec 6, 2011

DAILY READING FILE

CITY OF SANTA CRUZ

MAYOR AND CITY COUNCIL

809 Center Street, Room 10, Santa Cruz, CA 95060 • (831) 420-5020 • Fax: (831) 420-5011 • citycouncil@cityofsantacruz.com

November 30, 2011

President Barack Obama
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President:

At its meeting on November 22, 2011, the Santa Cruz City Council adopted the attached resolution supporting the Clean Air Act and the Environmental Protection Agency's efforts to protect and restore our natural resources by limiting the emission of greenhouse gas pollution.

We recognize that climate change is not an abstract problem for the future or one that will only affect far-distant places, but rather climate change is happening now, we are causing it, and the longer we wait to act, the more we lose, and the more difficult the problem will be to solve. The Clean Air Act can work immediately to curb greenhouse gas pollution without new climate legislation or in conjunction with new climate legislation.

The City of Santa Cruz prides itself on being a leader in the fight against climate change and for clean air and has developed a Climate Action Plan and has signed the Mayors' Climate Protection Agreement. Therefore, we urge you to move swiftly to fully employ and enforce the Clean Air Act in order to do our part to reduce carbon in our atmosphere to no more than 350 ppm.

Sincerely,

Ryan Coonerty
Mayor

Attachment

cc: City Clerk Administrator
Lisa P. Jackson, Administrator, Environmental Protection Agency

RECEIVED
2011 DEC -6 PM 1:24
OFFICE OF THE EXECUTIVE SECRETARIAT

P:\CMAD\Word(Wpfiles)\SUZANNEU\Mayorrc2010-2011\Letters\Clean Air Act Obama.doc

Correspondence Management System
Control Number: AX-11-001-0269
Printing Date: June 27, 2011 04:05:43

Citizen Information

Citizen/Originator: **Dean, Jay**
Organization: City of Longview
Address: P.O. Box 1952, Longview, TX 75606

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0269	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 17, 2011	**Received Date:**	Jun 27, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	N/A	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File-I represent the City of Longview and write to express my concerns about new environmental proposals that will affect the price of electricity.
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OCR - Office of Civil Rights
OEAEE - Office of External Affairs and Environmental Education
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OAR	Jun 27, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OAR	Jun 27, 2011

DAILY READING FILE

RECEIVED
2011 JUN 27 PM 1:0
OFFICE OF THE
EXECUTIVE SECRETARIAT

Real East Texas
CITY OF LONGVIEW

The Office of the Mayor

Jay Dean
Mayor

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave. N.W.
Washington, DC 20460

June 16, 2011

Re: Docket No. EPA-HQ-OAR-2011-0044

Dear Administrator Jackson,

I represent the City of Longview and write to express my concern about new environmental proposals that will affect the price of electricity.

My citizens understand the need to improve the quality of our air and to protect our environment, but we also are concerned about the cost of new regulations. We have been advised by our electric utility that the hazardous air pollutants rule and other proposed rules could result in double-digit price increases. We also are told that these price increases could be deferred or mitigated if the EPA adopts more flexible regulations.

As a community trying to grow jobs and business investment, energy costs are a significant consideration. A 10-to-20-percent increase in our price of electricity can cost some of our existing businesses thousands of dollars and can mean the difference between profit and loss, adding jobs or letting people go. The purpose of environmental regulation should not be to hold back our economy or our ability to make a living. The most effective way to protect our environment is to ensure that our economy prospers so that the resources will be available to make improvements.

Please work with the nation's electric utilities to enact environmental regulations that will allow them to operate as efficiently as possible. Businesses need certainty to plan

effectively. Please establish and publicize the conditions under which you will grant the one-year compliance extension so that utilities will know how much time they have to comply.

We all want a cleaner environment, but we need common sense regulations to keep our economy going. Overly stringent, inflexible regulations will harm our communities, our businesses, and our nation.

Thank you for the opportunity to comment.

Sincerely,

Jay Dean
Mayor

cc: The Honorable John Cornyn
United States Senate
517 Hart Senate Office Building
Washington, D.C. 20510-4304

The Honorable Louie Gohmert
511 Cannon HOB
Washington, DC 20515

Correspondence Management System
Control Number: AX-11-001-0246
Printing Date: June 27, 2011 03:57:24

Citizen Information

Citizen/Originator: **Borders, Rebecca**
Organization: City of Saint Cloud
Address: 1300 9th Street, Saint Cloud, FL 34769

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number: AX-11-001-0246 **Alternate Number:** N/A
Status: For Your Information **Closed Date:** N/A
Due Date: N/A **# of Extensions:** 0
Letter Date: Jun 27, 2011 **Received Date:** Jun 27, 2011
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: N/A **Signature Date:** N/A
File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File-Resolution of the city of St. Cloud Florida, requesting the US EPA consider the Florida Department of Environmental Protection's Petition Requesting that the US EPA withdraw its determination that numeric nutrient criteria are needed in only Florida
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
R4 - Region 4 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OW	Jun 27, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OW	Jun 27, 2011

DAILY READING FILE

ORIGINAL

RESOLUTION 2011-084R

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. CLOUD FLORIDA, REQUESTING THAT THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY CONSIDER THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S PETITION REQUESTING THAT THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY WITHDRAW ITS DETERMINATION THAT NUMERIC NUTRIENT CRITERIA ARE NEEDED IN ONLY FLORIDA; REPEAL FEDERALLY-PROMUGATED NUMERIC NUTIRENT CRITERIA FOR FLORIDA; DISCONTINUE PROPOSING OR PROMULGATING ADDITIONAL NUMERIC NUTRIENT CRITERIA IN FLORIDA; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in 2007 the Commission adopted Ordinance No. 2007-049 creating a Stormwater Utility, establishing a dedicated funding source for stormwater system maintenance and projects to improve surface water quality; and

WHEREAS, in 2011 an update of the Stormwater Master Plan was completed; and

WHEREAS, the City of St. Cloud considers their actions to maintain and improve surface water quality within the City of St. Cloud to be in close compliance with the intent of both the United States Environmental Protection Agency (EPA) and the Florida Department of Environmental Protection Agency (FDEP); and

WHEREAS, the FDEP has reinitiated its own rulemaking process to adopt numeric nutrient criteria for Florida waterbodies; and

WHEREAS, the City of St. Cloud supports the FDEP's Petition requesting that the United States EPA rescind its determination that federal numeric nutrient criteria are needed in Florida and strongly requests that the United States EPA consider this Petition

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ST. CLOUD, FLORIDA, as follows:

SECTION 1. The City of St. Cloud hereby requests that the United States EPA considers the FDEP's Petition, attached as Exhibit "A", requesting that the EPA:

1. Withdraw its January 2009 determination that numeric nutrient criteria are necessary only in Florida;
2. Immediately initiate the repeal of 40 C.F.R. 131.49, providing for EPA-developed numeric nutrient criteria in Florida; and,
3. Discontinue proposing or promulgating further numeric nutrient criteria in Florida.

SECTION 2. The City Manager is hereby directed to forward a copy of this Resolution to EPA Administrator Lisa Jackson, Governor Rick Scott, State Senate President Michael Haridopolos, Speaker of the House of Representative Dean Cannon, the Florida League of Cities, the Florida Association of Counties, and the Florida Stormwater Association.

SECTION 3. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 9th day of June.

CITY OF ST. CLOUD

Rebecca Borders, Mayor

ATTEST:

Linda P. Jaworski, City Clerk

LEGAL IN FORM AND VALID IF ADOPTED:
de Beaubien, Knight, Simmons, Mantzaris & Neal

Daniel F. Mantzaris, City Attorney

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

In re: Florida Department of Environmental Protection's Petition for Withdrawal of EPA's 303(c)(4)(B) Determination for Florida, Repeal of 40 C.F.R. § 131.43, and Related Actions.
_____/

PETITION

The Florida Department of Environmental Protection ("FDEP") hereby petitions the United States Environmental Protection Agency ("EPA") to take the following actions; 1) withdraw its January 2009, determination that numeric nutrient criteria are necessary in Florida; 2) initiate repeal of 40 C.F.R. § 131.43; and 3) discontinue proposing or promulgating further numeric nutrient criteria in Florida.

On March 16, 2011, EPA issued a memo to all EPA's Regional Administrators, entitled "Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions" (the "EPA memo" or "March 16, 2011, memo") that details the elements "necessary for effective programs to manage nitrogen and phosphorus pollution," which is attached hereto as Attachment 1. The EPA memo provides a useful benchmark for evaluating the strength of a State's nutrient reduction program.

As demonstrated herein, Florida's program is one of the strongest in the country when measured against the elements set forth in the EPA memo, or by other objective standards. Based on the strength of Florida's nutrient pollution control program, which includes a commitment to nutrient standards, FDEP submits EPA should rescind its January 2009, determination. This action will reestablish the proper regulatory framework in Florida, whereby

States designate the uses of their waters and set criteria that are protective of those uses, and EPA should simply review the changes to water quality standards proposed by the States. 33 U.S.C. § 1313(a)(3)(A) and (c)(2)(A); *see also Natural Resources Defense Council v. U.S. E.P.A.*, 16 F.3d 1395, 1399 (4th Cir. 1993)("While the states and E.P.A. share duties in achieving this goal [of protecting water resources], primary responsibility for establishing appropriate water quality standards is left to the states. EPA sits in a reviewing capacity of the state-implemented standards, with approval and rejection powers only.").

FDEP requests that EPA respond to this Petition within 30 days of filing. Failure of EPA to timely act can interfere with the Florida's ability to implement the activities described by this petition. Additionally, granting this petition will confirm to the States that EPA is committed to a reasoned approach to evaluating the success of state programs and will stand behind the EPA Memo.

Background

According to EPA, Florida has one of the preeminent programs in the nation to address excess phosphorus and nitrogen pollution in its waters. "Florida is one of the few states that have in place a comprehensive framework of accountability that applies to both point and nonpoint sources and provides the enforceable authority to address nutrient reductions in impaired waters based upon the establishment of site specific total maximum daily loads." 75 Fed. Reg. 4174, 4175 (Jan. 26, 2010). As outlined below, in measuring Florida's program against the eight elements in the EPA memo, the State of Florida, in partnership with its regional water management districts and local governments, is a national leader in developing innovative and comprehensive tools and programs to detect, assess, prevent and/or remedy nutrient problems in the State's waters.

For instance, Florida has placed substantial emphasis on the monitoring and assessment of its waters as a cornerstone of its water quality program, and, as a result of this valuable objective, has collected significantly more water quality data than any other State. *See* EPA's January 14, 2009, Necessity Determination for Florida, p. 6. Greater than 30% of all water quality data in EPA's national water quality database, STORET, comes from Florida.[1] STORET, http://www.epa.gov/storet. Florida has used this extensive data to, among other things, accurately and scientifically assess whether individual waterbodies are impaired for nutrients; promulgate nutrient restoration goals first through Pollutant Load Reduction Goals ("PLRGs") and then through Total Maximum Daily Loads ("TMDLs"); calculate protective nutrient water quality-based effluent limits ("WQBELs") for NPDES dischargers; and adopt restoration plans setting forth restoration requirements on both point and nonpoint sources on a watershed-wide basis (i.e., Basin Management Action Plans ("BMAPs"), Surface Water Improvement and Management ("SWIM") plans, and legislatively-mandated plans for targeted waters).[2]

Overall, Florida's efforts have resulted in significant reductions in ambient phosphorus concentrations since the early 1980s despite the explosive growth of Florida's population during this same period. 2008 Integrated Water Quality Assessment for Florida: 305(b) Report and 303(d) List Update, p. 34, available at http://www.dep.state.fl.us/water/docs/2008_Integrated_Report.pdf. However, Florida continues to further refine and enhance its programs and implement specific restoration plans high priority

[1] FDEP doesn't substitute quantity of sampling for the quality of those samples. Rather than accepting any collected sample, FDEP requires stringent quality assurance for water quality samples to be used for regulatory purposes. *See* Fla. Admin. Code Ch. 62-160.

[2] Florida has also utilized this extensive data in adopting a protective numeric phosphorus criterion for the Everglades Protection Area that has been upheld in both state and federal courts. *See* Fla. Admin. Code R. 62-302.540(4)(a).

watersheds to both protect its many healthy waters from nutrient impairment and achieve nutrient reductions in those that are impaired by nutrients so that water quality improvements are fully realized.

FDEP has also used the vast water quality data, collected at substantial cost to Florida taxpayers, to study the subtle relationships between nutrient concentrations and healthy aquatic ecosystems with the intention of deriving appropriate numeric nutrient criteria for its waters. As part of this process, FDEP has created a number of biological assessment tools, including the Stream Condition Index and the Lake Vegetation Index. FDEP has submitted to EPA statewide numeric nutrient criteria development plans to document its ongoing efforts, with the last development plan being submitted in March 2009.

Despite Florida's status as a national leader in nutrient reduction efforts and FDEP's great progress on the complex science needed to support defensible numeric nutrient criteria, on January 14, 2009, EPA, under the previous administration, issued a § 303(c)(4)(B) determination that numeric nutrient criteria were necessary in the State of Florida, but in no other State.[3] The 2009 "necessity" determination led to EPA settling a frivolous lawsuit alleging that EPA had already made such a necessity determination in its 1998 Clean Water Action Plan. The settlement agreement was subsequently memorialized as a Consent Decree in *Florida Wildlife*

[3] While the necessity determination implies that Florida's situation is unique, excess nutrients are a problem in every State. *See, e.g.*, USGS Circular 1350: Nutrients in the Nation's Streams and Groundwater, 1992 – 2004 (2010), available at http://pubs.usgs.gov/circ/1350/pdf/circ1350.pdf. EPA has not utilized its 303(c)(4)(B) authority to promulgate numeric nutrient criteria elsewhere and has declined to set numeric nutrient standards in the Mississippi River basin even though EPA has been petitioned twice (in 2003 and 2008) to do so. *See* EPA's Response to Sierra Club Petition Regarding Defined Portions of the Mississippi and Missouri Rivers, available at http://water.epa.gov/scitech/swguidance/standards/SierraClub.cfm; and Petition to Establish Numeric Nutrient Standards for the Mississippi River, available at http://www.cleanwaternetwork.org/resources/petition-establish-numeric-standards-and-tmdls-nitrogen-and-phosphorous.

Federation v. Jackson, Case No. 08-00324, Consent Decree, DE 153 (N.D. Fla. December 30, 2009), and is currently on appeal. FDEP was not a party to that litigation and did not participate in the negotiations resulting in the settlement and consent decree.

Pursuant to the settlement agreement, on December 6, 2010, EPA promulgated numeric nutrient criteria for Florida's lakes and flowing waters. 75 Fed. Reg. 75762 (Dec. 6, 2010) (codified at 40 C.F.R. §131.43). EPA remains obligated to propose numeric nutrient criteria for the remainder of Florida's waters (except for wetlands) by November 14, 2011, and finalize those numbers in rule by August 15, 2012. *See Florida Wildlife Federation*, Joint Notice to the Court of Extension of Consent Decree Deadlines, DE 184 (N.D. Fla. June 7, 2010).

FDEP urges EPA to withdraw its determination. This action will allow Florida to address nitrogen and phosphorus pollution through State and local programs, including the FDEP's pursuit of nutrient water quality standards.

Overview of Florida's Nutrient Reduction Program

The State of Florida has a comprehensive set of legislatively mandated programs, implemented at the State, regional and local levels, which work in unison to protect waters from nutrient pollution and reduce nutrient loading from all sources of pollution, not just federally-regulated point sources. The core of Florida's program focuses on NPDES permitting with appropriate effluent limits,[4] extensive monitoring of its waters, identification of those waters that are impaired, setting load reduction targets for those waters identified as impaired, and implementing watershed restoration plans covering both point and nonpoint sources. Over the

[4] For wastewater sources that discharge nutrients, WQBELs are specifically derived to protect State waters from nutrient impairment under "worst case" conditions. *See* Fla. Admin. Code R. 62-650.300(3)(h). Before FDEP is able to issue a wastewater permit, the permit applicant must provide upfront "reasonable assurance" that the permittee can meet all conditions in their permit, including the permit effluent limit – a more rigorous permitting standard than contained within the Clean Water Act. *Compare* Fla. Admin. Code R. 62-620.320(1) *with* 40 C.F.R. § 122.44(d).

years, Florida has expended great time and resources in undertaking these activities. While many of these efforts emanate from the typical Clean Water Act NPDES and TMDL programs, there are a number of programs unique to Florida that complement the standard Clean Water Act tools and in many instances go far beyond the mandates of the Clean Water Act.

For instance, under the Clean Water Act, once a TMDL is set and incorporated into NPDES permits, mandated federal actions are at an end. No comprehensive implementation plan is required. *See* EPA's TMDL website, available at http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/glossary.cfm ("Current 303(d) regulations do not require implementation plans, though some state regulations do require an implementation plan for a TMDL."); *see also Sierra Club v. Meiburg*, 296 F.3d 1021 (11th Cir. 2002). Florida, on the other hand, has a number of watershed-based approaches that result in restoration plans covering both point *and* nonpoint sources. These watershed plans include BMAPs, SWIM plans, and legislatively-mandated restoration efforts directed at a number of specific watersheds like the Everglades and Lake Okeechobee. *See, e.g.*, §§ 373.451 - .4595 and 403.067(7), Fla. Stat.

Florida has already adopted aggressive nutrient load reduction limits for major waterbodies across the State through its TMDL and SWIM programs. Currently, there are 135 adopted nutrient TMDLs and 47 SWIM plans (many with PLRGs) for major waterbodies including: Lake Okeechobee, the Caloosahatchee Estuary, the St. Lucie Estuary, the Indian River Lagoon, Tampa Bay, the Lower St. Johns River, the Suwannee River, the Santa Fe River, the Ocklawaha Chain of Lakes, the Winter Haven Chain of Lakes, Lake Jesup, and many first magnitude springs across the State including Manatee, Fanning, and Wekiva Springs. Florida has also established comprehensive restoration and/or protection plans for most of our high priority waters including the Everglades, Lake Okeechobee, the St. Johns River and Estuary, the

Ocklawaha Chain of Lakes, Tampa Bay, Sarasota Bay, and the Florida Keys coastal waters, among others.

These efforts, combined with the point and nonpoint source strategies discussed below, already have shown significant, positive results in many of Florida's watersheds. EPA itself has documented a number of Florida's nutrient reduction successes including Lake Apopka, Tampa Bay, Sarasota Bay and Indian River Lagoon. *See* EPA Region 4's Watershed Improvement Summaries, http://www.epa.gov/region4/water/watersheds/watershed_summaries.html#fl.

In Sarasota Bay, EPA acclaims the successes of the nutrient reduction efforts in that watershed:

> "The broadest measure of Sarasota Bay water quality and ecosystem health is the presence of seagrass in the estuary, so critical for the proper function of an estuary. Seagrass coverage in Sarasota Bay has significantly increased, approaching the 1950 extent of coverage. . . . The Sarasota Bay Estuary Partners instrumental in this outstanding Seagrass restoration and recovery effort include Florida Department of Environmental Protection, Southwest Florida Water Management District, Manatee and Sarasota County, city of Sarasota, city of Bradenton, town of Longboat Key, city of Bradenton Beach, city of Holmes Beach and Anna Maria Island."

Reducing Excessive Nutrient Enrichment in Sarasota Bay, available at http://www.epa.gov/region4/water/watersheds/documents/sarasora_bay.pdf.

Moreover, Florida has a number of nationally preeminent programs including its long-standing post-construction stormwater program for all new or modified development (since 1981), its land purchasing program (protecting over 5.3 million acres of land to date representing 15% of the State – Florida spent more than any other State in the nation to acquire conservation lands from 1998-2005), and its reuse of reclaimed water. Florida also has a broad agricultural nonpoint source program setting forth best management practices ("BMPs") for most of the primary agricultural commodities in the State as well as BMPs specific to targeted areas of the State. All of these programs, as well as others, complement one another and result in Florida's

nutrient program being, unquestionably, a national leader.

These various programs are further discussed below in the context of evaluating Florida's water quality program pursuant to the EPA memo.

Florida Has as a Strong Nutrient Reduction Program as Measured Against EPA's March 16, 2011 Memo or Any Other Objective Standard

EPA's March 16, 2011, memo outlines eight minimum elements needed in a comprehensive State nutrient reduction program. Florida undoubtedly exceeds all eight of these requirements, and is a national leader in most of these categories.

FDEP meets or exceeds all eight of the memo elements as follows:

1. *Prioritize Watersheds on a Statewide Basis for Nitrogen and Phosphorus Loading Reductions*

Florida has long utilized a watershed-based approach to address nutrient pollution in Florida. The 1987 SWIM Act directed the regional water management districts to develop management and restoration plans for preserving or restoring priority waterbodies. §§ 373.451 – 373.4595, Fla. Stat. One of the key goals established in a SWIM Plan is the development of a PLRG, which are a precursor and are similar in nature to the more recent TMDLs, designed to preserve or restore designated uses and attain water quality standards in SWIM waterbodies. The legislation initially designated six SWIM waterbodies: Lake Apopka, Tampa Bay, Indian River Lagoon, Biscayne Bay, the Lower St. Johns River, and Lake Okeechobee. Currently, 47 waterbodies are on the priority list. *See* SWIM Website, http://www.dep.state.fl.us/water/watersheds/swim.htm.

The 1999 Florida Watershed Restoration Act, Section 403.067, Florida Statutes, provides for the systematic assessment of impaired waters and development and implementation of scientifically-sound TMDLs for those Florida waters verified as impaired. FDEP's "Impaired

Waters Rule" provides the scientific methodology for assessing waterbody impairment and includes numeric thresholds for assessing nutrient impairment. Fla. Admin. Code Ch. 62-303. Prioritizing the development of individual TMDLs has largely been dictated by EPA in the 1999 TMDL consent decree in *Florida Wildlife Federation, Inc. v. Browner*, Case No. 98-00356 (N.D. Fla. 1999). However, as limited resources allow, FDEP also prioritizes TMDL development based on factors primarily related to public health (including potential impacts to drinking water supplies and exposure through recreational activities), environmental significance, and its rotating basin schedule. *See* Fla. Admin. Code R. 62-303.500 and .700.

Between the various SWIM Plans, BMAPs, and restoration programs for legislatively targeted watersheds, Florida has already identified its high priority waters and, for most of these waters, established nutrient load reduction targets.[5] Some examples of high priority waterbodies that the State has made a significant investment in actions to reduce nitrogen and phosphorus pollution are:

Lake Apopka: Since the 1980s, Florida has invested millions of dollars in efforts to reduce phosphorus inputs to Lake Apopka and remove phosphorus from the lake, resulting so far in a 41% decrease in lake phosphorus and a 34% increase in water clarity since 1992. *See* St. Johns River Water Management District Lake Apopka Restoration website, http://www.floridaswater.com/lakeapopka/.

Tampa Bay: Nutrient pollution problems documented in Tampa Bay in the 1960s and 1970s have been successfully addressed through the implementation of advanced wastewater treatment of domestic wastewater, increasing reuse, reduced NOx emissions, and significant investments in stormwater treatment. As a result of the reductions in nutrient loading, seagrass

[5] FDEP's monitoring efforts, including both targeted watershed monitoring and statewide basin trend monitoring, are discussed in element seven below.

coverage has increased to the highest levels since the 1950s in spite of a 500% increase in population in the area during this same period. *See* Tampa Bay Estuary Program website, http://www.tbep.org/.

Indian River Lagoon ("IRL"): Through the combined efforts of State and Federal Agencies, five Counties and other partners, nutrient loadings goals to the IRL have been achieved by reducing and eliminating point source discharges, and implementing measures to reduce nutrient loads from septic systems, stormwater discharges, marinas and boating. The monitoring data indicate decreasing levels of nitrogen, phosphorus and chlorophyll a, and improving dissolved oxygen and seagrass coverage throughout the IRL. *See* St. Johns River Water Management District's Its Your Lagoon website, http://www.sjrwmd.org/itsyourlagoon/.

Everglades: Nutrient loadings to the Everglades have been greatly reduced through a combination of almost 60,000 acres of constructed treatment wetlands and mandatory agricultural BMPs. The State is close to completing $1.1 billion in water quality restoration projects which reflects an unprecedented State commitment to nutrient pollution reduction for a waterbody in the United States. Over the past 15 years, the State's efforts have prevented more than 3,500 metric tons of phosphorus from reaching the Everglades. 2011 South Florida Environmental Report, Volume I, available at http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2011_sfer/v1/vol1_table_of_contents.html.

Lake Okeechobee Watershed: The State is in the process of implementing the first phase of a Lake Okeechobee Watershed Restoration Plan, the cost of which is estimated to be between

~$1.3 - $1.7 billion. Lake Okeechobee Protection Plan Update, March 2011, available at http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/lopp_update_2011.pdf.

St. Lucie and Caloosahatchee River Watersheds: Under legislation passed in 2007, multi-billion dollar restoration plans for the St. Lucie and Caloosahatchee River Watersheds have been developed and subsequently ratified in 2009 by the Florida legislature. St. Lucie River Watershed Protection Plan, available at http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/ne_slrwpp_main_123108.pdf; and Caloosahatchee River Watershed Protection Plan, available at http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/ne_crwpp_main_123108.pdf.

Lower St. Johns River: FDEP cooperatively worked with multiple interests and stakeholders to adopt a billion dollar BMAP in 2008 to address nitrogen and phosphorus pollution in the Lower St. Johns River. Loading reductions from implementation of the BMAP are already being realized. *See* 2010 Progress Report, Lower St. Johns River Basin Management Action Plan. Available at http://www.dep.state.fl.us/water/watersheds/docs/bmap/lsjr_prog_rpt2010.pdf.

2. *Set Watershed Load Reduction Goals Based Upon Best Available Information*

As previously noted, Florida has already established restoration goals for most high priority waters in the State, including all the high priority waters specifically discussed under element one. For a complete list of 406 FDEP and EPA established nutrient TMDLs for the State of Florida, please refer to EPA's website at http://iaspub.epa.gov/tmdl_waters10/attains_impaired_waters.tmdls?p_pollutant_group_id=792.

FDEP has one of the most comprehensive and technically-sophisticated TMDL process in the nation. FDEP's nutrient TMDLs are only possible as a result of the extensive investments in both water quality monitoring data and modeling efforts, including actively funding cutting edge modifications to various modeling tools being used to assess impacts to Florida's surface and ground waters. For instance, in the case of the Lower St. Johns River, more than one million dollars was expended to enhance the Chesapeake Bay model. Significant site-specific improvements were based on extensive additional water quality monitoring, which was used to develop, calibrate, and validate a three dimensional model to assess complex tidal hydrodynamics and water quality changes, with the intent of being able to more accurately determine the critical conditions and the areas where impacts were the greatest.

In addition, Florida has funded the development of the Watershed Assessment Model ("WAM"), a very powerful tool for watershed-scale modeling. WAM can model nutrient loading and transport from small, individual watersheds or large complex basins, including agricultural, urban and native land uses, and natural and channelized streams, springshed groundwater systems, and tidal areas. WAM has been used by FDEP for development of TMDLs and/or restoration plans in numerous areas of the state (e.g., the Suwannee River, Peace River, and the Caloosahatchee Basin) and Florida's regional Water Management Districts also utilize WAM for assessing watershed water and nutrient budgets. Moreover, WAM and other modeling tools are used in the development of BMAPs, which can rely heavily on the use of land use loading models and associated Geographic Information System tools to properly represent and assess local attributes in creating a suite of cost-effective management practices needed to reduce point and non-point sources.

3. *Ensure Effectiveness of Point Source Permits in Targeted/Priority Sub-Watersheds*

FDEP has a multi-pronged approach for controlling nutrient loading from NPDES point source dischargers.[6] These efforts include: eliminating significantly reducing the volume of wastewater discharges to surface waters, encouraging reuse of domestic wastewater, aggressively identifying nutrient impaired waters and setting TMDLs for those waters, incorporating protective water quality based effluent limits into permits, and adopting comprehensive watershed-wide restoration programs to address both point and nonpoint sources with the assistance of government-funded regional restoration projects. And as noted above, Florida conducts more water quality sampling than any other State to ensure the effectiveness of these programs.[7]

Currently, less than 10 percent of all domestic wastewater treatment facilities in the State even discharge to surface waters (197 out of 2,118 facilities), and over 25% (51 facilities) of the surface water discharges provide full advanced wastewater treatment ("AWT"). Few, if any, States can meet that record of success. Section 403.086(1) of the Florida Statutes was passed in the 1980s to specifically require AWT for domestic wastewater facilities discharging to Old Tampa Bay, Tampa Bay, Hillsborough Bay, Boca Ciega Bay, St. Joseph Sound, Clearwater Bay, Sarasota Bay, Little Sarasota Bay, Roberts Bay, Lemon Bay, or Charlotte Harbor Bay, or any water or tributary flowing into any of these waters. Additionally, in 1990, Chapter 90-262, Laws

[6] In 1995 Florida received NPDES program approval from EPA. 60 Fed. Reg. 25,718 (May 1, 1995); 33 U.S.C. § 1342(c). Prior to receiving program approval, Florida had in place a comprehensive program regulating wastewater discharges into both surface and groundwater and merged that pre-existing permitting program into its NPDES approved program. *See* § 403.088, Fla. Stat.

[7] FDEP also has a robust compliance and enforcement program, averaging over 3,680 inspections of wastewater facilities each year for the past 10 years and assessing over $2.6 million in enforcement penalties in 2010.

of Florida, was passed to protect the Indian River Lagoon ("IRL") system[8] by prohibiting new discharges or increased loadings from domestic wastewater treatment facilities, and reducing or eliminating nutrient loadings to surface water from existing domestic wastewater treatment facilities that discharge to the IRL system. The result has been an annual 90% reduction in nutrients and suspended solids to IRL. Indian River Lagoon (2010 EPA Fact Sheet), available at http://www.epa.gov/region4/water/watersheds/documents/indian_river_lagoon.pdf. Similar legislation for the protection of the Florida Keys and the Wekiva Study Area was passed in 1999 and 2005, respectively. *See* Chapter 99-395, section 6, Laws of Florida; and § 369.318, Fla. Stat.

In the early 1980's, Florida recognized the importance of reusing wastewater for both wastewater management and water resource management. Reuse offers an environmentally sound means for managing wastewater that dramatically reduces environmental impacts associated with discharge of wastewater effluent to surface waters. In addition, use of reclaimed water provides an alternative water supply for many activities that do not require potable quality water, which serves to conserve available supplies of potable quality water. These facts prompted Florida to actively encourage and promote reuse as a formal state objective.

Two decades later, Florida leads the country in the reuse of domestic wastewater, and in 2006, Florida's Water Reuse Program was the first recipient of the EPA Water Efficiency Leader Award. The total reuse capacity of Florida's domestic wastewater treatment facilities has increased from 362 million gallons per day ("MGD") in 1986 to 1,559 MGD in 2009. Florida Reuse Activities Website, http://www.dep.state.fl.us/water/reuse/activity.htm. The current reuse capacity represents approximately 62 percent of the total permitted domestic wastewater treatment capacity in Florida. In 2006, Florida averaged nearly 37 gallons/day/person of reuse,

[8] The IRL system extends from Jupiter inlet, north to Ponce de Leon Inlet, including Hobe Sound, Indian River Lagoon, Banana River, and Mosquito Lagoon and their tributaries.

compared to the next two best states -- California, which reuses approximately 16 gallons/day/person, and Virginia, which reuses approximately 1.5 gallons/day/person. *See* Reuse Inventory Database and Annual Report Website, http://www.dep.state.fl.us/water/reuse/inventory.htm. Additionally, legislation was passed in 2008 that will result in the elimination of 300 MGD of domestic wastewater discharges into the Atlantic Ocean in Southeast Florida (i.e., Palm Beach, Broward and Miami-Dade Counties) through a gradual transition to water reuse. Chapter 2008-232, Laws of Florida.

Since its inception, Florida's State Revolving Fund Clean Water program has committed more than $3 billion to plan, design, and build wastewater facilities across the state. Over forty percent of that amount has been directed towards advanced wastewater treatment and reuse facilities.

In permitting domestic and industrial wastewater discharges, the State of Florida has had a program designed to assess the impacts of permitted point source discharges on surface waters and include appropriate WQBELs since the late 1970s, long before it received NPDES program approval.[9] In the case of the Little Wekiva River system, WQBELs have been included in permits as early as 1975. Since receiving program approval, over 140 nutrient WQBELs have been included as specific conditions in FDEP-issued NPDES permits.

More recently, effluent limitations for most traditional point source dischargers of nutrients are derived based upon waste load allocations from TMDLs set for the receiving waterbody. However, for NPDES facilities discharging into waters without a TMDL, FDEP continues to independently derive WQBELs, as appropriate. *See* Fla. Admin. Code Ch. 62-650.

[9] Regulation of concentrated animal feeding operations is discussed below under element 4.

4. *Agricultural Areas*

FDEP works closely with Federal and State agricultural partners and the agricultural community to address nutrient loading from agricultural operations. In fact, according to the American Farm Bureau Federation ("AFBF"), Florida has the most aggressive and comprehensive program implementing agricultural source controls (i.e., BMPs) in the nation. Personal Communications - Don Parrish, Senior Director of Regulatory Relations, AFBF. The State of Florida adopts agriculture BMPs by rule in the Florida Administrative Code and State law requires these BMPs to be implemented as part of State-adopted watershed restoration plans, known as basin management action plans ("BMAPs"). § 403.067(7), Fla. Stat. Agricultural nonpoint sources covered in a BMAP are subject to enforcement by FDEP or the applicable regional Water Management District, for failure to implement BMPs or conduct monitoring. *Id.*

To date BMPs have been adopted in rule covering citrus (Rules 5M-2, 5M-5, 5M-7, and 5E-1.023), container nurseries (Rule 5M-6), beef cattle operations (Rule 5M-11), sod farms (Rule 5M-9), vegetable and row crops (Rule 5M-8), and forestry operations (Rule 5I-6), with other agricultural BMPs currently under development. Agricultural BMPs have also been adopted for the Everglades Agricultural Area (Rule 40E-63), the C-139 Basin (Rule 40E-63), and the Lake Okeechobee watershed (Rules 5M-11 and 40E-61) and are key components of Everglades and Lake Okeechobee restoration. Over the past 15 years, mandatory agricultural BMPs in the Everglades Agricultural Area have consistently reduced phosphorus loadings by greater than the 25 percent regulatory minimum. 2011 South Florida Environmental Report, Chapter 4, available at http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2011_sfer/v1/chapters/v1_ch4.pdf.

Besides promulgating numerous agricultural BMP rules, the Florida Department of Agriculture and Consumer Services ("FDACS") provides assistance to agriculture operations in reducing their pollutant loads to the State's waters. With FDACS' efforts over the last decade, more than 8 million acres of agriculture are now implementing approved agricultural BMPs. FDACS' BMP rules require growers to maintain records demonstrating compliance with the BMPs (including amount of fertilizer applied, etc.) and allow FDACS staff to conduct inspections.

For concentrated animal feeding operations ("CAFOs"), Florida was among the first states in the nation to implement rules regulating CAFO wastes through the Lake Okeechobee Dairy Rule adopted in the 1980s. Fla. Admin. Code R. 62-670.500. Furthermore, all known CAFOs in Florida that require NPDES permits are either permitted or pending permits, with all CAFO dairies already permitted. In addition, Florida requires individual permits for CAFOs, rather than general permits.

All permitted CAFOs in Florida, a hurricane state, have production areas designed to contain the 25-year, 24-hour rainfall event for a site-specific design storage period. Since 1998, based on data from PCS/ICIS, only four permitted CAFOs have discharged to surface water, with the last discharge occurring in 2007. Additionally, Nutrient Management Plans ("NMPs") were implemented by CAFOs even before they were required by the 2008 EPA rules. In Florida NMPs are prepared by either a licensed Professional Engineer or a provider certified by NRCS. Upon permit issuance, components of NMPs are included as permit conditions.

Beyond BMP implementation, the State has undertaken comprehensive watershed restoration efforts to capture and treat nutrient levels not fully addressed by BMP implementation, including construction and operation of off-line treatment facilities in

watersheds including the Everglades, Lake Okeechobee, and the St. Lucie River. In the Everglades alone, more than 45,000 acres of treatment wetlands are currently operational, with another 13,000 acres of treatment wetlands scheduled to be completed in the near future. 2011 South Florida Environmental Report, Chapter 5, available at http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2011_sfer/v1/chapters/v1_ch5.pdf. These are the largest complex of treatment wetlands in the world, costing in excess of $1 billion dollars to construct and operate.

Other innovative agricultural initiatives include the first in the nation program to engage the agricultural community in a payment for environmental services framework where land owners enter into a contract for nutrient reduction services for payment. *See* Lake Okeechobee Protection Plan Update, March 2011, Section 6.3.1.1, available at http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/lopp_update_2011.pdf. In 2010, FDEP developed a pilot Water Quality Credit Trading Program in the Lower St. Johns River Basin that allows agricultural operations to partner with point sources to more economically meet nutrient reductions required under the BMAP for the river. Fla. Admin. Code Ch. 62-306.

5. *Stormwater and Septic Systems*

A. Stormwater

Florida was the first State in the Nation to implement comprehensive stormwater treatment regulations in 1981 for all new urban development and redevelopment and is still only one of eleven States with a fully State-financed post-construction permitting program for new

development and redevelopment.[10] *See* FDEP Urban Stormwater Program website, http://www.dep.state.fl.us/water/nonpoint/urban1.htm. For new stormwater discharges to impaired waters, Florida law requires that no increase in pollutant loading will occur for the pollutants causing or contributing to the impairment. § 373.414(1)(b)(3), Fla. Stat. Despite rapid population growth over the last 30 years, Florida's post-construction stormwater program has been a significant contributor to controlling and reducing nutrient loads during this period.

For the past decade, FDEP has been conducting research on innovative BMPs such as stormwater harvesting and low impact design to obtain data on the effectiveness of BMPs in reducing nutrients. *See* websites at: http://www.dep.state.fl.us/water/nonpoint/pubs.htm #Urban_Stormwater_BMP_Research_Reports and http://stormwater.ucf.edu/. Currently, additional studies and monitoring are being undertaken to enhance the nutrient removal effectiveness of existing stormwater BMPs. FDEP is also developing a rule to establish minimum levels of stormwater treatment for nitrogen and phosphorus that FDEP envisions will result in the most comprehensive urban stormwater treatment program in the country.[11]

In addition to its state stormwater permitting program for new stormwater discharges, Florida has provided state cost share funding to local governments to retrofit existing drainage systems with BMPs to reduce the stormwater pollutant loads discharged from areas built before Florida's stormwater treatment regulations existed. In support of this retrofit effort, for over 20 years Florida has been using a majority of its Section 319 funds for urban stormwater retrofitting projects. For example, Table 1 summarizes stormwater retrofitting in two significant watersheds, the Indian River Lagoon and Tampa Bay. Since 1999, the State has provided over

[10] Florida was also one of the first States to limit the use of phosphates in detergents. *See* § 403.061(23), Fla. Stat.; Chapter 72-53, Laws of Florida.

[11] FDEP's activities to date in support of this rulemaking effort are documented at http://www.dep.state.fl.us/water/wetlands/erp/rules/stormwater/index.htm.

$50 million in grant money to provide funding for local projects that reduce pollutant loading from urban stormwater discharges.

Table 1

WATERSHED	PROJECTS	ACRES RETROFITTED	TOTAL COST	TN LOAD REDUCTION	TP LOAD REDUCTION
Indian River Lagoon	>40	47,144	$51,870,829	37,9217	68,691
Tampa Bay	>20	24,930	$26,209,779	67,230	43,866

A source of local matching funds is key to stormwater retrofitting and to tapping into state and regional Water Management District funding. The State of Florida currently has more stormwater utilities (154) with a dedicated local revenue stream specifically targeted for stormwater treatment and management than any other State.

In 2003, FDEP and the Florida Department of Transportation, partnered with the University of Central Florida to establish the Stormwater Management Academy as a center of excellence on urban stormwater treatment and management. *See* http://www.stormwater.ucf.edu. The academy has completed or is conducting research on a variety of urban stormwater BMP issues, including the health and water quality risks associated with stormwater reuse. Moreover, FDEP is funding research to determine fertilization and irrigation needs to establish and maintain turf grasses, the impact of wet detention pond depth on the effectiveness of stormwater treatment, and the development of BMPs to increase nitrogen removal in stormwater.

FDEP and FDACS have been working with the fertilizer industry to develop Florida-specific formulations of slow-release and low-phosphorus fertilizers. FDACS adopted its Urban Turf Rule (Rule 5E-1.003), which specifies which types of fertilizers can be used on urban turf in Florida and the amount of nutrients in the various types of urban turf fertilizers. Additionally, the 2007 Florida Legislature established the Consumer Fertilizer Task Force to develop statewide

recommendations on the use of fertilizer on urban turf and on training and certification requirements for people engaged in the commercial application of fertilizer. The outcome of that task force was a model ordinance for the use of fertilizer. Local government adoption of the model ordinance is statutorily mandated within impaired watersheds, as well as the implementation of a mandatory commercial applicators training and program. *See* § 403.9337, Fla. Stat.

After January 1, 2014, to be licensed to commercially apply fertilizer to urban landscapes, this same Act also requires a certificate from FDEP demonstrating satisfactory training in urban landscape BMPs. § 403.9338, Fla. Stat. An estimated 100,000 people will receive this training by the statutory deadline. As of September 20, 2010, 11,013 people already have received the certification. *See* FDEP's 2010 Annual Report: Nonpoint Source Management Program, pp. 12 - 14, available at http://www.dep.state.fl.us/water/nonpoint/docs/319h/2010AnnualReport319h.pdf.

Finally, Florida has the largest public land acquisition program of its kind in the United States. This program, combined with Florida's comprehensive wetland protection program, ensures that environmentally sensitive areas are not only protected, but that they perform their natural function as nutrient sinks. The state's first environmental land acquisition program goes back as far as 1972 (the Environmentally Endangered Lands Act) and was expanded in 1981 with the Save Our Coasts and Save Our Rivers Programs. In 1989, recognizing the importance of accelerating land acquisition, given the state's rapid population growth, the Preservation 2000 program was enacted. This decade-long program provided $300 million, annually, for land acquisition. In 1999, Preservation 2000 was extended for another decade by the enactment of the Florida Forever Program, which continued the $300 million annual commitment. *See generally*

Florida's Landmark Programs for Conservation and Recreation Land Acquisition, available at http://www.dep.state.fl.us/lands/files/Florida_LandAcquisition.pdf. In combination with other State programs, over 5.3 million acres of sensitive lands have been acquired for protection. Florida Natural Areas Inventory Summary of Florida Conservation Lands, available at http://www.fnai.org/PDF/Maacres_201102_FCL_plus_LTF.pdf.

B. Septic Systems

Florida has established standards for septic systems and as part of adopted restoration plans (i.e., BMAPs), septic tanks are routinely removed and residents are hooked up to centralized sewer. Throughout Florida, a number of successful programs have been implemented to ensure that septic systems are well-maintained and, when necessary, taken offline. As part of adopted BMAPs for the Lower St. Johns Rivers, Lake Jesup, and Bayou Chico, septic tanks are routinely removed and residents are hooked up to centralized sewer. More than 230,000 lb/yr TN has been reduced in the St. Johns River alone.

EPA has assisted Florida in its septic tank efforts, including an award of $3.6 million grant to the Florida Keys Aqueduct Authority for the Florida Keys Decentralized Wastewater Demonstration Project. This project, which addresses the upgrade of approximately 400 onsite sewage treatment and disposal systems in the lower Keys, will allow owners the option of giving ownership of their system to the Florida Keys Aqueduct Authority, who will then provide upgrade, maintenance, and repair services. Under State law, these septic systems must be upgraded to nutrient reduction systems by July 2016. § 381.0065(4)(l), Fla. Stat.

Florida's State Revolving Fund has provided over $3 billion in funding to projects designed to improve Florida's waters and make drinking water safe. Of this amount, almost $1 billion has been spent on sewer projects, which includes taking septic tanks offline in sensitive

areas throughout Florida such as Key Largo, Marathon Key, Monroe County, Sopchoppy, Grand Ridge, Clewiston, Panama City Beach, Lee, Key Biscayne, and Marco Island.

In 2008, EPA and the National Oceanic and Atmospheric Administration ("NOAA") jointly determined that the State of Florida had satisfied all conditions for approval of the Florida coastal non-point pollution control program. Florida Coastal Non-point Program, NOAA/EPA Decisions on Conditions of Approval, available at: http://coastalmanagement.noaa.gov/non-point/docs/6217fl_fnl.pdf. Within its approval, with regard to new and operating onsite disposals systems, EPA and NOAA stated that Florida "has satisfied" the requirements of Coastal Zone Act Reauthorization Amendments ("CZARA") by "incorporating a well funded and targeted approach statewide." *Id.* The approval notes the use of the Carmody Data Systems program, the state's "robust" Onsite Sewage Treatment and Disposal System ("OSTDS") licensing, certification, and standards of inspection program, point-of-sale outreach, and a "very professional" public outreach campaign. *Id.* EPA and NOAA further commented that Florida is "providing guidance and technical assistance to the local health department offices to help them systematically implement broad [OSTDS] inspection programs on a county-to-county basis and to educate the public about inspections and maintenance." *Id.* To maintain its CZARA approval, Florida has committed to continue to work with county health departments to increase inspections through 2018 and to devote approximately $1 million a year from the Florida Department of Health ("FDOH") and $200,000 a year from section 319 funds administered by FDEP.

6. *Accountability and Verification Measures*; and

7. *Annual Public Reporting of Implementation Activities and Biannual Reporting of Load Reductions and Environmental Impacts Associated with Each Management Activity in Targeted Watersheds*

The description of how the State of Florida achieves these two elements is articulated below and described in unison due to the significant overlap of information. Monitoring of environmental response and verification that management activities are carried out are important components of restoration efforts implemented in the State of Florida, generally in annual reports.

A. Public Reporting

The annual South Florida Environmental Report details the progress of restoring the Everglades, Lake Okeechobee, and the Southern Coastal Waters including the Caloosahatchee and St. Lucie estuaries. *See* 2011 South Florida Environmental Report, Volume I, available at http://my.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2011_sfer/v1/vol1_table_of_contents.html. All five of the regional water management districts report on their various activities on their individual websites. *See generally* http://www.dep.state.fl.us/secretary/watman/. In addition, for watersheds with adopted BMAPs, annual progress reports are prepared that detail the specific activities implemented and loads reduced. The National Estuary Programs also issue routine reports describing the measures implemented to protect and restore those high priority waterbodies. FDEP produces a variety of reports on wastewater and wastewater-related issues. *See* http://www.dep.state.fl.us/water/wastewater/pubs.htm. FDACS issues annually a Report on the Implementation of Agricultural Best Management Practices. *See* http://floridaagwaterpolicy.com/ImplementationAssurance.html. Finally, FDOH produces a variety of reports on installation and repair of septic systems and research to enhance the State's septic systems. *See* http://www.myfloridaeh.com/ostds/research/Index.html.

B. Water Quality Monitoring and Assessment

Florida has an extensive water quality monitoring and assessment program, particularly with respect to nutrients. Currently, over 30 percent of all the nutrient water quality data and over 55 percent of the chlorophyll a data in EPA's national water quality database, STORET, came from Florida -- more than double from the next highest State, Oklahoma. STORET water quality database, http://www.epa.gov/storet. In fact, 25 percent of the nation's ambient water quality monitoring stations (more than 41,000 stations) are located within Florida. The next highest state is Alaska with 15,187 stations.

FDEP's voluminous water quality data are used for the assessment of waterbodies for nutrient impacts annually under a comprehensive and sophisticated rotating basin approach. FDEP conducts hundreds of assessments of waterbody health for nutrients per year pursuant to the Impaired Waters Rule. *See* FDEP's Adopted Verified Lists of Impaired Waters, available at http://www.dep.state.fl.us/water/watersheds/assessment/303drule.htm. As part of FDEP's rotating basin approach for assessing waters and setting TMDLs, FDEP updates its 303(d) list annually. Additionally, every 2 years, as part of its "Integrated Report" (combining the reporting elements of the 305(b) Report and the 303(d) assessment), the State assesses and reports on statewide nutrient conditions based on data from the status monitoring network and reports on nutrient trends at 77 trend monitoring stations. FDEP's status monitoring network uses a probabilistic design to allow for the unbiased assessment of the status of Florida's waters.

Florida's vast water quality data are readily accessible to the public through FDEP's website at http://ca.dep.state.fl.us/mapdirect/?focus=waterdatacentral. FDEP updates this database quarterly.

Since 1996, FDEP has conducted an Integrated Water Resource Monitoring Network

("IWRM") Program. *See* http://www.dep.state.fl.us/water/monitoring/index.htm. This program is a multi-level or "tiered" monitoring program designed to answer questions about Florida's water quality at differing scales. Tier I monitoring is comprised of two monitoring efforts, status monitoring and trend monitoring, which are both designed to answer regional to statewide questions.

The purpose of the Status Monitoring Network is to characterize environmental conditions of Florida's fresh water resources and to determine how these conditions change over time. The Status Monitoring Network, which randomly selects stations via a probabilistic design recommended by EPA, is designed to address questions at three different scales: 1) the state as a whole; 2) specific geopolitical regions of the state; and 3) watersheds associated with Florida's major rivers and lakes. Status Network data are used to statistically describe statewide, regional, and basin-specific water quality conditions present during the period of sampling.

The basic design units of the trend monitoring network are the state of Florida's 52 United States Geologic Survey ("USGS") eight-digit surface water drainage basins. The purposes of the Trend Network are to correlate Tier I, II, and III IWRM results with seasonal climatic change, to make best estimates of temporal variance of sampled analytes within the USGS drainage basins, and to determine how these analytes are changing over time. The Trend Network consists of 77 fixed location sites in streams and rivers that are sampled on a monthly basis. The sites are generally located at the lower end of a USGS drainage basin and are placed at or close to a flow gauging station. These sites enable FDEP to obtain chemistry, discharge, and loading data at the point that integrates the land use activities of the watershed.

Tier II monitoring includes strategic monitoring for basin assessments and monitoring required for TMDL development. This monitoring is more localized in nature than that

occurring under Tier I monitoring, yet may encompass a broader area than that employed in Tier III. Tier II monitoring is primarily conducted as part of FDEP watershed management approach. In 2000, FDEP adopted a five-year watershed management cycle that divides Florida into five groups of surface water basins in which different activities take place each year; the cycle is repeated continuously to prioritize watersheds for implementation of restoration efforts, to evaluate the success of clean-up efforts, to refine water quality protection strategies, and to account for the changes brought about by Florida's rapid growth and development. Activities associated with FDEP's assessment process include preliminary basin assessments; identification of nutrient or other pollutant-impaired waters; targeted water quality monitoring and data analysis; TMDL development and adoption; basin planning with local stakeholders to establish the actions necessary to reduce pollution; and implementation through regulatory actions, funding, pollution prevention strategies, and other measures. Over the past three years, FDEP has conducted more than 26,000 assessments of waterbody health through this process, more than any other agency in the country.

Tier III includes all monitoring tied to regulatory permits issued by FDEP and is associated with evaluating the effectiveness of point source discharge reductions, best management practices or TMDLs. The program addresses both surface and ground waters of the state.

8. *Develop Work Plan and Schedule for Numeric Criteria Development*

Florida has a long-standing, EPA-approved, narrative nutrient criterion found at Florida Administrative Code Rule 62-302.530(47)(b) that has been the guidepost for Florida's nutrient

reduction efforts.[12] In the Everglades, FDEP has translated the narrative criteria into a numeric phosphorus criterion, which has been approved by EPA and upheld in state and federal courts. Fla. Admin. Code R. 62-302.540(4)(a). FDEP also has statewide, EPA-approved turbidity, transparency and biological integrity criteria[13] in Rules 62-302.530(69), (67) and (10) that work in unison with the existing narrative nutrient standard.

Moreover, FDEP has adopted numeric nutrient response thresholds (chlorophyll-a and Trophic State Index) for determining whether individual waters are impaired for nutrients. Fla. Admin. Code R. 62-304.351, .352, .353, and .450. EPA has approved these nutrient response values as changes to Florida's nutrient water quality standards that are consistent with the Clean Water Act. *See* EPA's July 6, 2005, 303(c) Determination on Florida's Chapter 62-303; *see also*, EPA's February 19, 2008, 303(c) Determination on Florida's Amendments to Chapter 62-303. EPA's approval of these changes to state water quality standards have been upheld in federal court. *Florida Public Interest Research Group v. EPA*, Case No. 4:02cv408-WCS, Order Granting Summary Judgment, DE 185 (N.D. Fla. Feb. 15, 2007) (unpublished opinion). As such, Florida is one of three states in the nation with EPA-approved nutrient response criteria for all of its waters (with the exception of wetlands).

FDEP recognizes the benefits of promulgating scientifically sound nutrient criteria and

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[12] First adopted in 1974, Florida's narrative nutrient criterion provides, "In no case shall nutrient concentrations of a body of water be altered so as to cause an imbalance in natural populations of aquatic flora and fauna." Fla. Admin. Code Rule 62-302.530(47)(b).

[13] Turbidity and transparency are surrogates for water clarity and are an indicator (along with other parameters, such as chlorophyll-a) for measuring biological response, i.e., algal mass, in surface water. EPA has encouraged States to adopt turbidity, transparency and other water clarity criteria as part of the suite of criteria for addressing nutrient pollution. *See, e.g.*, EPA Memorandum: Development and Adoption of Nutrient Criteria into Water Quality Standards, p. 8, found at http://water.epa.gov/scitech/swguidance/standards/upload/2009_01_21_criteria_nutrient_nutrientswqsmemo.pdf .

Correspondence Management System
Control Number: AX-11-001-0259
Printing Date: June 27, 2011 03:07:11

Citizen Information

Citizen/Originator: **Jones, Billy. R.**
Organization: CIty of Nashville (AR)
Address: 426 N Main Street, Nashville, AR 71852

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number: AX-11-001-0259 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A
Due Date: Jul 11, 2011 **# of Extensions:** 0
Letter Date: Jun 20, 2011 **Received Date:** Jun 27, 2011
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: AA-OAR-Assistant Administrator - OAR **Signature Date:** N/A
File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.
Subject: Daily Reading File- I urge you to work with the nation's electric utilties as new environmental regulations are being developed so that they can be as flexible and cost efficient as possible
Instructions: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OAR	Jun 27, 2011	Jul 11, 2011	N/A
	Instruction: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR				

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Correspondence Management System
Control Number: AX-11-001-0259
Printing Date: June 27, 2011 03:07:11

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Assign OAR as lead office	Jun 27, 2011

Comments

Commentator	Comment	Date
No Record Found.		

DAILY READING FILE

Billy Ray Jones, Mayor
City of Nashville
426 N Main St
Nashville, AR 71852
Fax: (870) 845-7409 *Office: (870) 845-7400* *Cell: (870) 845-9333*

6-20-2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Re: Docket # EPA-HQ-Oar_2011-0044

Dear Administrator Jackson,

As a small business owner, I urge you to work with the nation's electric utilities as new environmental regulations are being developed so that they can be as flexible and cost efficient as possible. I have been advised by my electric utility that the proposed hazardous pollutants rule, in conjunction with other pending regulations, could result in double-digit increases in the cost of power.

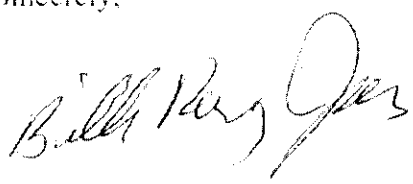
Electricity is a major cost of doing business for most businesses. Our economy is still struggling, job growth has been stagnant and our other costs of doing business are exceeding the general level of inflation. Now is not the time to impose higher costs on businesses through regulatory inflexibility or artificially short deadlines. We need an energy policy that will let Americans businesses continue to expand if we are to generate jobs and secure the resources to improve our standing of living, including a cleaner environment. Please consider these dynamics as you devise the final rules.

Businesses need certainly to plan for the future. Please clearly outline the conditions in which you will grant the additional year to comply with the new regulations. Please also allow power companies to operate their plants as efficiently as possible, including allowing plants scheduled to close to operate on a restricted basis without additional controls, as they upgrade their facilities and move toward a new generation.

There is no reason to burden our economy with costs that can be avoided by being flexible and cooperative. A strong economy is the best tool we have to protect our environment and our future.

Thanks you for the opportunity to comment.

Sincerely,



Billy Ray Jones
Mayor, City of Nashville

Correspondence Management System
Control Number: AX-11-001-0263
Printing Date: June 27, 2011 03:55:05

Citizen Information

Citizen/Originator: **Hamrick, Tony**
Organization: Webster County Commission
Address: 2 Court Square, Room G-1, Webster Springs, WV 26288-1049

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0263	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 21, 2011	**Received Date:**	Jun 27, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Resolution calling on policymakers to support jobs and economic security by fixing coal mine permitting system
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OW - Office of Water -- Immediate Office
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	R3	Jun 27, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OW	Jun 27, 2011
(b) (6) Personal Privacy	OEX	Control Taken Over	Jun 27, 2011

Correspondence Management System
Control Number: AX-11-001-0263
Printing Date: June 27, 2011 03:55:05

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OW	Jun 27, 2011
(b) (6) Personal Privacy	OEX	Control Taken Over	Jun 27, 2011
(b) (6) Personal Privacy	OEX	Forward control to R3	Jun 27, 2011

Comments

Commentator	Comment	Date
No Record Found.		

DAILY READING FILE

Commission Meets
First Wednesday
of each month.

WEBSTER COUNTY COMMISSION
Mrs. Terry J. Payne
Webster County Clerk
2 Court Square, Room G-1
Webster Springs, West Virginia, 26288-1049
Phone & Fax (304)847-5780
Email: WebsterCoComm@msn.com

June 21, 2011

Ms. Lisa Jackson, Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Ms. Jackson:

It has been brought to our attention that the Environmental Protection Agency is holding off the approval of numerous mine permits submitted by mines operating in West Virginia. The Webster County Commission recently passed a resolution calling on our Congress and President to support jobs and economic opportunity in coal communities across our region. We have included a copy of the resolution with this letter.

Coal mining is responsible for more than 90,000 jobs in West Virginia alone and provides jobs that pay 100 percent higher wages than the average wage in the state.

The ongoing backlog in permit approvals, the lack of transparency in the federal permitting process, and ongoing court challenges to permit applications are jeopardizing jobs, economic opportunity and coal production throughout West Virginia and the region.

The Webster County Commission respectfully requests that you express our concerns with this process and the financial impact that the loss of coal mining jobs will have on our community, region and state.

Respectfully submitted,

Tony Hamrick
President, Webster County Commission

Commissioners:
President, Tony Hamrick, Webster Springs, WV
William M. Armentrout, Webster Springs, WV
Sam Barger, Cowen, WV

Commission Meets
First Wednesday
of each month.

WEBSTER COUNTY COMMISSION
Mrs. Terry J. Payne
Webster County Clerk
2 Court Square, Room G-1
Webster Springs, West Virginia, 26288-1049
Phone & Fax (304)847-5780
Email: WebsterCoComm@msn.com

RESOLUTION CALLING ON POLICYMAKERS TO SUPPORT JOBS AND ECONOMIC SECURITY BY FIXING COAL MINE PERMITTING SYSTEM

BE IT KNOWN, the **Webster County Commission** is a strong supporter of coal mines in West Virginia and throughout Appalachia and calls upon our Congress and President to support jobs and economic opportunity in coal communities across our region; and

WHEREAS, the links between coal production, economic growth, prosperity and energy security are unbreakable; and

WHEREAS, coal in a main source of energy throughout the world, provides half the electricity used in the United States and as much as 98 percent of the electricity generated in the region; and

WHEREAS, coal mining is responsible for more than 90,000 jobs in West Virginia alone; provides coal mining jobs that pay 100 percent higher wages than the average wage in the state; and generates nearly $15 billion in economic output in the state; and

WHEREAS, coal mining in West Virginia is balancing the economic needs and environmental expectations of its citizens; and

WHEREAS, coal mine lands are being restored, as part of the reclamation process, to meet ongoing economic, recreational, educational, transportation and housing needs of local communities and the state; and

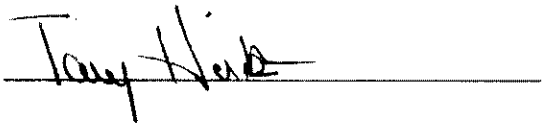
WHEREAS, the ongoing backlog in permit approvals, the lack of transparency in the federal permitting process, and ongoing court challenges to permit applications are jeopardizing jobs, economic opportunity and coal production throughout West Virginia and the region.

NOW, THREFORE, BE IT RESOLVED that the **Webster County Commission** calls upon the U. S. Army Corps of Engineers, the U. S. Environmental Protection Agency, the President's Council on Environmental Quality, the West Virginia congressional delegation and other congressional delegations in the region, and state and local government officials to support coal production and the jobs, economic growth and energy security provided by coal mining by fixing a regulatory system that is frustrating these vital objectives.

ADOPTED this the 7th day of June 2011.

ATTEST:

Tony Hamrick, President
Webster County Commission, Webster County, West Virginia

Authorized Signature: 

Correspondence Management System
Control Number: AX-11-001-0270
Printing Date: June 27, 2011 03:54:15

Citizen Information

Citizen/Originator: **Chamber of Commerce, Charleston Regional**
Organization: N/A
Address: 116 Smith Street, Charleston, WV 25301

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number: AX-11-001-0270 **Alternate Number:** N/A
Status: For Your Information **Closed Date:** N/A
Due Date: N/A **# of Extensions:** 0
Letter Date: Jun 20, 2011 **Received Date:** Jun 27, 2011
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: SNR-Signature Not Required **Signature Date:** N/A
File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Concerns about continued and protracted EPA reviews of coal mining permits and the disruption and economic perils it presents
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OW - Office of Water -- Immediate Office
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	R3	Jun 27, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OW	Jun 27, 2011
(b) (6) Personal Privacy	OEX	Control Taken Over	Jun 27, 2011

Correspondence Management System
Control Number: AX-11-001-0270
Printing Date: June 27, 2011 03:54:15

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to R3	Jun 27, 2011

Comments

Commentator	Comment	Date
No Record Found.		

Open Letter to EPA Administrator Lisa Jackson

June 20, 2011

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

The undersigned local chambers of commerce in West Virginia would like to express our collective concerns about continued and protracted EPA "reviews" of coal mining permits and the disruption and economic perils this presents. As you know, what happens with these permits will affect thousands of good-paying jobs and millions and millions in state and local tax revenues. It also will affect the viability of thousands of small businesses, many of which are members of our organizations.

Our concern, though, goes even deeper given your own statements that your agency generally doesn't care about the economic well-being of coal communities and their residents. This is a rather perplexing viewpoint, given how good jobs and incomes are needed if there is to be the proper environment for personal health, growth and advancement. Finally, the recent decision by EPA to revoke the existing Spruce mine permit is exceedingly troubling and spreads fear, uncertainty and unhealthy anxiety among all coal mining families.

Our members and our communities benefit from West Virginia being an energy state, and we would like to see the continued production and use of coal. We also want to maintain as much domestic energy production as possible, given the alternative. In today's chaotic world with unstable governments and continued terrorist activities, our nation must maximize the energy resources that have been bestowed upon this great nation.

Moreover, impeding domestic energy production only will result in higher energy prices, which will bring about new economic hardships and challenges for American small businesses and families. Given the continued weak business conditions across this nation our members cannot afford another serious economic shock, which would result from continued permit delays and harsh regulatory actions.

As business leaders in our communities, we join with tens of thousands of other West Virginians and Appalachian Basin residents in expressing our united support for the continued viability of coal mining and the preservation of coal mining jobs in Central Appalachia. Please complete your permit reviews and provide coal companies and the miners they employ with a transparent regulatory process that balances environmental protection with job preservation and economic well-being in our region.

Sincerely,

Barbour County Chamber of Commerce

Beckley-Raleigh County Chamber of Commerce

Charleston Regional Chamber of Commerce

Elkins-Randolph County Chamber of Commerce

Greater Bluefield Chamber of Commerce

Greater Greenbrier Chamber of Commerce

Huntington Regional Chamber of Commerce

Logan County Chamber of Commerce

Marion County Chamber of Commerce

Marshall County Chamber of Commerce

Martinsburg-Berkeley County Chamber of Commerce

Morgantown Area Chamber of Commerce

Princeton-Mercer County Chamber of Commerce

Summersville Area Chamber of Commerce

Tug Valley Chamber of Commerce

Weirton Area Chamber of Commerce

Wheeling Area Chamber of Commerce

Cc: The Honorable Earl Ray Tomblin
The Honorable John D. Rockefeller, IV
The Honorable Joe Manchin, III
The Honorable Nick J. Rahall, II
The Honorable Shelly Moore Capito
The Honorable David McKinley

Correspondence Management System
Control Number: AX-11-001-0275
Printing Date: June 27, 2011 03:24:24

Citizen Information

Citizen/Originator: **Bolden, Charles F.**
Organization: National Aeronautics and Space Administration
Address: Two Independence Square 300 E Street, S.W., Washington, D.C. 20546-0001

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0275	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 17, 2011	**Received Date:**	Jun 27, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_167_a Transitory Files Record copy
Subject: SCH002-Scheduling Request - Invitation- Launch the Space Shuttle Atlantis on Friday, July 8, 2011 at 11:26am; Daily Reading File
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: Event Date: 7/8/11 Location: Kennedy Space Center in Florida Contact: Shannon Valley, (202) 358-1444, Shannon.Valley@nasa.gov
CC: N/A

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	Noah Dubin	Jun 27, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to Noah Dubin	Jun 27, 2011

National Aeronautics and Space Administration

Office of the Administrator
Washington, DC 20546-0001

June 17, 2011

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Washington, DC 20460

Dear Ms. Jackson:

The National Aeronautics and Space Administration is scheduled to launch the Space Shuttle Atlantis (STS-135) on Friday, July 8, 2011, at 11:26 am EDT.

If your schedule permits travel to the Kennedy Space Center in Florida, I would be honored to have you and one guest join us for this remarkable event. Along with activities associated with the launch, a personal tour of Kennedy facilities will be included one day before.

Atlantis will carry the Raffaello multipurpose logistics module to deliver supplies, logistics, and spare parts to the International Space Station. The mission also will deliver a system to investigate the potential for robotically refueling existing spacecraft and return a failed ammonia pump module for analysis.

STS-135 is the final mission of the Space Shuttle program, which began setting records with its first launch in 1981 and continues to establish high marks of achievement and endurance. The spacecraft has carried people into orbit and launched and recovered satellites. Its crews have conducted cutting-edge research and built the International Space Station. As humanity's first reusable spacecraft, the Space Shuttle required both advanced technologies and the tremendous effort of a vast workforce. Thousands of civil servants and contractors across the Nation have demonstrated an unwavering commitment to mission success and the greater goal of space exploration.

The launch of the Space Shuttle Atlantis will not only be an opportunity to reflect on the Space Shuttle program's achievements, but will mark the beginning of the next phases in NASA's human spaceflight mission. There will be future opportunities to witness NASA's continued progress in U.S. human space exploration for years to come.

If you plan to attend, please contact Shannon Valley at Shannon.Valley@nasa.gov or 202-358-1444 with confirmation of your plans as soon as possible and no later than Friday, June 24. For your convenience, we have reserved rooms at several Cocoa Beach/Cape Canaveral area hotels. Upon your acceptance of this invitation,

we can assist you in making these reservations. As we get closer to the launch date, you will be sent a complete itinerary.

I hope you will be able to join us.

Sincerely,

Charles F. Bolden, Jr.
Administrator

Invitations are not transferable.
Guests may be required to provide security information.

Correspondence Management System
Control Number: AX-11-000-9813
Printing Date: June 28, 2011 03:50:22

Citizen Information

Citizen/Originator: **Graham, Bob**
Organization: WMD Center
Address: 1747 Pennsylvania Avenue, N.W., Washington, DC 20006

Constituent: **Talent, Jim**
Organization: WMD Center
Address: 1747 Pennsylvania Avenue, NW, Washington, DC 20006

Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-000-9813	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Jul 13, 2011	**# of Extensions:**	0
Letter Date:	Jun 13, 2011	**Received Date:**	Jun 17, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	AA-OSWER-Assistant Administrator - OSWER	**Signature Date:**	N/A

File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: Daily Reading File- We are writing to inform you of our first major project?a report card providing an end-to-end assessment of America's current capability to respond to an act of bioterrorism or a naturally occurring pandemic.

Instructions: AA-OSWER-Prepare draft response for signature by the Assistant Administrator for OSWER

Instruction Note: N/A

General Notes: N/A

CC:
Brigid Lowery - OSWER-CPA
Kecia Thornton - OSWER
Linda Huffman - OECA
Michelle Crews - OSWER
OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OECA - OECA -- Immediate Office
OSWER - OSWER -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OHS	Jun 17, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OHS	Jun 17, 2011
(b) (6) Personal Privacy	OEX	Changed Status For Your Information Pending	Jun 28, 2011
(b) (6) Personal Privacy	OEX	Changed File Code 401_127_a General Correspondence Files Record copy 404-141-02-01_141_a(2) Copy of Controlled and Major Corres	Jun 28, 2011
(b) (6) Personal Privacy	OEX	Changed Signature SNR-Signature Not Required AA-OSWER-Assistant Administrator - OSWER	Jun 28, 2011
(b) (6) Personal Privacy	OEX	Changed Instruction For Your Information -- No action required AA-OSWER-Prepare draft response for signature by the Assistant A	Jun 28, 2011
(b) (6) Personal Privacy	OEX	Changed Due Date July 13, 2011	Jun 28, 2011

Comments

Commentator	Comment	Date
No Record Found.		

WMD | CENTER

Bipartisan leadership for biodefense solutions

June 13, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Federal Building
1200 Pennsylvania Avenue, NW
Room 3000
Washington, DC 20460

Dear Administrator Jackson,

When the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism ended its two-year term in January 2010, our fellow commissioners urged us to continue our collaboration in this important work. In March 2010, we created the Bipartisan WMD Terrorism Research Center (The WMD Center) as a privately funded 501(c)(3) organization, initially focusing on bio-threats.

The WMD Center's primary mission is research and education—working to help government and private sector leaders better understand the unique aspects and challenges of bioterrorism. Given the ubiquity of select agents readily found in nature, and the rapid advances in bio-technology, we believe that strengthening preparedness and bio-response capability is the most effective means to mitigate and deter bioterrorism.

We are writing to inform you of our first major project—a report card providing an end-to-end assessment of America's current capability to respond to an act of bioterrorism or a naturally occurring pandemic. The report will be released in mid-October 2011. We enlisted an extraordinary group of advisors who are guiding the metrics and methodology for the project. We have enclosed an executive summary of the project and a list of project advisors.

For further information, please contact Lynne Kidder, President of the WMD Center and principal investigator for the project, at lynne.kidder@wmdcenter.org or 202 281-9699.

Sincerely,

Bob Graham

Jim Talent

The WMD Center

Bipartisan Leadership for Biodefense Solutions

The Bipartisan WMD Terrorism Research Center (The WMD Center) is a not-for-profit 501(c)(3) research and education organization founded in March 2010 by the chair, vice chair, and executive director of the Congressional Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism.

Mission

- To help government and private sector leaders better understand the unique threats and challenges of bioterrorism and the actions required for effective response should deterrence and prevention fail
- To serve as an honest broker between government and the American public to ensure individual, community, and national progress in strengthening the nation's collective response capabilities

Goals

- To improve capability to respond to bioterrorism to a degree that, in effect, removes bioterrorism from the category of weapons of mass destruction
- To strengthen overall public health and medical care delivery systems to respond to a wide range of natural and man-made disasters
- To keep America on the leading edge of the biotechnical revolution

Key Activities

- Conduct research and provide expert counsel to senior leaders in the public and private sectors
- Provide educational programs for federal, state and local government officials, business and community leaders, professional associations, and members of the press
- Serve as a strategic leader and integrator of the private-sector biodefense community
- Provide an end-to-end strategic assessment of America's bio-response capabilities, to be published as an October 2011 report card

Leadership

Chairman of the Board, former Senator Bob Graham (D-FL)
Vice Chairman, former Senator Jim Talent (R-MO)
CEO, Colonel Randy Larsen, USAF (Ret)
President, Lynne Kidder

1747 Pennsylvania Ave NW
Suite 700
Washington DC 20006

info@wmdcenter.org
www.wmdcenter.org

Bio-Response Capabilities Report Card Project

A successful biodefense strategy must be based on rapid and effective response capabilities. Over the past decade, the federal government has invested more than $60 billion in bio-response programs, yet progress has been slow and difficult to measure. The WMD Center cites two important factors contributing to this lack of progress: 1) there is no strategic leader or agency in charge of bio-response – a complex enterprise spanning more than a dozen federal departments and agencies, as well as state and local actors; and 2) there is no comprehensive assessment of current bio-response capabilities, nor is there consensus on the standards or metrics by which to measure improvement. The WMD Center's Bio-Response Report Card seeks to fill that gap.

The Report Card will provide an objective, peer-reviewed, strategic assessment of the bio-response enterprise, and will offer policy recommendations in seven key areas of bio-response. The goal of this bipartisan review is to help inform public policy that ensures measurable progress in the nation's collective response capability – whether facing an act of bio-terrorism, or a naturally occurring pandemic.

Scope and Methodology

Metrics
This Report Card will assess categories and sub-categories of the bio-response enterprise, using metrics drawn from evidence-based research and practice. Metrics will be determined by consensus of a panel of expert advisors for each of the seven categories listed below:

(1) Detection and situational awareness
(2) Diagnosis and attribution
(3) Communicating actionable information
(4) Medical countermeasures (vaccines and therapeutics)
(5) Distributing/dispensing medical countermeasures
(6) Medical treatment and response
(7) Environmental remediation

Grading
Once the project's Board of Advisors has determined metrics, a separate, independent team of subject matter experts will perform evaluation and analysis of capabilities in each category and subcategory. This team will include experienced practitioners and other thought leaders from academia, leading think tanks, and private sector organizations that specialize in biodefense, to ensure rigorous review and diverse perspectives. These experts will provide their analyses and insights to the WMD Center Board of Directors, who will make the final determination of grades, recommendations, and report content.

Release of the Report Card

The Report Card will be published in October 2011, marking ten years after the 2001 anthrax attacks. The report will coincide with the release of *Contagion*, a dramatic, yet realistic Hollywood depiction of a 21st century public health crisis. The ability of a major feature film to help Americans imagine the realities of a bio-threat will complement the objective fact-finding, and assessment of the Bio-Response Capabilities Report Card.

Project Board of Advisors

RADM Kenneth Bernard, MD, (USPHS - Ret), former Senior Political Adviser to the Director-General, World Health Organization, Geneva, Switzerland. Prior to that position, he served in a series of senior policy positions in the United States Government in both the Clinton and Bush (43) Administrations, including: Special Assistant to the President for Biodefense, Homeland Security Council, White House; Special Adviser for Health and Security on the National Security Council (NSC) Staff at the White House; Special Adviser for National Security, Intelligence and Defense for the Secretary of Health and Human Services; Senior Adviser to Senator Bill Frist; and Health Attaché at the U.S. Mission to the UN in Geneva. Dr. Bernard retired from the U.S. Public Health Service in January 2005 with the rank of Rear Admiral and Assistant Surgeon General.

Louise Gresham, PhD, MPH, Senior Director of the Global Health and Security Initiative at NTI. Dr. Gresham brings expertise in national and international disease surveillance systems with the Middle East Consortium on Infectious Disease Surveillance (MECIDS), Mekong Basin Disease Surveillance (MBDS), U.S. Mexico Border Infectious Disease Surveillance program, and the Southern African Centre for Infectious Disease Surveillance (SACIDS). She is part of a health diplomacy consortium that developed a tuberculosis lab in the Democratic People's Republic of North Korea. Dr. Gresham convenes and secures commitments from international leaders, most recently to create the ambitious global organizational structure, Connecting Health Organizations for Regional Disease Surveillance (CHORDS), and serves as co-chair with the Senior Health Advisor of Thailand. She has nurtured public private partnerships in support of regional disease surveillance efforts and is a member of the SACIDS Scientific Advisory Board. She has extensive experience managing infectious disease surveillance and response activities, syndromic surveillance systems, and policy making, having served as the Senior Epidemiologist for San Diego County's Health and Human Services Agency. Gresham holds an adjunct Associate Professor appointment, Graduate School of Public Health, San Diego State University and is well published in peer reviewed journals and texts.

Elin Gursky, MSc, ScD is an epidemiologist and public health practitioner. She had held senior positions in local and state governmental public health where she enhanced system-wide capacity to detect, respond to, and contain large-scale disease outbreaks. She has served as a vice president for a 10-acute care hospital system initiating community-wide disease prevention programs. She has held faculty positions at Johns Hopkins University, and has developed graduate courses and lectured at numerous academic institutions on biosecurity. Dr. Gursky is currently a Fellow and Principal Deputy for Biodefense at ANSER/Analytic Services, Inc. where she heads the Health Security Strategy and Systems portfolio. In the past decade, Dr. Gursky has given over 50 invited talks nationally and internationally and has helped lead two, multi-country NATO-sponsored meetings relating to health security issues with health ministers and senior health leaders. She served on the AAAS Global Security Fellowship Selection Committee from 2005-2007 and in 2011.
Dr. Gursky recently served on the Institute of Medicine Committee on the Effectiveness of National Biosurveillance Systems: BioWatch and the Public Health System. She has published over 35 peer-reviewed articles and nine book chapters. Dr. Gursky received her Doctor of Science degree in 1985 at the Johns Hopkins Bloomberg School of Public Health. She is a Fulbright Senior Specialist by the U.S. Department of State, Council for the International Exchange of Scholars.

Dan Hanfling, MD, is Special Advisor to the Inova Health System in Falls Church, Virginia on matters related to emergency preparedness and disaster response. He is a board certified emergency physician practicing at Inova Fairfax Hospital, Northern Virginia's Level I trauma center. He also serves as an Operational Medical Director for air medical services and has responsibilities as a Medical Team Manager for Virginia Task Force One, a FEMA/USAID sanctioned international urban search and rescue team. He has been involved in a number of disaster responses, including the Pentagon in September 2001, Hurricanes Rita and Katrina in 2005, Hurricanes Gustav and Ike in 2008, and the Port au Prince, Haiti earthquake in 2010. Dr. Hanfling was integrally involved in the management of the response to the anthrax bioterror mailings in 2001at Inova Fairfax Hospital. Dr. Hanfling is a founding member of the Northern Virginia Hospital Alliance. Dr. Hanfling currently serves as the Vice Chair of the IOM Committee on Establishing Standards of Care in Disaster Events. He is Clinical Professor of Emergency Medicine at George Washington University, Consulting Scholar at the UPMC Center for BioSecurity and adjunct Distinguished Senior Fellow at the George Mason University School of Public Policy.

James J. James, MD, Dr. PH, MHA, is the Director of the American Medical Association's (AMA's) Center for Disaster Medicine and Emergency Response, where he is responsible for developing and managing AMA's comprehensive medical & public health disaster response program. He is the Editor-in-Chief of Disaster Medicine and Public Health Preparedness, and also works with the US Department of Health and Human Services and with state and local medical societies to coordinate medical and public health agencies' response to terrorism and other disasters. Dr. James previously served as director of the Miami-Dade County Health Department, where he was responsible for overseeing public health programs throughout the county, and was instrumental in dealing with the anthrax-related incidents that occurred after the September 11th terrorist attacks. Dr. James served for 26 years with the U.S. Army Medical Department in a variety of roles, including surgeon general (Eighth Army, United States Forces Korea) and commanding general (William Beaumont Army Medical Center). He is an epidemiologist and is board-certified in preventive medicine. He holds a doctorate in medicine from the Cincinnati College of Medicine, a doctorate in public health from UCLA School of Public Health, and a master's degree in health care administration from Baylor University. Dr. James attended the Armed Forces Staff College and the Industrial College of the Armed Forces.

Arthur Kellermann, MD, is Vice President and Director of RAND Health. Before joining RAND, he was a professor of emergency medicine and public health and served as Associate Dean for Health Policy at the Emory School of Medicine in Atlanta. Kellermann founded Emory's Department of Emergency Medicine and served as its first chair from 1999 to 2007. A two-term member of the board of directors of the American College of Emergency Physicians, Kellermann was subsequently given the College's highest award for leadership. He also served on the IOM's Committee on the Future of Emergency Care in the U.S. Health System and the Committee on Effectiveness of National Biosurveillance Systems: BioWatch and the Public Health System. As a Robert Wood Johnson Health Policy Fellow (2006-07) Kellermann worked for the professional staff of the Committee on Oversight and Government Reform, U.S. House of Representatives.

Gene W. Matthews, JD, serves as the Director of the newly-established Southeastern Regional Center of the Public Health Law Network, one of five regional centers funded by the Robert Wood Johnson Foundation. This program provides legal technical assistance, training, and outreach activities in order to connect and serve individuals and organizations committed to applying the law

to improve public health. In addition, Mr. Matthews is a Senior Fellow at the North Carolina Institute for Public Health, the service and outreach arm of the University of North Carolina Gillings School of Global Public Health. Mr. Matthews has recently lead an innovative national public/private partnership initiative, funded by the Alfred P. Sloan Foundation to successfully develop common legal preparedness agendas regarding liability laws during emergencies. He also teaches courses on leadership in health law and ethics for the UNC Doctoral Program in Health Leadership. Prior to taking these positions, Mr. Matthews served as the chief legal advisor to the CDC in Atlanta from 1979 to 2004, directing a legal staff that grew to 30 persons. During that 25-year span, he handled a wide range of precedent-setting public health law issues and litigated key public health lawsuits and civil discovery cases. In June 2004, Mr. Matthews received the Distinguished Career Award of the Public Health Law Association.

Paula J. Olsiewski, PhD, directs the Indoor Environment and Biosecurity programs as well as the Synthetic Biology Initiative at the Alfred P. Sloan Foundation. She was a member of the NRC Committee on Advances in Technology and the Prevention of Their Application to Next Generation Biowarfare Threats, which produced the "Globalization, Biosecurity, and the Future of Life Sciences" Report (2006). Prior to joining the Foundation, Dr. Olsiewski served in many capacities in the biotech and biomedical community. She directed the New York City Biotechnology Initiative, a state-funded program under the auspices of the New York Biotechnology Association, and worked for nine years at Enzo Biochem, Inc., a publicly traded biotechnology company, where she directed commercial development activities for a variety of in vitro diagnostic products.

Mary Pendergast, JD, LLM, is the President of Pendergast Consulting, that provides legal and regulatory advice to biopharmaceutical companies, patient groups, professional and advocacy organizations, governments, and academic and financial institutions. Prior to forming her own consulting business, she served as Executive Vice President, Government Affairs at Elan Corporation, where she was involved in significant regulatory, strategic and government issues. From 1990 to 1998, Ms. Pendergast was the deputy commissioner and senior adviser to the commissioner at the U.S. Food and Drug Administration (FDA) involved in FDA's efforts to regulate emerging areas, such as biotechnology, cellular and tissue-based therapies, genetic testing, xeno-transplantation, and acute-care research and served as FDA's "crisis manager," handling sensitive and precent-setting situations. Ms. Pendergast has served as associate chief counsel for enforcement at the FDA from 1979 to 1990 and as attorney, Office of the General Counsel, Department of Health and Human Services from 1977 to 1979.

MG Philip K. Russell, MD, (USA - ret), is the Founding President of the Albert B. Sabin Vaccine Institute. During his military career, Dr. Russell conducted research on a variety of infectious diseases of importance to the military and managed several vaccine development programs. Military assignments included several positions at Walter Reed Army Institute of Research, including Chief of the Department of Virus Diseases, Director of the Division of Communicable Diseases, Deputy Director and Institute Director and Commandant. Following military service he was appointed Professor in the Department of International Health at the Johns Hopkins University School of Hygiene and Public Health. Shortly after the 9/11 attacks, Dr. Russell returned to government as the Acting Director, Office of Research and Development Coordination, Office of the Assistant Secretary for Public Health Emergency Preparedness, U.S. Department of Health and Human Services.

Thomas C. Voltaggio has thirty six years of comprehensive experience in multiple aspects of environmental management at the federal level, including executive level leadership, scientific and technical management, budgeting and analysis, enforcement and compliance, biological and chemical environmental emergency response, homeland security terrorism response processes and operations and information management and technology. From its inception, and for more than 17 years, successfully directed the "Superfund" hazardous waste site cleanup program of the USEPA in the Middle Atlantic States through more than 500 complete cleanups by 1997. Managed the nation's largest biochemical terrorism response when EPA was called upon to clean up the Anthrax contamination on Capitol Hill in the fall of 2001. Trained as a Principal Federal Official (PFO) under the National Response Plan by the Department of Homeland Security and was named Deputy Principal Federal Official (DPFO) for the New Jersey venue of the TOPOFF3 national exercise in 2005. Participated fully in TOPOFF3 as the DPFO. Deployed to New Orleans as EPA's Senior Federal Official at the national response to Hurricane Katrina.

Correspondence Management System
Control Number: AX-11-001-0264
Printing Date: June 28, 2011 01:09:50

Citizen Information

Citizen/Originator: **Kisiel, Edward A.**
Organization: Eagle Harbor Township
Address: 321 Center Street, Eagle Harbor, MI 49950-9722

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0264	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 13, 2011	**Received Date:**	Jun 28, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	N/A	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File-The Eagle Harbor Township Board, located in the Upper Peninsula of Michigan, would like to be considered for Aquatic Resouce of National Importance (ARNI) status.
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OAR - Office of Air and Radiation -- Immediate Office
OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	R5	Jun 28, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OAR	Jun 28, 2011

EAGLE HARBOR TOWNSHIP

321 Center Street
Eagle Harbor, Michigan 49950-9722
Phone: 906-289-4407 • Fax: 906-289-4462
E-mail: office@eagleharbortwp.org • Web: www.eagleharbortwp.org

June 13, 2011

Lisa Jackson, Administrator
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Ave. N.D.
Washington, D.C. 20460

Dear Ms. Jackson:

By January of 1946 the Keweenaw Peninsula, more commonly known as the Copper Country, produced about eight-and-a-half billion pounds of Copper. In 1968 with the closing of the Calumet and Hecla Mining Company copper extraction came to a close.

It is in the shadow of this past that the Eagle Harbor Township Board, located in the Upper Peninsula of Michigan, would like to be considered for Aquatic Resource of National Importance (ARNI) status.

Our Comprehensive Plan states:

> "It is the philosophy of the people and the Township Board of Eagle Harbor Township that the quality of life and the protection of our natural resources are the most important legacy that we can leave for future generations".

The village of Eagle Harbor and the adjoining township are bordered on the north by 26 miles of Lake Superior and on the west by the 'the marshes'. To the east of town is our harbor which is fed by Cedar Creek. In our 57 square miles containing 36,590 acres we have countless lakes and streams emptying into Lake Superior.

Because of these resources we feel that a ***higher level of review*** on permit applications for future, possible mineral extraction or 'Fracking' with the Department of the Army, sanctioned by your agency, is in the best interest of our citizens.

Thank you for your consideration.

Edward A. Kisiel
Eagle Harbor Township Board

Correspondence Management System
Control Number: AX-11-001-0276
Printing Date: June 28, 2011 01:51:01

Citizen Information

Citizen/Originator: **Cross, R.D.**
Organization: City of Gilmer (Texas)
Address: P.O. Box 760, Gilmer, TX 75644

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number: AX-11-001-0276 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A
Due Date: Jul 12, 2011 **# of Extensions:** 0
Letter Date: Jun 16, 2011 **Received Date:** Jun 27, 2011
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: LTR (Letter) **Priority Code:** Normal
Signature: AA-OAR-Assistant Administrator - OAR **Signature Date:** N/A
File Code: 404-141-02-01_141_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.
Subject: Daily Reading File- I am writing to express my concern about new environmental proposals that will affect the price of electricity.
Instructions: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b)(6) Personal Privacy	OEX	OAR	Jun 28, 2011	Jul 12, 2011	N/A
	Instruction: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR				
Martha Faulkner	OAR	OAR-OAQPS	Jun 28, 2011	Jul 7, 2011	N/A
	Instruction: OAR - Prepare response for the signature of Gina McCarthy, Assistant Administrator for the Office of Air and Radiation (OAR).				
Sherry Russell	OAR-OAQPS	OAR-OAQPS-SPPD	Jun 28, 2011	Jul 6, 2011	N/A
	Instruction: AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR				

June 16, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave.
Washington, D.C. 20460

Re: Docket No. EPA-HQ-OAR-2011-0044

Dear Administrator Jackson:

I represent the City of Gilmer and write to express my concern about new environmental proposals that will affect the price of electricity.

My citizens understand the need to improve the quality of our air and to protect our environment, but we also are concerned about the cost of new regulations. We have been advised by our electric utility that the hazardous air pollutants rule and other proposed rules could result in double-digit price increases. We also are told that these price increased could be deferred or mitigated if the EPA adopts more flexible regulations.

As a community trying to grow jobs and business investment, energy costs are a significant consideration. A 10-to-20-percent increase in our price of electricity can cost some of our existing businesses thousands of dollars and can men the difference between profit and loss, adding jobs or letting people go. The purpose of environmental regulation should not be to hold back our economy or our ability to make a living. The most effective way to protect our environment is to ensure that our economy prospers so that the resources will be available to make improvements.

Please work with the nation's electric utilities to enact environmental regulations that will allow them to operate as efficiently as possible. Businesses need certainty to plan effectively. Please establish and publicize the conditions under which you will grant the one-year compliance extension so that utilities will know how much time they have to comply.

We all want a cleaner environment, but we need common sense regulation to keep our economy going. Overly stringent, inflexible regulations will harm our communities, our businesses, and our nation.

Thank you for the opportunity to comment.

Sincerely,

R.D. Cross

R.D. Cross
Mayor

City of Gilmer • P.O. Box 760 • Gilmer, Texas 75644
City Hall 903/843-2552 • Fax: 903/843-3508 • www.gilmer-tx.com

Correspondence Management System
Control Number: AX-11-001-0277
Printing Date: June 28, 2011 01:49:46

Citizen Information

Citizen/Originator: **O'Connor, Paul**
Organization: Estero Bay Agency on Bay Management
Address: C/O Southwest Florida Regional Planning Council 1926 Victori, Fort Myers, FL 33901

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0277	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 20, 2011	**Received Date:**	Jun 27, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File- RE: Water Docket EPA-HQ-OW-20 11-0409. I write to share the Estero Bay ABM's strong support for, and comments on the proposed 2011 EPA Guidance on the Clean Water Act's scope of jurisdictional authority.
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy
OW - Office of Water -- Immediate Office
R4 - Region 4 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OW	Jun 28, 2011

History

Action By	Office	Action	Date

Estero Bay Agency on Bay Management
C/O Southwest Florida Regional Planning Council
1926 Victoria Avenue
Fort Myers, Florida 33901

June 20, 2011

The Honorable Lisa Jackson
Administrator, U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army for Civil Works
U.S. Army Corps of Engineers
108 Army Pentagon, Room 3E446
Washington, DC 20310

RE: Water Docket EPA-HQ-OW-2011-0409

Dear Administrator Jackson and Assistant Secretary Darcy:

The Estero Bay Agency on Bay Management (ABM) is a non-regulatory advisory committee to the Southwest Florida Regional Planning Council. Its directive is to make comments and recommendations regarding the management, protection and restoration of Estero Bay and its watershed.

Estero Bay is the State of Florida's first of forty-one Aquatic Preserves. These coastal and estuarine resources are vital for the economic and ecological health of Southwest Florida's human and wildlife communities. Boating, fishing, beaches, sea-grasses, oysters, manatees, wading bird rookeries, real estate, tourism, beach nesting birds and sea turtles all depend on a healthy, vibrant Estero Bay and that, like all estuaries, is linked to the integrity of the wetlands and compatibility of the land uses in its watershed. The Estero Bay Agency on Bay Management offers any assistance needed for implementing the proposed 2011 CWA Guidance, or in the anticipated rulemaking to assure regulatory authority to protect the full suite of wetland functions in this or any watershed.

I write to share the Estero Bay ABM's strong support for, and comments on the proposed 2011 EPA Guidance on the Clean Water Act's scope of jurisdictional authority. The draft Guidance is needed to clarify jurisdictional questions and confusion caused by two Supreme Court rulings on federal wetland jurisdiction in 2001 (*SWANNC*) and 2006 (*Rapanos*). Many of the wetlands that lost certainty of protection under the Clean Water Act (CWA) after these rulings were isolated, seasonal or shallow wetland habitats. They generally play critical biological, flood protection, water quality and water supply functions within landscape mosaics of a broad range of wetland types and associated uplands amongst which they exist. The Estero ABM's Principles include recognition of the importance of isolated wetlands. Such wetlands here may be characterized as isolated due to their seasonality, flat landscape context, and remoteness from receiving waters or tributaries, potentially lowering their eligibility for protection under previous CWA Guidance.

Estero Bay Agency on Bay Management
C/O Southwest Florida Regional Planning Council
1926 Victoria Avenue
Fort Myers, Florida 33901

TO: Administrator Jackson and Asst. Secretary Darcy
PAGE: 2
DATE: June 20, 2011
SUBJECT: Docket EPA-HQ-OW-2011-0409

Short-hydroperiod Wetlands in the Estero Bay Watershed

According to EPA, Audubon, South Florida Water Management District and Army Corps of Engineers analyses of wetland losses and trends in the Estero Bay watershed, shallow, short-hydroperiod wetlands have been impacted disproportionately. For example, over 80% of wet prairie habitats have been destroyed from pre-development levels within 30 kilometers of Corkscrew Swamp Sanctuary. Many of these wetlands were in the watershed for Estero Bay and there are significant consequences to Estero Bay, as well as Corkscrew Swamp, for their loss.

Audubon data indicate a direct link between the loss of seasonal, short-hydroperiod wetlands and the precipitous decline of the federally endangered wood stork rookery at their Corkscrew Swamp Sanctuary. This rookery has been, and continues to be the largest in the nation, but no nesting has occurred in four of the last five years. The proposed Guidance clarifies much of the basis for including short-hydroperiod wetlands in this biological context as Waters of the U.S. Further clarification must come from formal rulemaking, which confers greater legal authority.

We urge EPA to approve this Guidance and move quickly into rulemaking on all such wetlands which may have fallen out of CWA protection.

Sincerely,

Paul O'Connor, Chair
Estero Bay Agency on Bay Management

CC: SWFRPC

Correspondence Management System
Control Number: AX-11-001-0282
Printing Date: June 28, 2011 08:20:17

Citizen Information

Citizen/Originator: **Fertel, Marvin S.**
Organization: Nuclear Energy Institute
Address: 1776 I Street NW, Washington, DC 20006-3708

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0282	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 17, 2011	**Received Date:**	Jun 27, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	N/A	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: Daily Reading File-Industry Support for US EPA RadNet Monitoring System
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCFO - OCFO -- Immediate Office
ORD - Office of Research and Development -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OAR	Jun 28, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OAR	Jun 28, 2011

Comments

NUCLEAR ENERGY INSTITUTE

Marvin S. Fertel
PRESIDENT AND CHIEF EXECUTIVE OFFICER

June 17, 2011

The Honorable Lisa Jackson
Administrator
United States Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Subject: Industry Support for U.S. Environmental Protection Agency RadNet Monitoring System

Dear Administrator Jackson:

I am writing to express the nuclear energy industry's continued support for the U.S. Environmental Protection Agency's nationwide radiation monitoring system (RadNet).

In the agency's response to the accident at the Fukushima Daiichi nuclear power plant in Japan, the RadNet system successfully met its mission "to monitor environmental radioactivity in the United States in order to provide high quality data for assessing public exposure and environmental impacts resulting from nuclear emergencies."

In particular, the timely, comprehensive and publicly accessible monitoring data generated from RadNet provided a factual basis for federal and state governments to reassure the American people that levels of radioactivity reaching the United States from Fukushima were "hundreds of times below levels of concern."

As recognized at the time of inception of the RadNet system, it would be impractical to attempt to stand up such a monitoring system only in the event of an actual nuclear emergency. This is particularly true considering the need to make near-term assessments of potential risks and formulate protective actions, if needed, to protect public health. In addition, maintaining RadNet in a monitoring mode is necessary to maintain data on ambient levels of radiation in the environment for baseline and trend analysis.

1776 I Street, NW | Suite 400 | Washington, DC 20006-3708 | P: 202.739.8125 | F: 202.785.1498 | msf@nei.org | www.nei.org

Please let me know if I can be of any assistance now or in the future in helping to communicate the essential value provided by the RadNet system in fulfilling a critical mission for Americans.

Sincerely,

c: Chairman Barbara boxer
Ranking Member Inhofe

Correspondence Management System
Control Number: AX-11-001-0381
Printing Date: June 28, 2011 04:01:07

Citizen Information

Citizen/Originator: **Willis, Jennifer H**
Organization: Pickens County Council
Address: 222 McDaniel Avenue, B-1, Pickens, SC 29671

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0381	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Jul 13, 2011	**# of Extensions:**	0
Letter Date:	Jun 20, 2011	**Received Date:**	Jun 28, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File- In an effort to rectify a significant environmental injustice, this letter is being sent on behalf of the Pickens County, South Carolina Council and the nearly 120,000 citizens we represent.

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: Brigid Lowery - OSWER-CPA
Kecia Thornton - OSWER
Michelle Crews - OSWER
OCIR - Office of Congressional and Intergovernmental Relations
OCSPP - OCSPP - Immediate Office
OEAEE - Office of External Affairs and Environmental Education
OSWER - OSWER -- Immediate Office
OW - Office of Water -- Immediate Office
R4 - Region 4 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	R4	Jun 28, 2011	Jul 13, 2011	N/A
	Instruction: N/A				

Supporting Information

Supporting Author: N/A

DAILY READING FILE

COUNTY OF PICKENS

www.co.pickens.sc.us

June 20, 2011

Ms. Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue Room 3000
Washington, D.C. 20460

RECEIVED
2011 JUN 28 PM 1:00
OFFICE OF THE
EXECUTIVE SECRETARIAT

Re: Lack of EPA compliance and monitoring for Twelve Mile Dam project

Dear Ms. Jackson:

In an effort to rectify a significant environmental injustice, this letter is being sent on behalf of the Pickens County, South Carolina Council and the nearly 120,000 citizens we represent. This correspondence is to:

1.) Provide data which demonstrates the imminent health risk of the release of Polychlorinated Biphenyls (PCBs) into EPA Superfund Site - The Twelve Mile River and Lake Hartwell, two major sources of water for the entire Upstate of South Carolina and
2.) Request assistance from the EPA to correct, monitor and address the situation permanently.

The information contained in this letter and attached report explains in scientific detail our concerns for the overall health of citizens, wildlife and the environment in our area of the United States.

History of the Twelve Mile Dam Project *(From EPA Superfund Record of Decision (ROD) R04-94/178/1994)*
Sangamo Weston, Inc., owned and operated a capacitor manufacturing plant in Pickens, South Carolina from 1995 to 1978, near the headwaters of Lake Hartwell. The plant manufactured several varieties of capacitors, including electrolytic, mica and power factor capacitors as well as potentiometers. Schlumberger Industries, Inc. is the current owner of the plant site as a result of a merger with Sangamo Weston in 1989.

The plant used several varieties of dielectric fluids. PCBs reportedly enhanced the performance and durability of the fluids. The PCBs used for this application were primarily Aroclors 1242, 1254 and 1016. Waste disposal practices from the Sangamo Plant included land-burial of off-specification capacitors and wastewater treatment sludges on the plant site at the six satellite disposal areas. PCBs were also discharged with effluent directly into Town Creek, which is a tributary of Twelve Mile Creek. Twelve Mile Creek is a major tributary flowing into Lake Hartwell. The use of PCBs was terminated by Sangamo Weston in 1977 prior to an EPA ban on PCB use in January 1978.

Historical surficial and core sediment studies of the Twelve Mile Creek watershed and Lake Hartwell were conducted by several entities including the South Carolina Department of Health and Environmental Control (DHEC), COE, EPA, RMT (for Schlumberger) and several Clemson University graduate students. These studies were initiated in 1976 by DHEC and occurred intermittently through the mid to late 1980s. PCB concentrations in surficial sediments were highest from samples collected near the plant's discharge point on Town Creek and generally decreased with increasing distance downstream from the Sangamo Weston Plant site. PCB concentration in sediment core samples was highest in samples collected from the Twelve Mile Creek arm of Lake Hartwell. PCB concentrations generally increased to maximum at a depth of 10-30 cm.

In the mid-1970s, DHEC and EPA discovered that fish from certain areas of Lake Hartwell were contaminated with PCBs at levels above the US Food and Drug Administration (FDA) safe tolerance level.

In 1987, based upon the EPA Hazard Ranking System, DHEC monitoring programs and accompanying concerns of citizens in the area, the Sangamo site was proposed for inclusion in the National Priorities List (NPL.) The Sangamo site was finalized in the NPL in February 1990. As a result, EPA issued special notice to SII in April 1990 for performance of a Remedial Investigation and Feasibility Study (RI/FS). Since SII declined to conduct the RI/FS, EPA assumed the lead-role in performing RI/FS at the Sangamo OU2 site and formally initiated the process in September 1990. The RI/FS process for OU2 was divided into two separate studies, a Sediment Investigation and Biological Investigation, which were conducted concurrently. The Sediment Investigation was conducted by Oak Ridge, TN office Bechtel Environmental under funding and direction of EPA. The Biological Investigation was conducted by the Savannah District of the US Army COE, under funding and direction provided by the EPA.

Pickens County Concerns

Initial EPA Recommendations

In studies issued in 1991, 1992 and 1993, six remedial actions were recommended by the EPA. Based on the urging of EPA experts, scientists and officials, Action 2(b) from the ROD was accepted. Included in the action was a plan to restrict aquatic life from swimming from Lake Hartwell back into the Twelve Mile River. The oversight also included the posting of signs along the Twelve Mile River giving caution as a hazardous area. Another significant step in the action was to allow nature to take care of the encapsulation of the PCBs as natural sediment, sand and dirt cover the PCBs omitted during the period of 1950 through 1980.

Improper Dam Removal /Storage of Sediment / Dredging

In 2009, Pickens County Council learned of a plan to remove two dams located along the Twelve Mile River. As part of the plan, sediment dredged would be placed into a landfill located at the Ball property for infinite containment. These actions resulted in the hiring of environmental attorneys by Pickens County to investigate the legality of authority by Schlumberger to build a landfill without the consent of the County. It was found that since the site had been deemed a Superfund site by the EPA, proper County authority was not required.

Upon thorough investigation, it was later determined that the liner within the landfill had split on several occasions due to improper construction – causing concern that future problems may release contaminants into the soil. At that time, Pickens County expressed severe discontent to the EPA, SC Department of Health and Environmental Control along with Federal and state legislators. These same investigations also rendered that no financial assurance had been secured for the construction and proper maintenance of the landfill which held this toxic threat to our citizens and environment. All other landfills created within South Carolina require financial assurance guarantees prior to construction.

Initial dredging was not completed in an appropriate manner as referenced by an outside agency charged with monitoring work being performed within the channel. Pickens County and trustees of the project called attention to the problems and corrections were made.

Financial Request

Pickens County had requested that $3 million from the lawsuit settlement of Schlumberger be placed in escrow by County Council to be used for environmental failures resulting from this project. The request was never granted.

Pickens County Testing and Results

As the result of ongoing concerns among County officials and citizens and EPA's failure to monitor work being completed in relation to dam removal and sediment dredging, Pickens County initiated an independent study of the contaminants by Piedmont, South Carolina based Environmental Engineering firm Hulsey, McCormick and Wallace (HMW). The study tested the continuing existence of PCBs in the flood plain and shores of the Twelve Mile River. The study also uncovered the enormous devastation to the environment caused by erosion and fallen trees.

Information contained in the ROD led to speculation that the flood plains contained significant concentrations of PCBs. The following is an excerpt from the ROD by John H. Hankinson, Jr. – Regional Administrator – 1994:
...this remedy will result in hazardous substances remaining onsite above health-based level, a review will be conducted no less often than every five years after commencement of remedial action to ensure that the remedy continues to provide adequate protection of human health and the environment.

The study did not set to intentionally seek out an area which may or may not contain a high concentration of PCBs. The samples were taken from an area considered to be a high access point which runs directly through the community of Cateechee with a populous of over 200 people. This location was also selected because Pickens County owns and operates a sewer facility within this area.

Detailed results of the study are located in the attached report from HMW. The study emphasizes the "imminent risk" related to high concentration of PCBs contained in the sediment along the flood plain. Since the sampling occurred during April 2011, areas that were tested are no longer visible due to erosion. The samples taken contained an average of 24 times the healthy level of PCBs as determined by the EPA.

Severe environmental devastation has occurred along the riverbanks as the result of the destruction of the dams. Erosion has caused the dissolution of river banks and uprooting of trees which have fallen into the riverbed – impeding the flow of the river.

EPA Failures

It has become abundantly clear that recommendations issued by the EPA in the ROD have not been addressed by the agency. The removal of the dams and the dredging process are contrary to the specific recommendations of Item 2B.

Restoration alternatives contained in the ROD are to build a weir to prevent the contaminated sediment and fish from entering Lake Hartwell, and to cover the floodplain with an 18 inch cap. The current remedy exposes the PCBs to the fish, humans and biota. It has made the problem worse.

Improper monitoring by the EPA has resulted in severe damage to the water supply flowing through the Twelve Mile River into Lake Hartwell. The failure of EPA to be more vocal during litigation prior to the dam removal process has resulted in the serious erosion of shoreline and the inflammation of soil contaminated by PCBs over 60 years ago. These failures have resulted in the exposure of citizens to carcinogens which cause cancer.

Request of the EPA

Due to the severity of the problems addressed in the attached report, action must be taken quickly. Pickens County is requesting that the EPA:

1. Permanently monitor the Twelve Mile River site and Lake Hartwell for levels of PCB contaminants
2. Take extended action to rid the site of PCBs to ensure the safety and well being of citizens of Pickens County.

We appreciate your consideration of our request and eagerly await your response. Based on research into your scientific background, we are sure you can understand the priority of our concerns. EPA's assistance in this matter matches your desire to clean up communities, protect America's waters and working for environmental justice.

Respectfully,

Jennifer H. Willis
Chairman – Pickens County Council

Correspondence Management System
Control Number: AX-11-001-0386
Printing Date: June 28, 2011 03:51:07

Citizen Information

Citizen/Originator: **Whitus, E. F.**
Organization: City of Mineola
Address: 300 Greenville Highway, Mineola, TX 75773

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0386	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 22, 2011	**Received Date:**	Jun 28, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	N/A	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: I represent the City of Minelo, Texas and write to express my concern about new environmental proposals that will affect the price of electricity.
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	R6	Jun 28, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to R6	Jun 28, 2011
(b) (6) Personal Privacy	OEX	Control Taken Over	Jun 28, 2011

City Hall
300 Greenville Hwy.
Mineola, TX 75773

Office: (903) 569-6183
Fax: (903) 569-6551

E.F. Whitus
Mayor

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave. N.W.
Washington, DC 20460

June 22, 2011

Re: Docket No. EPA-HQ-OAR-2011-0044

Dear Administrator Jackson,

I represent the City of Mineola, Texas and write to express my concern about new environmental proposals that will affect the price of electricity.

My citizens understand the need to improve the quality of our air and to protect our environment, but we also are concerned about the cost of new regulations. We have been advised by our electric utility that the hazardous air pollutants rule and other proposed rules could result in double-digit price increases. We also are told that these price increases could be deferred or mitigated if the EPA adopts more flexible regulations.

As a community trying to grow jobs and business investment, energy costs are a significant consideration. A 10-to-20-percent increase in our price of electricity can cost some of our existing businesses thousands of dollars and can mean the difference between profit and loss, adding jobs or letting people go. The purpose of environmental regulation should not be to hold back our economy or our ability to make a living. The most effective way to protect our environment is to ensure that our economy prospers so that the resources will be available to make improvements.

Please work with the nation's electric utilities to enact environmental regulations that will allow them to operate as efficiently as possible. Businesses need certainty to plan effectively. Please establish and publicize the conditions under which you will grant the one-year compliance extension so that utilities will know how much time they have to comply.

We all want a cleaner environment, but we need common sense regulation to keep our economy going. Overly stringent, inflexible regulations will harm our communities, our businesses, and our nation.

Thank you for the opportunity to comment.

Sincerely,

E. F. Whitus
Mayor
City of Mineola

Correspondence Management System
Control Number: AX-11-001-0396
Printing Date: June 29, 2011 03:27:50

Citizen Information

Citizen/Originator: **Heltzel, Paul E.**
Organization: Trumbull County Board of Commissioners
Address: 160 High Street NW, Washington, DC 44481-1093

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0396	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 23, 2011	**Received Date:**	Jun 28, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	N/A	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: Daily Reading File-The EPA is currently reviewing a proposal to lower the National Ambient Air Quality Standard for ozone (O3). Lowering the stanard at this point is premature and would undermine economic growth and job creation at the worst possible time.
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy
R5 - Region 5 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OAR	Jun 29, 2011
Martha Faulkner	OAR	OAR-OAQPS	Jun 29, 2011
Sherry Russell	OAR-OAQPS	OAR-OAQPS-HEID	Jun 29, 2011

History

DAILY READING FILE

TRUMBULL COUNTY COMMISSIONERS

160 High Street, NW
Warren, Ohio 44481-1093
330-675-2451 • Fax 330-675-2462

Commissioners
Frank S. Fuda
Paul E. Heltzel
Daniel E. Polivka

Clerk
Paulette A. Godfrey

June 23, 2011

Lisa Jackson, Administrator
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Administrator Jackson:

The Environmental Protection Agency (EPA) is currently reviewing a proposal to lower the National Ambient Air Quality Standard for ozone (O_3). Lowering the standard at this point is premature and would undermine economic growth and job creation at the worst possible time.

The current 8-hour ozone standard, which requires communities to maintain 8-hour ambient ozone levels below 0.075, was established by the EPA in 2008. Given that the Clean Air Act requires ozone standards to be re-evaluated every five years, it is unclear why the EPA is introducing new standards just three years after strict new rules were put in place.

Abandoning the existing standard so quickly would create a great deal of uncertainty and force communities to revisit their air quality plans before those plans have been fully implemented. This is especially disconcerting to those of us in the Warren-Youngstown region, which includes Trumbull County. If the EPA lowers the standard again, our community will again be pushed into non-attainment status, resulting in significant disruption and additional costs that will undermine our efforts to promote economic development and job creation.

The five year window was established for a reason—to ensure that the EPA has sufficient time to update their review process to conduct systematic, scientific studies to determine what standard is environmentally justified and technologically and economically feasible to attain. As it stands, fully 90% of counties in the United States would fail to meet the most restrictive standard now being considered by the EPA. Lowering the standard would stretch the agency's resources beyond their limit, and prevent the EPA from focusing on areas where ozone reductions can be achieved more cost-effectively.

Finally, I am also very concerned that the EPA's proposed regulations would have a devastating impact on our economy. It has been estimated that the proposed regulations will cost our economy more than $1 trillion over ten years. In Ohio alone, more than 300,000 jobs could be lost. In these tough economic times, that is an unacceptably high price for our country to pay. It is important to keep in mind that imposing new regulations that will destroy jobs will not help the environment in the long run. A strong economy that is creating jobs and generating revenue is the best means of ensuring that we have the resources and will to address pressing environmental problems.

The best course of action for the economy and the environment is for the EPA to delay its review of ozone regulations until the 2013 review required by the Clean Air Act. Therefore, I ask that you work with officials in your agency to reject the proposed rule changes and return to the originally scheduled timetable for a five-year review, as required by federal law.

Sincerely,

Paul E. Heltzel, Commissioner
Trumbull County Board of Commissioners

PEH/dal

SOURCES:

US Chamber, Consequences of Non-Attainment:
http://www.uschamber.com/issues/environment/consequences-non-attainment

Business Roundtable, Facts about Ozone Regulations
http://businessroundtable.org/studies-and-reports/facts-about-epas-ozone-regulations/

GOP Governors: Obama Energy Policy Hurting State Economies
http://www.rga.org/homepage/gop-governors-obama-energy-policy-harming-state-economies/

Cincinnati's Air Quality Upgraded, EPA Press Release, 4/29/2010.
http://yosemite.epa.gov/opa/admpress.nsf/0/00EC75B54BF442BB85257718004E800D

Business Roundtable calls on EPA to Delay Proposed Ozone Regulations
http://www.businesswire.com/news/home/20110429005900/en/Business-Roundtable-Calls-EPA-Delay-Proposed-Ozone

Correspondence Management System
Control Number: AX-11-001-0286
Printing Date: June 29, 2011 02:44:08

Citizen Information

Citizen/Originator: **Hall, Kelly R**
Organization: Longview Chamber of Commerce
Address: 410 N. Center Street, Longview, TX 75601

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0286	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 16, 2011	**Received Date:**	Jun 29, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Docket No. EPA-HQ-OAR-2011-0044
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy
OSBP - Office of Small Business Programs
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OAR	Jun 29, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OAR	Jun 29, 2011

Real East Texas
LONGVIEW
CHAMBER OF COMMERCE

June 16, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave. N.W.
Washington, DC 20460

Re: Docket No. EPA-HQ-OAR-2011-0044

Dear Administrator Jackson,

On behalf of the Longview Chamber of Commerce I would like to express my concern about new environmental proposals that will affect the price of electricity.

My members understand the need to improve the quality of our air and to protect our environment, but we also are concerned about the cost of new regulations. We have been advised by our electric utility that the hazardous air pollutants rule and other proposed rules could result in double-digit price increases. We also are told that these price increases could be deferred or mitigated if the EPA adopts more flexible regulations.

As our community tries to grow jobs and increase business investment, energy costs are a significant consideration. A 10-to-20-percent increase in our price of electricity can cost some of our existing businesses thousands of dollars and can mean the difference between profit and loss, adding jobs or letting people go. The purpose of environmental regulation should not be to hold back our economy or our ability to make a living. The most effective way to protect our environment is to ensure that our economy prospers so that the resources will be available to make improvements.

Please work with the nation's electric utilities to enact environmental regulations that will allow them to operate as efficiently as possible. Businesses need certainty to plan effectively. Please establish and publicize the conditions under which you will grant the one-year compliance extension so that utilities will know how much time they have to comply.

We all want a cleaner environment, but we need common sense regulation to keep our economy going. Overly stringent, inflexible regulations will harm our communities, our businesses, and our nation.

Thank you for the opportunity to comment.

Sincerely,

Kelly R. Hall

Kelly R. Hall
President/CEO

410 N CENTER ST • LONGVIEW, TX 75601
MAIN: 903.237.4000 • FAX: 903.237.4049
WWW.LONGVIEWCHAMBER.COM

Correspondence Management System
Control Number: AX-11-001-0287
Printing Date: June 29, 2011 02:45:28

Citizen Information

Citizen/Originator: **Schmidt, Thomas A**
Organization: U.S. Venture
Address: 425 Better Way, Appleton, WI 54915

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0287	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 16, 2011	**Received Date:**	Jun 29, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - Reconsider proposed regulations tightening the ozone standard
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OEAEE - Office of External Affairs and Environmental Education
OSBP - Office of Small Business Programs
R5 - Region 5 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OAR	Jun 29, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OAR	Jun 29, 2011

Comments

U.S. Venture

Finding a better way™

June 16, 2011

The Honorable Lisa Jackson
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

Your agency has proposed regulations tightening the ozone standard, which would significantly expand the number of nonattainment counties in Wisconsin. I am writing to tell you that such standards place our state's manufacturers and other employers at a competitive disadvantage, and threaten business development throughout Wisconsin.

The Environmental Protection Agency (EPA) has already tightened standards twice over the past two decades. A number of areas in the state are already working on attaining the last standard set by the agency; now, the EPA wants to tighten it again, before the non-compliant areas have reached their goal.

The economic danger of new ozone standards is real. According to a September 2010 report by MAPI/Manufacturers Alliance, "Economic Implications of EPA's Proposed Ozone Standard," Wisconsin would lose almost eighty thousand jobs at a total attainment cost and reduction in state GDP of $12.6 billion.

The new ozone rules would make new companies less interested in locating to areas unable to meet the EPA standards. Rock County's business development manager James Ottenstein was quoted in the *Janesville Gazette* as saying, "Today's business environment is all about risk mitigation, both the known risks and the unknown risks. For those companies that have to be in a certain marketplace because of customers or suppliers, they're going to have to grapple with how they manage the added costs of compliance."

He went on to say, "Frankly, any firms that don't have to be here, likely won't be."

As states and firms try to pull out of the worst economic recession in fifty years, new regulatory hurdles issued by Washington continue to hamper business development. Please reconsider the actions being taken by your agency.

Sincerely,

U.S. VENTURE, INC.

Thomas A. Schmidt
Executive Chairman of the Board

cc:
White House Office of Public Engagement and Intergovernmental Affairs,
Small Business Administration Office of Advocacy
Senator Herb Kohl
Senator Ron Johnson

Correspondence Management System
Control Number: AX-11-001-0355
Printing Date: June 29, 2011 02:51:15

Citizen Information

Citizen/Originator: **Eckerly, Susan**
Organization: The National Federation of Independent Business (NFIB)
Address: 53 Century Blvd, Nashville, TN 37214

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0355	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Jul 14, 2011	**# of Extensions:**	0
Letter Date:	Jun 23, 2011	**Received Date:**	Jun 28, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	FAX (Facsimile)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File- The National Federation of Independent Business NFJB) is writing to make the Environmental Protection Agency (EPA) aware of the harmful impact on small businesses that is likely to occur if the agency fails to take into full account recent scientific studies examining the toxicological effects of hexavalent chromium in drinking water

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OCSPP - OCSPP - Immediate Office
OEAEE - Office of External Affairs and Environmental Education
OP - Office of Policy
ORD - Office of Research and Development -- Immediate Office
OSBP - Office of Small Business Programs
OW - Office of Water -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	ORD	Jun 29, 2011	Jul 14, 2011	N/A
	Instruction: N/A				

Supporting Information

Supporting Author: N/A

June 23, 2011

The Honorable Lisa P. Jackson
Administrator
United States Environmental Protection Agency
Ariel Rios Federal Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Via Facsimile

Dear Administrator Jackson:

The National Federation of Independent Business (NFIB) is writing to make the Environmental Protection Agency (EPA) aware of the harmful impact on small businesses that is likely to occur if the agency fails to take into full account recent scientific studies examining the toxicological effects of hexavalent chromium in drinking water. EPA's drinking water, effluent and soil remediation standards are likely to be overprotective and costly to small business if EPA's risk assessment of hexavalent chromium does not fully consider important studies that are soon to be completed.

NFIB is the nation's leading small business advocacy association, representing members in Washington, D.C., and all 50 state capitals. Founded in 1943 as a nonprofit, nonpartisan organization, NFIB's mission is to promote and protect the right of its members to own, operate, and grow their businesses. NFIB represents about 350,000 independent business owners who are located throughout the United States. These members could be affected by increasing water costs and municipal taxes as a result of the new remediation standards.

Specifically, NFIB urges EPA to incorporate the research findings on the mode of action and pharmacokinetic (MOA-PK) data being generated by the research program on hexavalent chromium that the American Chemistry Council (ACC) has undertaken.

Since the National Toxicology Program (NTP) published its bioassay results for hexavalent chromium demonstrating tumors in rodents at 180,000 and 60,000 parts per billion (ppb), scientists have questioned whether the biological response by rodents to this substance at the national drinking water standard level of 100 ppb (total chromium) is similar. The ACC study on hexavalent chromium is answering this question through a series of studies aimed at determining the MOA-PK mechanisms comparing the response at the NTP doses and the national drinking water standard level. EPA staff has been aware of this research for some time and has received the results of these studies as soon as the scientists report them.

On May 12, EPA convened a panel of scientific experts on hexavalent chromium to review the agency's draft risk assessment and the studies on which it is based. The peer review scientists overwhelmingly urged EPA to include the MOA-PK findings in its risk assessment on this substance. NFIB agrees with the agency's peer-review scientists and strongly urges EPA to wait a few months until all the MOA-PK research is completed and prepared for acceptance in peer-reviewed scientific journals. ACC reports this work will be completed in September of this year.

When the ACC research program began, EPA's schedule called for completion of the draft risk assessment for hexavalent chromium in the fall of 2012. If EPA had kept this schedule, it would have allowed the agency almost a year to consider the MOA-PK research results. Later, however, EPA accelerated completion of its draft risk assessment by two years even while recognizing ACC's research was proceeding.

The potentially broad impact of an incorrect risk assessment for hexavalent chromium and the costs associated, which would be borne small businesses, could be harmful. We believe the potential economic impact warrants a short timeout to ensure the MOA-PK science is considered thoroughly by your agency.

NFIB appreciates your attention to this important matter and requests your earliest reply.

Sincerely,

Susan Eckerly

Susan Eckerly
Senior Vice President
Public Policy

CC: Paul T. Anastas, Assistant Administrator for Research and Development

Correspondence Management System
Control Number: AX-11-001-0405
Printing Date: June 29, 2011 02:47:02

Citizen Information

Citizen/Originator: **Camarata, Ron**
Organization: Izaak Walton League of America
Address: 1862 Euclid Avenue, Waverly, IA 50677

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0405	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 24, 2011	**Received Date:**	Jun 29, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	LTR (Letter)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: Docket ID No. EPA-HQ-OW-2011-0409
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OEAEE - Office of External Affairs and Environmental Education
R7 - Region 7 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OW	Jun 29, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OW	Jun 29, 2011

Comments

June 24, 2011

The Honorable Lisa Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army, Civil Works
108 Army Pentagon
Washington, DC 20310

Attn: Docket ID No. EPA-HQ-OW-2011-0409

Dear Administrator Jackson and Assistant Secretary Darcy:

The undersigned hunting, angling, and conservation groups write in strong support of the proposed Clean Water Act guidance on "waters of the United States" issued by the U.S. Environmental Protection Agency (EPA) and Army Corps of Engineers. The proposed guidance is a sound, science-based clarification of Clean Water Act jurisdiction that falls well within the bounds of the existing Clean Water Act regulations and the Supreme Court's *SWANCC* and *Rapanos* decisions.

Hunting, angling, and conservation-minded organizations like ours support the proposed guidance because wetlands and streams are essential to the outdoor traditions that tens of millions of Americans enjoy. Supreme Court decisions in 2001 and 2006, and agency guidance issued in 2003 and 2008, put these vital natural resources at risk of being drained, filled, or polluted. Together, the Court decisions and agency guidance removed Clean Water Act safeguards from at least 20 million acres of wetlands, particularly prairie potholes and other seasonal wetlands. These wetlands are as essential to shared, continental waterfowl populations and duck hunters as they are to many other species of wildlife and Americans who enjoy a wide range of outdoor recreation activities. Intermittent streams, which provide critical habitat for many fish species, including trout and salmon, and contribute to the public drinking water supplies for more than 117 million Americans, are also threatened.

The proposed guidance puts science squarely at the center of analysis the Corps and EPA must perform to determine if specific waters are covered by the Clean Water Act. This proposed process rests on well-established scientific principles about the hydrological, chemical, physical, and biological connections that exist between a high percentage of waters such as wetlands and small streams, and traditionally navigable and interstate waters. Relying on this science-based process will result in more understandable, consistent, and timely decision-making, which will benefit the public, landowners, and natural resources alike.

Although we support the guidance as proposed, we also believe EPA and the Corps can strengthen protections for certain waters while fully complying with the Supreme Court decisions and the Clean Water Act. In particular, the science supports additional protections for wetlands, which may be some physical distance from traditionally navigable or interstate waters, but are demonstrably linked hydrologically and ecologically to those waters. Specifically, we urge the agencies in the final guidance to further clarify that the Clean Water Act covers geographically separate waters, including prairie pothole wetlands, where the

combined effects of such waters on downstream waters in the watershed are shown to be predictable or observable.

We are also pleased that the agencies have committed to undertaking formal rulemaking as the next step. Rulemaking is widely supported by stakeholders across the spectrum and will provide additional opportunities for public participation. Following this public comment period, we urge the agencies to promptly finalize the guidance and initiate rulemaking to strengthen and further clarify their regulations concerning the specific types of waters protected by the Clean Water Act. Our organizations support a "waters of the United States" rule that will strengthen the Clean Water Act's legal and scientific foundation and provide greater long-term certainty for landowners and protection for streams, wetlands, and other waters.

By proposing guidance for public comment, EPA and the Army Corps have taken a critical step toward restoring essential Clean Water Act protections for streams, wetlands, and other waters. Americans who hunt, fish, boat, and enjoy the outdoors understand how important these protections are for our traditions, economy, and health.

Sincerely,

Ron Camarata

Ron Camarata, President
Three Rivers Chapter
Izaak Walton League of America
Waverly, Iowa 50677

Correspondence Management System
Control Number: AX-11-001-0409
Printing Date: June 29, 2011 03:13:43

Citizen Information

Citizen/Originator: **Callaway, Casi**
Organization: Mobile Baykeeper
Address: 450-C Government Street, Mobile, AL 36602

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0409	**Alternate Number:**	N/A
Status:	Pending	**Closed Date:**	N/A
Due Date:	Jul 14, 2011	**# of Extensions:**	0
Letter Date:	Jun 27, 2011	**Received Date:**	Jun 28, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	EML (E-Mail)	**Priority Code:**	Normal
Signature:	DX-Direct Reply	**Signature Date:**	N/A

File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

Subject: Daily Reading File- On behalf of the 67 organizations listed below, we are writing to compliment you and the Gulf Coast Ecosystem Restoration Task Force for establishing the Citizens Advisory Committee (CAC).

Instructions: DX-Respond directly to this citizen's questions, statements, or concerns

Instruction Note: N/A

General Notes: N/A

CC: OEAEE - Office of External Affairs and Environmental Education
R4 - Region 4 -- Immediate Office
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b)(6) Personal Privacy	OEX	GCERTF	Jun 29, 2011

History

Action By	Office	Action	Date
(b)(6) Personal Privacy	OEX	Forward control to GCERTF	Jun 29, 2011

ACT-II • Advocates for Environmental Human Rights • Alabama Coastal Foundation • Alabama Coastal Heritage Trust • Alabama Rivers Alliance • Asian Americans for Change • Atchafalaya Basinkeeper • Bayou Grace Community Services • Bayou Interfaith Shared Community Organizing (BISCO) • Biloxi Branch NAACP • Boat People- SOS • Bogota Riverkeeper • Cahaba Riverkeeper • Cape Fear Riverkeeper • Catawba Riverkeeper Foundation, Inc. • Choctawhatchee Riverkeeper • Citizens Against Toxic Exposure, Inc. • Cook Inletkeeper, Alaska • Coos Waterkeeper • Coosa Riverkeeper, Inc • Emerald Coastkeeper, Inc.• Episcopal Community Services of Louisiana • Equity and Inclusion Campaign • Galveston Baykeeper • Grand Riverkeeper Labrador, Inc • Guardians of the Gulf • Gulf Change • Gulf Islands Conservancy, Inc. • Global Green USA • Gulf Restoration Network • Immaculate Heart CDC • James River Association • Justice & Witness Ministries, United Church of Christ • Lake Pontchartrain Basin Foundation • London Canalkeeper • Louisiana Bucket Brigade • Louisiana Environmental Action Network • Lower Mississippi Riverkeeper • Mobile Baykeeper • Moving Forward Gulf Coast, Inc. • National Wildlife Federation • Nature Iraq • Neuse Riverkeeper Foundation • North Sound Baykeeper • Ogeechee Riverkeeper • Operation HomeCare, Inc. • Oxfam America • Pointe-au-Chien Indian Tribe • Portersville Revival Group • Quad Cities WATERKEEPER • Río Mapacho Waterkeeper • San Luis Obispo Coastkeeper • Sierra Club • South Walton Community Council • St. Johns Riverkeeper • Tennessee RIVERKEEPER • Texas Environmental Justice Advocacy Services • Turkey Creek Community Initiative • Upper Chattahoochee Riverkeeper • Virginia Eastern SHOREKEEPER • Wabash Riverkeeper • Waccamaw Riverkeeper • Yadkin Riverkeeper • Zion Travelers Cooperative Center

Dear Administrator Jackson:

On behalf of the **67** organizations listed below, we are writing to compliment you and the Gulf Coast Ecosystem Restoration Task Force for establishing the Citizens Advisory Committee (CAC). We all feel strongly that citizen involvement is a key component of Gulf Coast restoration and we are pleased that you and your team see this as a top priority.

We understand it will be challenging to determine which individuals to include on the CAC. According to the Federal Register, the strongest candidates will possess: 1) background and experiences that contribute to the diversity of perspectives; 2) interpersonal, oral and written communications skills, 3) consensus building skills; and 4) the time commitment required to sustain an active role. In order to ensure a broad representation of Gulf Coast community leaders who are knowledgeable about the region's most pertinent ecosystem restoration, our coalition is also proposing that the Task Force consider and adopt some additional composition recommendations for the CAC.

A broad coalition has worked diligently for the past several weeks to create a membership slate that would enable the CAC to effectively represent the diverse issues and priority concerns of Gulf residents and provide essential scientific and other expertise. We recognize the need for each of the five Gulf States to have five representatives and we respectfully request your consideration of the following breakdown as you select candidates:

I. Commercial Fishing (Five members: One representing each state)

1. Representative of a regional commercial shrimping association (not processors);
2. Representative of a regional commercial oyster harvesting association (not processors);
3. Representative of minorities in the commercial fishing/processing enterprise;
4. Representative of small family owned commercial fishing/processing enterprise; and
5. Representative of a multi-cultural fisher owned cooperative.

II. Conservation/Environmentalist Advocates (Five members: One representing each state)

1. Representative of a nonprofit with expertise advocating for marine habitat conservation;
2. Representative of a nonprofit with expertise advocating for addressing coastal land loss or with expertise in wetlands ecology and restoration;
3. Representative of a nonprofit with expertise advocating on behalf of water quality/quantity;
4. Representative of a nonprofit with expertise advocating for land acquisition and habitat conservation; and
5. Representative of a nonprofit with expertise in climate change and coastal resiliency.

III. Socially Vulnerable/Community-based Organizations/Affected Community (Five members: One representing each state)

1. Representative of a community-based nonprofit representing an affected coastal Southeast Asian American Community;
2. Representative of a community-based nonprofit representing an affected coastal African American community;
3. Representative of a community-based nonprofit representing an affected rural coastal community;
4. Representative with expertise in environmental justice and land use; and
5. Representative with expertise in community-based workforce and economic development.

IV. Recreational Water Use/Tourism/Business (Five members: One representing each state)

1. Representative of charter boat operator association or recreational fishing;
2. Representative of coastal real estate owners;
3. Representative of coastal ecotourism operators;
4. Representative of recreational water use community, other than recreational fishing, with experience in habitat restoration; and
5. Representative of regional coastal business association.

V. At Large Members (Five members: One representing each state)

1. Tribal/Indigenous and cultural/historical/traditional communities;
2. Expert in social resiliency;
3. Scientist with expertise in marine restoration/marine biology;
4. Scientist with expertise in coastal ecology / coastal restoration; and
5. Scientist with expertise in ecosystem services valuation.

It is very likely that candidates will have knowledge, expertise and/or skill in more than one category, which may streamline the selection process. Additionally, we propose the following caveats be added to the selection criteria:

1. Exclude from membership any officer or director of a company, including but not limited to companies involved in oil and gas development or contractors involved in wetland restoration,

who have a financial interest or a regulatory conflict relative to any activities or projects upon which the CAC would provide advice.
2. Consider attorneys with knowledge in these fields to provide broader understanding of the policy or legislation behind the issues;
3. Fishing is defined as crabbers, shrimpers, trappers, oyster harvesters, fin-fishing at a minimum and there is a strong request to ensure the fishing component includes as many actual family fishers as possible as opposed to a larger contingent of processors;
4. CAC representatives should have knowledge about the importance of wetlands and the best methods to protect them.
5. Since elected officials are adequately represented elsewhere in the process, there is no reason for them to be represented on the Citizens Advisory Committee. Ensure impacted communities are well represented across all five states. In large & diverse coastal states like Florida and Texas, council members should come from areas that had the greatest ecosystem damages;
6. Ensure citizens are drawn from and connected to the community; and
7. Selected candidates should have the ability to speak for his/her specific community and state, but also have at least a general understanding and of the broader Gulf Coast issues, e.g. by being connected through networks.

The staffs, boards and members of the undersigned organizations have spent the last several weeks working together to develop these recommendations and stand ready to support and work with your appointments once they have been selected. Collectively, the community at-large supports the work of the Gulf Coast Ecosystem Restoration Task Force and looks forward to ensuring your strategic guidelines rapidly move toward implementation.

We appreciate the opportunity to present our ideas on the Task Force's effort to create a CAC and we welcome the opportunity to meet with you or Task Force members to discuss these recommendations or answer any questions. If you have any questions or need additional information, please do not hesitate to contact Casi Callaway, Executive Director and Baykeeper, Mobile Baykeeper at 251-433-4229 or callaway@mobilebaykeeper.org

Respectfully submitted on behalf of the undersigned,

The Solution to Pollution Project, Gulf Change
Cherri Foytlins

Gulf Restoration Network
Cyn Sarthou, Executive Director

Lake Pontchartrain Basin Foundation
John Lopez,

Mobile Baykeeper
Casi (kc) Callaway, Executive Director & Baykeeper

Sierra Club
Jill Mastrototaro, Gulf Coast Protection Campaign Director

Galveston Baykeeper
Charlotte Wells, Executive Director

Asian Americans for Change
Kaitlin Troung, Executive Director

For a full list of signers please visit www.gulffuture.org

Alabama Coastal Foundation
Bethany Kraft, Executive Director

Immaculate Heart CDC
Glenda Perryman

Upper Chattahoochee Riverkeeper
Sally Bethea, Executive Director and Riverkeeper

Neuse Riverkeeper Foundation
Larry Baldwin Lower Neuse Riverkeeper,

Catawba Riverkeeper Foundation, Inc.
C. David Merryman, Catawba RIVERKEEPER

Tennessee RIVERKEEPER
David Whiteside

London Canalkeeper
Theo Thomas, Canal Programmes Manager

Episcopal Community Services of Louisiana
Nell Bolton, Executive Director

Justice & Witness Ministries, United Church of Christ
The Rev. Loey Powell
Executive for Administration & Women's Justice

Coos Waterkeeper
David M. Petrie - Executive Director

James River Association
Pat Calvert, Upper James Riverkeeper

North Sound Baykeeper
Matt Krogh

Texas Environmental Justice Advocacy Services
Juan Parras, Director

Zion Travelers Cooperative Center
Rev. Tyronne Edwards, Founder/Executive Director

Asian Americans for Change
Kaitlin Truong, Chair

Bayou Grace Community Services
Rebecca Templeton, Executive Director

San Luis Obispo Coastkeeper
Gordon Hensley

Río Mapacho Waterkeeper
Ronald Catpo V.

Waccamaw Riverkeeper
Christine Ellis

Virginia Eastern SHOREKEEPER
David Burden

Cape Fear Riverkeeper
Kemp Burdette

ACT-II, Mobile/ Baldwin County Alabama
Dan Hanson

Sierra Club Mississippi
Linda St. Martin

Coosa Riverkeeper, Inc
Frank Chitwood

Operation HomeCare, Inc.
Stan Capers, President

Oxfam America
Jeffrey Buchanan, Senior Domestic Policy Advisor

Yadkin Riverkeeper
Dean Naujoks

St. Johns Riverkeeper
Neil A. Armingeon

Choctawhatchee Riverkeeper
Michael William Mullen

For a full list of signers please visit www.gulffuture.org

Pointe-au-Chien Indian Tribe
Chairman Chuckie Verdin

Portersville Revival Group
Brandi T. Purvis

Cc: John Hankinson

For a full list of signers please visit www.gulffuture.org

Correspondence Management System
Control Number: AX-11-001-0477
Printing Date: June 29, 2011 02:59:13

Citizen Information

Citizen/Originator: **Elkins, Arthur A**
Organization: U.S. Environmental Protection Agency
Address: 1200 Pennsylvania Avenue, NW, Washington, DC 20460

Constituent: N/A
Committee: N/A **Sub-Committee:** N/A

Control Information

Control Number:	AX-11-001-0477	**Alternate Number:**	N/A
Status:	For Your Information	**Closed Date:**	N/A
Due Date:	N/A	**# of Extensions:**	0
Letter Date:	Jun 29, 2011	**Received Date:**	Jun 29, 2011
Addressee:	AD-Administrator	**Addressee Org:**	EPA
Contact Type:	MEM (Memo)	**Priority Code:**	Normal
Signature:	SNR-Signature Not Required	**Signature Date:**	N/A

File Code: 401_127_a General Correspondence Files Record copy
Subject: DRF - EPA's Fiscal Year 2011 Management Challenges
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: Brigid Lowery - OSWER-CPA
Kecia Thornton - OSWER
Michelle Crews - OSWER
OAR - Office of Air and Radiation -- Immediate Office
OCIR - Office of Congressional and Intergovernmental Relations
OCSPP - OCSPP - Immediate Office
OEAEE - Office of External Affairs and Environmental Education
OEI - Office of Environmental Information - Immediate Office
OSWER - OSWER -- Immediate Office
OW - Office of Water -- Immediate Office
R3 - Region 3 - Immediate Office
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
No Record Found.					

Supporting Information

Supporting Author: N/A

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUN 29 2011

THE INSPECTOR GENERAL

MEMORANDUM

SUBJECT: EPA's Fiscal Year 2011 Management Challenges

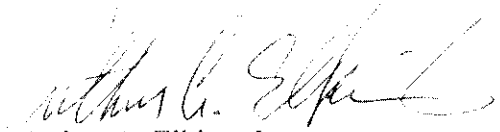
TO: Lisa P. Jackson
Administrator

We are pleased to provide you with a list of areas the Office of Inspector General considers as key management challenges confronting the U.S. Environmental Protection Agency (EPA). The passage of the GPRA (Government Performance and Results Act) Modernization Act of 2010 provides a new government-wide definition of major management challenges. According to the Act, major management challenge means programs or management functions, within or across agencies, that have greater vulnerability to waste, fraud, abuse, and mismanagement where a failure to perform well could seriously affect the ability of an agency or the federal government to achieve its mission or goals.

The Reports Consolidation Act of 2000 requires our office to report what we consider as the most serious management and performance challenges facing the Agency. Given this requirement, our list includes management challenges and significant performance issues facing EPA. We used audit, evaluation, and investigative work, as well as additional analysis of Agency operations, to identify challenges and weaknesses. Additional challenges and weaknesses may exist in areas that we have not yet reviewed, and other significant findings could result from additional work. We provided detailed summaries of each challenge in the attachment.

This year we deleted two management challenges (Water and Wastewater Infrastructure and Reducing Domestic Greenhouse Gas Emissions) because we moved relevant excerpts to the challenge on the need for greater coordination on environmental efforts.

We welcome the opportunity to discuss our list of challenges and any comments you might have.



Arthur A. Elkins, Jr.

Attachment

Need for Greater Coordination of Environmental Efforts

Congress passed the National Environmental Policy Act (NEPA) and created the U.S. Environmental Protection Agency (EPA) in 1970 to carry out national environmental policy. Before EPA's creation, more than a dozen federal agencies had environmental responsibilities, resulting in the lack of an organized, concerted focus to address pollution and degradation. Reorganization Plan No. 3 of 1970 created EPA and transferred to it programs housed in 15 units of several existing federal departments and independent agencies. Creating EPA served as the first step to address national environmental policy by consolidating separate federal efforts. Despite efforts to consolidate federal environmental programs, EPA's 2006-2011 Strategic Plan noted that 25 other federal departments and agencies conduct environmental activities.

In June 2010, we reported that NEPA does not outline a national strategy, set national priorities and goals, or unify all stakeholder efforts.[1] In addition, EPA faces challenges related to interagency coordination since EPA lacks complete authority or control over many activities that affect the condition of our nation's environment, such as land use and transportation planning. Environmental quality depends on policies related to farming, energy, water, transportation, and federal land management, but neither Congress nor the Executive Branch has fully engaged in harmonizing these issues.

Funding and budget data illustrate the degree to which other agencies have a role in protecting the environment. For example, nearly 20 percent ($147 billion) of the total funding of $787 billion under the American Recovery and Reinvestment Act of 2009 (ARRA) has gone to federal agencies other than EPA that have environmental mandates in areas such as energy usage, air quality, climate change, water quality, solid and hazardous waste, materials management, or land conservation. Budget data also identify potential areas of duplication and the need to coordinate more efficiently cross-agency efforts to achieve environmental goals. Testimony in 1995 by the Comptroller General noted that, "The lack of an integrated approach to government leads to redundancy and waste. Government can make huge efforts to provide services to the public, yet still fall far short of its intentions because of faulty coordination of its efforts within and across agency lines."

The following examples of past management challenges identified by our office and the Government Accountability Office (GAO) illustrate how EPA cannot fully address the goals of NEPA due to ineffective, segregated coordination efforts.

> **Water and Wastewater Infrastructure** According to some studies, local communities will need to spend up to $400 billion over the next 20 years to maintain and improve clean water infrastructure.[2] EPA's Clean Water and Drinking Water State Revolving Funds received about $1.4 billion in federal capitalization grants in FY 2009.[3] Congress added $6 billion to these funds through the ARRA. The U.S. Departments of Housing

[1] EPA OIG, *National Environmental Policy and Quadrennial Review Needed*, Report No. 10-P-0140, June 8, 2010.
[2] Clean Water Funding Network Website, http://cleanwaterfunding.org/index.php?option=com_content&view=article&id=51&Itemid=58.
[3] U.S. EPA, *Drinking Water State Revolving Fund Allotments;* U.S. EPA, *Clean Water SRF Federal Capitalization Grants by Federal Fiscal Year of Award by State.*

and Urban Development and Agriculture also provided grant and loan assistance for water and wastewater infrastructure of about $2 billion in FY 2006[4] and received funding through the ARRA. These programs are small in relation to the funding gap and are not part of a comprehensive investment strategy to address water infrastructure needs. The federal government does not have a national approach to bridging the water and wastewater infrastructure gap. Since EPA is primarily responsible for administering the Clean Water Act and Safe Drinking Water Act, it should take the lead in organizing a coherent federal strategy within the limits of its statutory authorities and responsibilities. A comprehensive approach to bridging the water and wastewater infrastructure gap would systematically assess the investment requirements, alert the public and Congress of unfunded liabilities and risks, and work with other federal agencies, States and local governments to organize resources to meet needs.

Greenhouse Gases (GHGs) - In October 2009, the GAO recommended developing a national strategy for climate change.[5] In October 2010, the White House interagency task force on climate change adaptation issued a final report that noted "significant gaps in the U.S. government's approach to climate change adaptation and building resilience."[6] Among the gaps the report noted were a unified strategic vision and approach; coordinated efforts across state, local, and federal lines; and coherent research programs to assess regional effects. In January 2011, EPA initiated the Cross-EPA Climate Change Adaptation Planning Work Group to develop and implement a climate change adaptation plan for EPA.[7] EPA relies on multiagency research organizations[8] for the information and tools to help address GHGs,[9] and to accelerate the development of new and advanced GHG reduction technologies.[10] Consequently, EPA has limited control over the content, conduct, and timing of this research. The FY 2012 President's Budget shows that EPA is one of 13 departments and agencies that contribute research to the U.S. Global Change Research Program[11] to improve understanding of the science of climate change and its

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[4] U.S. Department of Agriculture, Rural Development, Water and Environmental Programs, *Annual Activity Report – FY 2006*, page 6.

[5] GAO, *Climate Change Adaptation: Strategic Federal Planning Could Help Government Officials Make More Informed Decisions*, GAO-10-113, October 2009.

[6] White House Council on Environmental Quality, *Progress Report of the Interagency Climate Change Adaptation Task Force: Recommended Actions in Support of a National Climate Change Adaptation Strategy*, October 5, 2010.

[7] EPA, Memorandum from Louise Wise, EPA Acting Associate Administrator for Policy, *Establishment of Cross-EPA Climate Change Adaptation Planning Work Group & Call for Work Group Member Nominations*, January 13, 2011.

[8] EPA relies on the U.S. Global Change Research Program and the Climate Change Technology Program to understand better the effects and risks of climate change and to develop new technologies to reduce GHG emissions. EPA information on climate change regulatory initiatives, policies, and actions, including EPA's *Performance and Accountability Report for Fiscal Year 2009*, November 16, 2009.

[9] EPA OIG, *EPA Needs a Comprehensive Research Plan and Policies to Fulfill its Emerging Climate Change Role*, Report No. 09-P-0089, February 2, 2009; Pielke, Roger A., Jr., "Scientific Information and Global Change Policymaking," *Climate Change* 28: 315-19, 1994.

[10] C-Span video archives, EPA Administrator's Address to the National Press Club on the Agency's Key Priorities, March 8, 2010, at 00:24:04 and 00:25:48.

[11] U.S. Global Change Research Program website, *Participating Departments and Agencies* http://globalchange.gov/agencies.

potential impacts.[12] EPA recognizes that it needs creativity and innovation, among other things, from all stakeholders to meet GHG challenges,[13] and that is beyond EPA's direct control.[14]

Water Ecosystems – Chesapeake Bay - EPA participates in interagency efforts to solve complex environmental challenges in large coastal freshwater and marine ecosystems.[15] A joint 2006 report by our office and the U.S. Department of Agriculture OIG on the Chesapeake Bay noted that while local farming associations support clean-up efforts, they oppose granting EPA authority to control nonpoint source pollution entering the watershed. This creates an opportunity for the U.S. Department of Agriculture to assist EPA in working with local farming communities surrounding the Bay.

US Mexico Border Water Program - In March 2011, GAO issued its first annual report to Congress identifying federal programs, agencies, offices, and initiatives, within departments or government-wide, that have similar or overlapping goals or activities.[16] The report described how fragmented federal efforts to meet water needs in the U.S.-Mexico border region have resulted in an administrative burden, redundant activities, and an overall inefficient use of resources. GAO found that seven federal agencies, including EPA, that are active in the border region obligated at least $1.4 billion from FYs 2000 through 2008 to fund numerous projects in the region, but their efforts are ineffective because they have not comprehensively assessed the needs of the region. GAO suggested that Congress require federal agencies develop a task force in partnership with state and local officials to leverage collective resources and establish compatible and coordinated polices across relevant agencies.

These complex environmental issues show how EPA needs to continually work to improve external coordination with federal agencies and others with which it shares environmental protection responsibilities. However, as noted in the *Environmental Law Reporter*, "Interagency coordination concerning the environment is uneven at best."[17] The implementation of a national environmental policy could reduce or eliminate federal agencies' duplication, overlap, or fragmentation, and help agencies more efficiently and effectively address environmental problems, while providing the federal government with cost-saving opportunities. Our research

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[12] U.S. Global Change Research Program website, "About/Program Overview" http://globalchange.gov/about/overview.

[13] C-Span2 video archives, Administrator's address to the National Press Club on the Agency's key priorities, March 8, 2010, at 00:24:04 and 00:25:48.

[14] DOE, U.S. Climate Change Technology Program, *Vision and Framework for Strategy and Planning,* Report No. DOE/PI-0005, September 2006.

[15] We evaluated EPA's attempts to resolve the environmental challenges in these water bodies in several reports, including: *EPA Needs to Accelerate Adoption of Numeric Nutrient Water Quality Standards*, Report No. 09-P-0223, August 26, 2009; *EPA Needs a Cohesive Plan to Clean Up the Great Lakes Areas of Concern*, Report No. 09-P-0231, September 14, 2009; and several reports on the Chesapeake Bay that can be found at http://www.epa.gov/oig/reports/chesapeake.htm.

[16] GAO, *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue,* GAO-11-318SP, March 2011.

[17] Environmental Law Reporter News & Analysis, Special Issue: Agenda for a Sustainable America, National Governance: Still Stumbling Toward Sustainability, 39 Envtl. L. Rep. News & Analysis 10321 (April 2009).

has found a push for developing national strategies related to various environmental aspects, including invasive species, sustainable development, and environmental justice.

Given the absence of a national environmental policy, there are a number of near-term corrective actions that EPA could take to coalesce various environmental stakeholder efforts. The EPA Administrator could send a letter to stakeholder groups asking for their insight on areas a national environmental policy should address. Next, EPA could form study groups to address key concepts, topics, and/or missions relevant to a national environmental policy. The EPA Administrator could send a letter to stakeholder organizations encouraging participation in the interagency groups. EPA's study groups could then meet regularly and develop position papers on their respective topics. Position papers could identify shared goals, overlapping/duplicative programs, strategies to attain goals, and measures to assess progress. Currently, EPA has ad hoc interagency workgroups – such as that between EPA and the U.S. Departments of Transportation and Housing and Urban Development to create a framework to foster sustainable communities – but EPA lacks an overall coordinated strategy and goals that integrate these efforts with other stakeholder activities. Moreover, Congress should provide EPA and other federal agencies the capacity to identify and manage environmental problems of national significance. EPA should work with Congress and the Administration to examine ways to leverage resources expended to various, insular environmental protection efforts.

Oversight of Delegations to States

EPA's oversight of state programs is a key management challenge. GAO and our office have reported that EPA has made some progress in this area; however, the effectiveness of Agency oversight has a number of limitations.

To accomplish its mission to protect human health and the environment, EPA develops regulations and establishes programs that implement environmental laws. Many of the federal statutes establish federal and state regulatory programs in which states are given the opportunity to enact and enforce such laws, meeting minimum federal criteria, to achieve the regulatory objectives which Congress has established. As such, EPA may authorize state, local, or tribal governments to implement these laws when they request authorization and EPA deems the agency capable of operating the program consistent with federal standards. EPA relies heavily on authorized state, and tribal agencies to obtain performance data and to implement compliance and enforcement programs. In its FY 2007 Performance and Accountability Report, EPA stated that it delegated the responsibility for issuing permits and for monitoring and enforcing compliance to the states and tribes.

EPA does not abrogate its oversight responsibility when it has delegated enforcement responsibility. Federal intent is to ensure national minimum level environmental protection standards. In addition, federal requirements establish consistency for businesses and within industries nationwide. States' discretion adds flexibility to address specific circumstances and local issues, but joint implementation and enforcement leads to special challenges in interpretations, strategies, and priorities. Therefore, EPA performs oversight of state, local, and tribal programs to provide reasonable assurance that they achieve national goals.

Improving EPA-state relationships is a priority for EPA,[18] and EPA has begun to improve its oversight by implementing the State Review Framework.[19] However, GAO reported that while EPA has made substantial progress in improving priority setting and enforcement planning with states, its oversight needed further enhancement. The framework is intended to provide a consistent approach for overseeing programs and identifying weaknesses and areas for improvement, but EPA has not implemented it in a consistent manner. For example, evaluations of the State Review Framework show that EPA has limited ability to determine whether states are performing appropriate enforcement in a timely manner, and whether penalties are applied to environmental violators in a fair and consistent manner within and among states. In response to these findings, EPA made changes to the State Review Framework and initiated a Clean Water Act Enforcement Action Plan, which among other things is aimed at strengthening Agency oversight of state water quality compliance and enforcement.

We have continued our work on this topic over the past year, and our recent reports demonstrate that this challenge persists. Two key factors limiting EPA's knowledge about state programs are (1) data limitations and (2) inadequate oversight of state activities.

- *Data Limitations*—Limitations in the availability, quality, and robustness of program implementation and effectiveness data, and limited Agency resources to independently obtain such data, prevent EPA from ensuring that the intent of the law is met. Our work this year found issues with two federal data systems: the Safe Drinking Water Information System and the Resource Conservation and Recovery Act (RCRA) Information System (RCRAInfo).

  - We found that EPA could not accurately assess the risk of public water systems delivering contaminated drinking water from emergency facilities because of limitations in Safe Drinking Water Information System data management. EPA and state officials we interviewed said they were unaware of instances similar to the situation we reported on in Illinois. However, they also stated that they currently have no way to know whether an emergency facility had been turned on without notice. There is no federal regulatory requirement for EPA or states to oversee or monitor emergency facilities. As a result, neither EPA nor the states know the amount of risk that public water system customers may face from misuse of water from emergency facilities.[20]

  - We also found that the RCRAInfo data that track hazardous waste handlers and the shipment and receipt of hazardous waste contain errors and miss source documentation. These conditions call into question the quality and

[18] EPA, Administrator Lisa Jackson's Seven Priorities for EPA's Future, http://blog.epa.gov/administrator/2010/01/12/seven-priorities-for-epas-future/.
[19] EPA, State Review Framework, http://www.epa.gov/oecaerth/state/srf/index.html.
[20] EPA OIG, *EPA Lacks Internal Controls to Prevent Misuse of Emergency Drinking Water Facilities*, Report No. 11-P-0001, October 12, 2010.

reliability of data within the RCRAInfo system, as well as any resulting reporting.[21]

- *Inadequate Oversight*—Oversight of state activities requires that EPA establish national baselines that state programs must meet, and monitor state programs to determine whether they meet federal standards. Our work identified the absence of national baselines and a lack of robust state oversight with respect to the Clean Water Act, Superfund program, and RCRA.

  - EPA's authorizing memoranda of agreement with states are critical common denominators for state-authorized programs and should represent a common, national baseline. We found that EPA and states have outdated and inconsistent state agreements under the National Pollutant Discharge Elimination System. EPA headquarters does not hold EPA regional or state offices accountable for updating their memoranda of agreement when necessary. Instead, EPA relies on an inconsistent variety of other planning and management mechanisms to exercise control over state programs. Without current, written agreements with all authorized states, EPA cannot ensure Agency management control and effective oversight over this state-administered national program.[22]

  - Long-term monitoring of the ground water is necessary to ensure that the Superfund remedial action remains protective of human health and the environment. However, our work found that the State of Pennsylvania did not collect ground water samples from the Bruin Lagoon Superfund Site for 6 years, from 2001 to 2007. EPA Region 3 managers told us they made a deliberate but undocumented decision to not use oversight authority to require the state to conduct ground water sampling at the site. In June 2007, Pennsylvania resumed sampling ground water at the site. The Region's 2009 Five-Year Review, which included these results, indicated that the site was protective. Nonetheless, gaps in long-term monitoring may result in a failure to detect conditions that indicate that a cleanup remedy is not protecting human health and the environment.[23]

  - RCRA requires EPA to provide oversight of sites where cleanup authority is delegated to states. In addition, EPA's Public Involvement Policy encourages EPA staff and managers to ensure that decision-making processes are open and accessible. Our office received a Hotline complaint from Citizen Action New Mexico alleging that the New Mexico Environment Department mismanaged the Sandia National Laboratory's Mixed Waste Landfill

[21] EPA OIG, *EPA Could Improve RCRAInfo Data Quality and System Development*, Report No. 11-P-0096, February 7, 2011.
[22] EPA OIG, *EPA Should Revise Outdated or Inconsistent EPA-State Memoranda of Agreement*, Report No. 10-P-0224, September 14, 2010.
[23] EPA OIG, *EPA Should Improve Oversight of Long-term Monitoring at Bruin Lagoon Superfund Site in Pennsylvania*, Report No. 10-P-0217, September 8, 2010.

> monitoring wells. We found that Region 6's documentation of its oversight was insufficient. Therefore, we could not determine whether the allegations had merit or whether New Mexico Environment Department's actions and decisions were technically sound.[24]

While EPA has renewed its attention on the oversight of programs delegated to states, much work remains. The Agency must address limitations in the availability, quality, and robustness of program data, and limitations in implementation across environmental statutes to provide effective oversight. Effective oversight of delegations to states also requires an organizational structure capable of maintaining clear lines of accountability. Our ongoing, national review of issues related to this management challenge focuses on how EPA's organizational structure may impede its ability to oversee state Clean Air Act (CAA), Clean Water Act, and RCRA enforcement programs. If EPA does not adequately oversee states' authorized enforcement programs, it cannot hold states accountable for meeting their enforcement responsibilities. As a result, EPA would not be able to ensure Americans that states maintain a baseline level of environmental protection.

Safe Reuse of Contaminated Sites

In the last decade, EPA has increasingly emphasized the reuse of contaminated or once-contaminated properties. In its 2011–2015 Strategic Plan, EPA announced a shift in the definition of success at a Superfund site from "construction complete" of a site cleanup to when a site is "ready for anticipated use."[25] Recently, the Agency identified thousands of contaminated sites that it encourages developers and "anyone interested" to use for building renewable energy (e.g., wind, solar, biomass) facilities.[26] EPA has successfully turned some actual or perceived problem sites into properties that reinvigorated communities and created jobs.[27] Contaminated properties have become viable again as retail stores, public recreation areas, housing complexes, sports stadiums, and commercial office space.

Recycling and reusing contaminated property can produce measured economic benefits, provide environmental benefits that result from preserving undeveloped lands, and improve quality of life for communities. While EPA's recycle and reuse goals are notable and may have made a positive contribution in difficult economic times, EPA's duty is to ensure that contaminated sites are safe for humans and the environment. EPA faces significant and increasing challenges in this area due to: (1) the common practice of not removing all sources of contamination from hazardous sites; (2) a regulatory structure that places key responsibilities for monitoring and enforcing the long-term safety of contaminated sites on non-EPA parties that may lack necessary resources, information, and skill; (3) changes in risks as site conditions change over time; and (4) weaknesses in EPA's oversight of the long-term safety of sites.

Many contaminated sites, such as Superfund sites, must be monitored in the long term (i.e., 30 years or more) because known contamination is often not fully removed or remediated,

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[24] EPA OIG, *Region 6 Needs to Improve Oversight Practices*, Report No. 10-P-0100, April 14, 2010.
[25] EPA, FY 2011–2015 Strategic Plan, page 38, http://www.epa.gov/planandbudget/strategicplan.html.
[26] EPA website, "RE-Powering America's Land," http://www.epa.gov/renewableenergyland/.
[27] EPA website, "Superfund Redevelopment," http://www.epa.gov/superfund/programs/recycle/index.html.

and controls that prevent prohibited activities at sites must be maintained and enforced. New controls or monitoring may be required if previously undetected or new contaminants emerge,[28] which can be a direct result of site changes brought about by reuse. The lack of effective long-term monitoring and enforcement of reuse controls at contaminated sites can pose significant risks to human health and the environment. The New York Department of Environmental Conservation released a report in March 2009 listing hundreds of "old" Superfund, Brownfields, and other cleanup cases that were reopened to investigate potential new threats from vapor intrusion.[29] Improvements in analytic techniques and knowledge gained from site investigations has increased awareness of soil vapor as a medium of concern and of the potential for human exposure from the soil vapor intrusion pathway.[30] However, EPA has yet to finalize guidance on assessing or addressing potential risks from vapor intrusion and does not estimate that it will do so until 2012.[31]

EPA has acknowledged challenges to ensuring the long-term safety of contaminated sites.[32] In 2005, the Agency released a report that examined a range of long-term stewardship issues[33] and challenges it faced, as well as the role of non-EPA parties (e.g., states, tribes, and other federal agencies) in ensuring long-term safety of contaminated sites. EPA identified five categories of challenges: (1) understanding roles and responsibilities; (2) implementing and enforcing institutional controls;[34] (3) implementing, enforcing, and monitoring engineering controls;[35] (4) estimating long-term stewardship costs and obtaining funding and resources; and (5) managing and communicating information to prevent breaches of controls and ensuring consistent information in databases. The report made a number of recommendations that generally rely on partnerships and relationships to share, communicate, and exchange necessary information on roles, responsibilities, and costs associated with long-term stewardship responsibilities. The report encouraged non-EPA parties to adhere to legal provisions for implementing institutional controls, where applicable (e.g., Uniform Environmental Covenants Act).[36]

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[28] EPA, *Brownfields Technology Primer: Vapor Intrusion Considerations for Redevelopment*, EPA 542-R-08001, March 2008.

[29] New York State Department of Environmental Conservation, *Status of Vapor Intrusion Evaluations at Legacy Sites*, February 11, 2009; New York State Department of Environmental Conservation, *Strategy for Evaluating Soil Vapor Intrusion at Remedial Sites in New York*, DER-13, October 18, 2006.

[30] New York State Department of Environmental Conservation, *Strategy for Evaluating Soil Vapor Intrusion at Remedial Sites in New York*, DER-13, October 18, 2006.

[31] EPA OIG, *Lack of Final Guidance on Vapor Intrusion Impedes Efforts to Address Indoor Air Risks*, Report No. 10-P-0042, December 14, 2009.

[32] EPA, *Long-Term Stewardship: Ensuring Environmental Site Cleanups Remain Protective Over Time: Challenges and Opportunities Facing EPA's Cleanup Programs*, EPA 500-R-05-001, September 2005.

[33] EPA generally characterizes long-term stewardship activities as activities that ensure (1) ongoing protection of human health and the environment, (2) the integrity of remedial or corrective actions so they continue to operate properly, and (3) the ability of people to reuse sites in a safe and protective manner.

[34] Institutional controls are legal or administrative controls intended to minimize the potential for human exposure to contamination by limiting land or resource use. A local government is often the only entity that has legal authority to implement certain types of institutional controls (e.g., zoning restrictions).

[35] Engineering controls are the engineered physical barriers or structures designed to monitor and prevent or limit exposure to the contamination.

[36] The Uniform Environmental Covenants Act confirms the validity of environmental covenants (i.e., institutional controls/land use controls) by ensuring that land use restrictions, mandated environmental monitoring requirements, and a wide range of common engineering controls designed to control the potential environmental risk of residual contamination will be reflected in land records and effectively enforced over time. Currently, about