



Mississippi Senator  
Tommy Moffatt  
Chairman

Arkansas Senator  
Randy Laverty  
Vice Chairman

Lori Cameron  
Executive Director

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August 16, 2011

Administrator Lisa Perez Jackson  
U.S. Environmental Protection Agency  
Water Docket  
Mail Code: 4203M  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Attn: Docket ID No. EPA-HQ-OW-2008-0667

Dear Administrator Jackson:

The Energy Council is a legislative organization of 11 energy-producing states. As leaders in oil, natural gas, coal, uranium and renewable resource production, the Council's states contribute to the nation's security and economic stability while being conscious of the environmental impacts associated with energy production, transmission and consumption.

Given these interests, the Energy Council unanimously passed a policy statement on March 6, 2011, addressing the U.S. Environmental Protection Agency's Clean Water Act Section 316 (b) rulemaking on power plant cooling systems. In this statement, a copy of which is attached, the Energy Council urges the EPA to consider site-specific environmental and habitat conditions, including the whole host of entrainment, impingement and other wildlife protection technologies, as well as consumer cost and electric grid reliability, in issuing any power plant cooling water regulations under Section 316 (b) of the Clean Water Act.

The Council appreciates your flexibility in not favoring a one-size-fits-all federal mandate and strongly urges that this approach be applied to each element of the power plant cooling system rule.

On behalf of the Council's member legislators, thank you for your consideration of Energy Council's policy statement. We stand ready to answer any questions you may have and would be happy to respond further.

Sincerely,

Tommy Moffatt  
Mississippi Senate and  
Chairman, the Energy Council

RECEIVED

2011 AUG 18 AM 9:56

OFFICE OF THE  
EXECUTIVE SECRETARIAT

**Policy Statement of  
The Energy Council on  
U.S. EPA Regulation of Power Plant Cooling Systems**

**Background**

All thermoelectric power plants use a heat source, either a fossil fuel or uranium, to heat water to generate steam to spin turbines to produce electricity. These power plants require cooling water to condense the steam back to water to repeat the process within the generating plant, and they typically employ two types of cooling systems: One-through or open cycle cooling; or closed cycle cooling – usually cooling towers.

The electric power industry traditionally has based its choice of one cooling system or the other on a holistic environmental management philosophy that takes into account unique characteristics of the ecosystem, with site-specific assessments of potential environmental impacts and a balancing of costs and benefits. Virtually all new power plants are required to use cooling towers, but approximately 40 percent of existing power plants employ once-through cooling.

In response to litigation, the U.S. Environmental Protection Agency is preparing to issue regulations under Clean Water Act Section 316(b). EPA Administrator Lisa Jackson has stated that the rule, expected March 14, 2011 (to be finalized in July 2012) will take into account circumstances at specific plant sites. The Administrator has said that she is not in favor of a one-size-fits-all federal mandate.

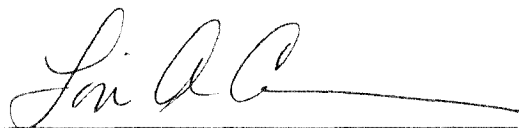
Such flexibility is important because as many as 400 coal and nuclear power plants in the U.S. may be impacted. Each plant potentially faces hundreds of millions of dollars worth of retrofits or at worse, closure.

**Recommendation**

The Energy Council urges the U.S. Environmental Protection Agency to consider site-specific environmental and habitat conditions, including the whole host of entrainment, impingement and other wildlife protection technologies, as well as consumer cost and electric grid reliability, consistent with Administrator Jackson's statements, in issuing any power plant cooling water regulations under Section 316(b) of the Clean Water Act.

**Distribution**

This policy statement, passed unanimously by the Energy Council in March 6, 2011 shall be distributed to the President of the United States of America, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives and the Energy Council's Congressional delegations.

A handwritten signature in black ink, appearing to read "Lori Cameron", with a long horizontal line extending to the right.

Lori Cameron  
Secretary/Treasurer





# Correspondence Management System

Control Number: AX-11-001-4018

Printing Date: August 18, 2011 11:28:07



## Citizen Information

Citizen/Originator: Lew, Jacob J

Organization: Executive Office of the President, Office of Management and Budget  
Address: 725 17th Street, N.W., Washington, DC 20503

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

## Control Information

Control Number: AX-11-001-4018      Alternate Number: N/A  
Status: For Your Information      Closed Date: N/A  
Due Date: N/A      # of Extensions: 0  
Letter Date: Aug 17, 2011      Received Date: Aug 18, 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: Fiscal Year 2013 Budget Guidance  
Instructions: For Your Information -- No action required  
Instruction Note: N/A  
General Notes: N/A  
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	OCFO	Aug 18, 2011

## History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OCFO	Aug 18, 2011

## Comments



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

THE DIRECTOR

August 17, 2011

M-11-30

MEMORANDUM FOR THE HEADS OF DEPARTMENTS AND AGENCIES

FROM: Jacob J. Lew  
Director

A handwritten signature in black ink, appearing to be "J. Lew", written over the printed name of the Director.

SUBJECT: Fiscal Year 2013 Budget Guidance

The President has defined our fiscal challenge as demonstrating that we can live within our means so that we can invest in job creation and economic growth now and in the long term. In April, he proposed a balanced framework for \$4 trillion in deficit reduction that would put us on path to achieve fiscal sustainability by the middle of this decade. Over the summer, in negotiations with the Congress, the President pursued deficit reduction of this magnitude. Once it was clear a bipartisan agreement could not yet be reached, the President signed into law a down payment toward this goal: the Budget Control Act of 2011. This legislation set ceilings on total discretionary spending and a target of \$2.4 trillion in total deficit reduction over the next decade.

In light of the tight limits on discretionary spending starting in 2012, your 2013 budget submission to OMB should provide options to support the President's commitment to cut waste and reorder priorities to achieve deficit reduction while investing in those areas critical to job creation and economic growth. Unless your agency has been given explicit direction otherwise by OMB, your overall agency request for 2013 should be at least 5 percent below your 2011 enacted discretionary appropriation. As discussed at the recent Cabinet meetings, your 2013 budget submission should also identify additional discretionary funding reductions that would bring your request to a level that is at least 10 percent below your 2011 enacted discretionary appropriation.

By providing budgets pegged to these two scenarios, you will provide the President with the information to make the tough choices necessary to meet the hard spending targets in place and the needs of the Nation. These 5 and 10 percent reductions from the 2011 enacted level should not be achieved by proposing across-the-board reductions or reductions to mandatory spending in appropriations bills, reclassifications of existing discretionary spending to mandatory, or enactment of new user fees to offset existing spending. The latter types of proposals may be included in your package as separate proposals on their merits or for consideration as alternatives to other cuts proposed in the main request. You may also submit priority add-backs with your request.

At the same time as your submission shows lower spending overall, you should identify programs to "double down" on because they provide the best opportunity to enhance economic growth. Finding the savings to support these investments will be difficult, but it is possible if budgets cut or eliminate low-priority and ineffective programs while consolidating duplicative ones: improve program efficiency by driving down operational and administrative costs; and support fundamental program reforms that generate the best outcomes per dollar spent.

Consistent with these guidelines, I ask that your 2013 budget and management plans address the following mechanisms for efficiency increases:

- If relevant, identify priority investments related to economic growth which the Department proposes to expand or protect, stating the strongest possible case for the positive economic impact.
- Identify and include in the budget submission cost-saving efforts that will improve operational efficiency and improve the rate of return to taxpayers, including more program integration, reorganizations within and between agency components, and realignment of resources (such as information technology, facilities, and staff) to improve service delivery to the public.
- To drive long-term productivity increases, your 2013 budget and management plans should explain how your agency will acquire, analyze, evaluate, and use data to improve policy and operational decisions, and how you will reallocate and strengthen your analytic and evaluation capacity to set outcome-focused priorities, identify the most effective and cost-effective practices and programs, and speed their adoption.
- Finally, agency submissions should take into consideration areas of duplication or overlap identified by the Government Accountability Office, as well as others.

I expect this year's budget formulation process to be a collaborative dialogue between OMB and agencies that emphasizes the best options for improving the Government's effectiveness while lowering costs. OMB will strive to offer ideas and assistance to agencies where we can, and to facilitate problem-solving on issues that cross agencies. In addition, I invite agencies to recommend ways that OMB or other Government-wide processes or requirements can be modernized and improved to help your agency meet its objectives more cost-effectively.

I know this will be a difficult year, but it will also offer an opportunity to make the hard decisions to invest where we can get the most done and pare back in other areas.



# Correspondence Management System

Control Number: AX-11-001-2902

Printing Date: August 02, 2011 11:25:31



## Citizen Information

**Citizen/Originator:** Getzschman, Scott

Organization: Fremont Department of Utilities  
Address: 400 East Military Avenue, Fremont, NE 68025-5141

**Marshall, Darril**

Organization: Fremont Department of Utilities  
Address: 400 east Military Avenue, Fremont, NE 68025-0514

**Constituent:** N/A

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

## Control Information

**Control Number:** AX-11-001-2902 **Alternate Number:** N/A  
**Status:** Pending **Closed Date:** N/A  
**Due Date:** Aug 16, 2011 **# of Extensions:** 0  
**Letter Date:** Jul 27, 2011 **Received Date:** Aug 2, 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-On behalf of the Fremont Department of Utilities, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating LI nit maximum achievable control technology rules ("EGU MACT").  
**Instructions:** DX-Respond directly to this citizen's questions, statements, or concerns  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - Office of External Affairs and Environmental Education  
OP - Office of Policy  
R7 - Region 7 -- 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	Aug 2, 2011	Aug 16, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A





DAILY READING FILE

# FREMONT

## Department of Utilities



Operated by the  
Board of Public Works

400 EAST MILITARY AVENUE • FREMONT, NE 68025-5141  
BUSINESS PHONE 402-727-2600 • FAX PHONE 402-727-2667

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

RE: Docket ID Nos. EPA-HQ-OAR-2009-0234; EPA-HQ-OAR-2011-0044

EXECUTIVE SECRETARIAT

OFFICE OF THE

2011 AUG -2 AM 5:53

REC'D

July 27, 2011

Dear Administrator Jackson:

On behalf of the Fremont Department of Utilities, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology rules ("EGU MACT"). Our community-owned, non-for-profit electric utility serves 14,900 customers. We operate a 130 MW coal power plant that will be significantly impacted by the proposed EGU MACT rules and related New Source Performance Standards (NSPS) requirements.

Our utility has major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Unfunded Mandates Reform Act (UMRA) (Chapters 17 A and 25 of Title 2 of the U.S. Code). We would also request that EPA evaluate the impact of the proposed rules under four presidential executive orders – EO 13563, Improving Regulation and Regulatory Review; EO 13132, Federalism; EO 12866, Regulatory Planning Review; and EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use.

As a not-for-profit electric utility owned and operated by local government, we have standing under all of these Executive Orders to call for reasonable and cost-effective regulations to achieve reductions in air pollution in a reasonable time frame. Our city's specific concerns are as follows:

- The proposed rules do not provide our utility enough time to comply. The short time frame for compliance risks us having to significantly raise electricity rates that could cause our customers economic hardship, particularly those negatively impacted by the current economic climate, such as the unemployed, the underemployed, and those with limited or fixed incomes.
- The proposed rule is unrealistic about the ability of utilities and state or regional energy authorities to avoid electricity reliability issues in 2014 when compliance with these rules begins. While EPA estimates that only 9 GW of coal-fired power plants will be impacted by the rules, other industry analysts and the North American Electric Reliability Corporation (NERC) estimate that at as many as 70 GW of capacity could be impacted.

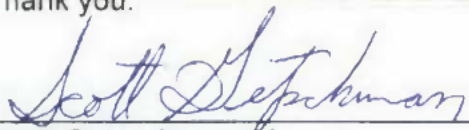
- EPA's economic and reliability analysis in the proposed rules assumes that the mercury MACT regulations are the only major capital expenditures the utility sector will be undertaking in the next four years. The analysis completely dismisses the current state of the economy and the cumulative impacts from approximately eight major EPA rules affecting air, water, and wastewater from electric utilities in the next five to eight years
- The proposed rules include many additional controls beyond those to reduce methyl mercury. These controls are not required under the Clean Air Act or the EPA's own hazardous air pollutants study. We respectfully request that EPA withdraw these rules and re-propose them to solely address methyl mercury.
- The statutorily imposed three year time frame for compliance with the rules is too short. The electric industry needs at a minimum, an additional two years to avoid reliability issues when coal fired power plants shut down for retrofit (often during shoulder seasons). We respectfully encourage EPA to grant the one year extension it is statutorily allowed to do and hope that a second year extension is granted via a presidential order.
- Smaller utilities and those that are located in rural areas will have difficulties getting vendors and contractors to respond to requests for proposals (RFPs) for a single opportunity to sell a scrubber, activated carbon technology, or baghouse when large utilities will also be seeking larger quantities of such equipment from the same vendors. They are very likely to serve larger utilities first based on economic considerations.
- The proposed rules assume that all coal types can still be used with available control technologies. This may not be the case. Such fuel switching from one coal type to another or fuel blending can be very expensive for a municipal utility.
- The proposed rules assume that the Utility sector will still be able to sell or trade coal ash to the cement and wall-board manufacturing sector once they take effect. Our utility shares the concern of many in the electric utility sector that the control technologies needed to reduce acid gases will increase the sodium content of coal ash, thus exceeding the allowable levels in the ASTM standards. Should that occur, our utility would face additional costs for coal ash management. In addition, the market for trading or selling coal ash would be negatively impacted. The agency's cost analysis did not take this into account.
- Should the proposed rules be finalized in their current form, they could have a significant impact on jobs in my community. The cost of compliance will result in increases in electric rates that could drive out businesses or result in job losses because of increased energy costs.



July 27, 2011  
Honorable Lisa P. Jackson  
U.S. Environmental Protection Agency  
Page 3

We respectfully request that EPA reevaluate the premises of the proposed EGU MACT rules. We support EPA's efforts to reduce harmful mercury emissions, but believe such efforts need to be realistic and done in a cost effective manner. Close to 50% of the U.S.'s electric generation is fired by coal. The rule as proposed will affect a significant portion of the industry and impact reliability. In addition, we also respectfully request that the agency reconsider regulating acid gases. It is not required under the Clean Air Act and its inclusion will make it much more costly and difficult to comply with under the existing compliance timelines.

Thank you.



Scott Getzschman, Mayor



Derril Marshall, General Manager

smp

cc: Senator Ben Nelson  
Senator Mike Johanns  
Congressman Jeff Fortenberry



# Correspondence Management System

Control Number: AX-11-001-2903

Printing Date: August 02, 2011 11:28:36



## Citizen Information

**Citizen/Originator:** Barr, Richard

Organization: Cit of Adel Georgia

Address: Post Office Box 1530 112 North Parrish Avenue, Adel, GA 31620

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-2903

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Aug 16, 2011

**# of Extensions:** 0

**Letter Date:** Aug 2, 2011

**Received Date:** Aug 2, 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-On behalf of the City of Add, Georgia, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules.

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - 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	Aug 2, 2011	Aug 16, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History

DAILY READING FILE  
CITY OF  
*Adel*

P. O. BOX 1530 • 112 N. PARRISH AVENUE • ADEL, GEORGIA 31620 • TELEPHONE (229) 896-4504

July 26, 2011

Hon. Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

RECORDED  
2011 AUG - 2 AM 5:53  
OFFICE OF THE  
EXECUTIVE SECRETARIAT

**Re: Docket ID Nos. EPA-HQ-OAR-2009-0234**

Dear Administrator Jackson:

On behalf of the City of Adel, Georgia, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Our community-owned, non-for-profit electric utility serves over 2500 customers. We supply electricity produced in part by coal-fired electric generating units that could be significantly impacted by the proposed EGU MACT rule – even though those coal units are already well-controlled for mercury and for criteria pollutants such as sulfur dioxide and nitrogen oxides.

We have major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Unfunded Mandates Reform Act (UMRA) (Chapters 17 A and 25 of Title 2 of the U.S. Code). We would also request that EPA evaluate the impact of the proposed rules under four presidential executive orders – EO 13563, Improving Regulation and Regulatory Review; EO 13132, Federalism; EO 12866, Regulatory Planning and Review; and EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use. As a not-for-profit electric utility owned and operated by local government, we support these Executive Orders that call for reasonable and cost-effective regulations to achieve reductions in air pollution in a reasonable time-frame.

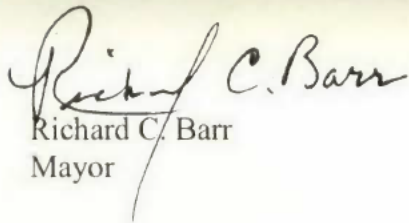
Our concerns include the following:

- The proposed rules create a risk of having to raise electricity rates, that could cause our customers economic hardship, particularly those negatively impacted by the current economic climate, such as the unemployed, the underemployed, and those with limited or fixed incomes.



- The proposed rule raises electricity reliability issues in some regions in 2014 when compliance with these rules begins. While EPA estimates that only 9 GW of coal-fired capacity may face retirement nationally because of the rules, other industry analysts and the North American Electric Reliability Corporation (NERC) estimate that at as many as 70 GW of capacity could face retirement.
- EPA's economic and reliability analysis in the proposed rules addresses only impacts from the proposed EGU MACT regulations. The analysis does not address the cumulative impacts from approximately eight major EPA rules affecting air, water, and wastewater from electric utilities in the next five to eight years.
- The proposed EGU MACT rules include many additional requirements beyond those to reduce mercury emissions. Control of other emissions under the EGU MACT rule may not be necessary or required under the Clean Air Act or based EPA's own hazardous air pollutants study. EPA should consider whether to decline to adopt the rules not related to control of mercury emissions.
- The statutorily imposed three-year time frame for compliance with the EGU MACT rules is too short. The electric industry needs at a minimum, an additional two years to avoid reliability issues that could arise when coal fired power plants must shut down for an extended period to retrofit emissions controls needed to comply with the rule. We respectfully encourage EPA to grant the one-year extension it is statutorily allowed to do and urge that a second year of extension is granted via a presidential order.
- EPA's own Regulatory Impact Analysis (RIA) appears to suggest that only 97 municipal utilities will be affected, and will face a compliance cost of only \$666.3 million annually. These costs appear to significantly underestimate the real impact and show no regional additional impacts in states such as Indiana, Ohio, Wisconsin, Michigan, Minnesota, Kentucky, Georgia, Alabama and Texas.

Thank you for your consideration.

  
Richard C. Barr  
Mayor

Cc: Hon. Sen. Saxby Chambliss  
Hon. Sen. Johnny Isakson  
Hon. Rep. Jack Kingston



# Correspondence Management System

Control Number: AX-11-001-2906

Printing Date: August 02, 2011 09:55:16



## Citizen Information

**Citizen/Originator:** Mandel, Josh

Organization: State Treasury of Ohio  
Address: 30 Broad Street, Columbus, OH 43215

**Constituent:** N/A

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

## Control Information

**Control Number:** AX-11-001-2906 **Alternate Number:** N/A  
**Status:** Pending **Closed Date:** N/A  
**Due Date:** Aug 16, 2011 **# of Extensions:** 0  
**Letter Date:** Jul 22, 2011 **Received Date:** Aug 2, 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-I am deeply concerned about reports that the National Highway Traffic Safety Administration and the Environment Protection Agency are reviewing a proposal to dramatically increase light vehicle fuel economy standards to as much as 56.2 miles per gallon by 2025.

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAAE - 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
(b) (6) Personal Privacy	OEX	OAR	Aug 2, 2011	Aug 16, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			



JOSH MANDEL

STATE TREASURER OF OHIO

July 22, 2011

RECEIVED  
2011 AUG -2 AM 5:53OFFICE OF THE  
EXECUTIVE SECRETARIAT

The Honorable Ray LaHood  
Secretary of the Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

The Honorable Lisa Jackson  
Administrator of the Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20004

Dear Secretary LaHood and Administrator Jackson,

I am deeply concerned about reports that the National Highway Traffic Safety Administration and the Environment Protection Agency are reviewing a proposal to dramatically increase light vehicle fuel economy standards to as much as 56.2 miles per gallon by 2025. The Center for Automotive Research in Ann Arbor, Mich., predicts that setting the m.p.g. standard to such a high level – above ambitious targets already set – will cost the industry about 260,000 jobs and could force vehicle prices up by nearly \$10,000.

The state's weakened manufacturing sector may not be able to sustain such a blow without long lasting adverse effects. Ohio manufacturing – deeply tied to the automotive industry – has been devastated in the past decade. Since 2001, the state's manufacturing payrolls have declined by 345,600 jobs to the current 625,500. The state, which ranks behind only Michigan and Indiana in auto employment, was hard hit by the steep auto industry downturn of the last three to four years.

The loss of high wage, high compensation auto industry jobs has added to the challenges of managing the state's fiscal needs and an \$8 billion deficit. A balanced operating budget that passed last month addresses the deficit, but I should point out that auto-related personal tax revenues nationally contribute to some \$70

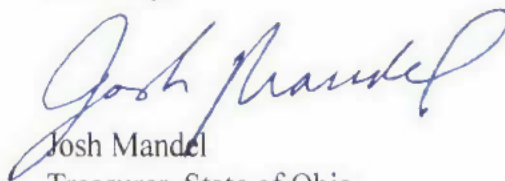


billion to government every year. Ohio simply cannot afford to lose more good paying auto jobs.

If manufacturing is the backbone of the American economy, then the automotive industry is in its heart. I know that's true of Ohio, with great names like Honda, Chrysler, Ford, General Motors, Honda, Navistar, PACCAR, Cooper Tire & Rubber, Dana, Eaton, Goodyear Tire & Rubber and many others located here.

Ohio's economic growth and fiscal soundness depends in large part on a stable manufacturing sector. I ask you to reconsider any further increase in fuel economy standards at this time.

Sincerely,

A handwritten signature in blue ink, reading "Josh Mandel". The signature is fluid and cursive, with the first name "Josh" and last name "Mandel" clearly legible.

Josh Mandel

Treasurer, State of Ohio



# Correspondence Management System

Control Number: AX-11-001-2913

Printing Date: August 02, 2011 10:33:58



## Citizen Information

**Citizen/Originator:** Doughty, Albert

Organization: Town of Benton Louisiana

Address: Post Office Box 1390, Benton, LA 71006

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-2913

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Aug 16, 2011

**# of Extensions:** 0

**Letter Date:** Aug 2, 2011

**Received Date:** Aug 2, 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-On behalf of Benton, Louisiana, our Town Council, and our citizens, I am writing to express our concerns about new environmental proposals that will affect the price of electric

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - 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	Aug 2, 2011	Aug 16, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History



**ALBERT DOUGHTY**  
**MAYOR**

**STEPHANIE SULLIVANT**  
**CLERK**

**TOWN OF BENTON**  
**LOUISIANA**

P O Box 1390 Benton, Louisiana 71006

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

July 20, 2011

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

Dear Administrator Jackson,

On behalf of Benton, Louisiana, our Town Council, and our citizens, I am writing to express our concerns about new environmental proposals that will affect the price of electricity.

We 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 utilities 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.

For the public sector, energy costs are a significant consideration. A 10-to-20-percent increase in our price of electricity will cost the city and our citizens tens, if not hundreds, of thousands of dollars and can mean the difference between economic vitality and 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 suggest that you extend the time to adopt any proposed rules until 2020 to spread the impact of these changes over a longer time frame.

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

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in blue ink, appearing to read "Albert Doughty", is written over the word "Sincerely,".

Mayor Albert Doughty

REC'D  
2011 AUG -2 AM 9:50  
OFFICE OF THE  
EXECUTIVE SECRETARY



# Correspondence Management System

Control Number: AX-11-001-2937

Printing Date: August 02, 2011 05:06:10



## Citizen Information

**Citizen/Originator:** Griffin, Christine

Organization: U.S. Office of Personnel Management  
Address: 1900 E Street, N.W., Washington, DC 20415

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-2937  
**Status:** For Your Information  
**Due Date:** N/A  
**Letter Date:** Jul 21, 2011  
**Addressee:** AD-Administrator  
**Contact Type:** LTR (Letter)  
**Signature:** N/A  
**File Code:** 401\_127\_a General Correspondence Files Record copy  
**Subject:** I'd like to share with you our plans for an exciting small business public outreach event. We're calling it "Federal Interagency Leadership and Learning Small Business Conference" to emphasize its focus on Government agencies' training and learning requirements.  
**Alternate Number:** N/A  
**Closed Date:** N/A  
**# of Extensions:** 0  
**Received Date:** Aug 2, 2011  
**Addressee Org:** EPA  
**Priority Code:** Normal  
**Signature Date:** N/A  
**Instructions:** For Your Information -- No action required  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** Noah Dubin - OEX

## 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	OSBP	Aug 2, 2011

## History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OSBP	Aug 2, 2011

## Comments





# DAILY READING FILE

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT  
Washington, DC 20415

The Deputy Director

July 21, 2011

RECORDED  
2011 AUG -2 AM 10:25  
OFFICE OF THE  
EXECUTIVE SECRETARIAT

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

Dear Ms. Jackson:

I'd like to share with you our plans for an exciting small business public outreach event. We're calling it "Federal Interagency Leadership and Learning Small Business Conference" to emphasize its focus on Government agencies' training and learning requirements.

The event will take place on Thursday, September 8, 2011, at OPM's Eastern Management Development Center (EMDC) in Shepherdstown WV, an area where many of us have training facilities. We're planning a wide range of activities to help small businesses better participate in Government contracting opportunities for training and learning requirements. It would be a great opportunity for your agency to conduct outreach and discuss the small business opportunities for learning/training contracts with all attending vendors and through matchmaking.

We are also collaborating with the Small Business Administration, the Chief Learning Officers (CLO) Council, and the Federal Office of Small and Disadvantaged Business Utilization (OSDBU) Directors Interagency Council for this event. OPM's Director John Berry and Deputy Director Christine Griffin will both attend, and we plan to invite Senator Joe Manchin (D-W.V.) and other local legislators to participate.

A copy of our draft program is attached for your reference. We'd really like you to join us in offering an event of significant value to the small business community and to the Government agencies that need good small businesses to provide effective learning and training. Please confirm your agency's participation in this event by completing the attached form and emailing it to [smallbusinessconference@opm.gov](mailto:smallbusinessconference@opm.gov) no later than 5:00 PM on Friday, July 29, 2011.

We thank you in advance for your support of this event.

  
Christine M. Griffin  
Deputy Director

## 2 Attachments

1. Federal Leadership and Learning Small Business Conference Draft Program
2. Agency confirmation form



# Correspondence Management System

Control Number: AX-11-001-2938

Printing Date: August 02, 2011 02:53:11



## Citizen Information

**Citizen/Originator:** McNulty, Frank

**Organization:** Colorado House of Representatives

**Address:** State Capitol, 200 East Colfax, Room 246, Denver, CO 80203

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-2938

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Aug 16, 2011

**# of Extensions:** 0

**Letter Date:** Jul 21, 2011

**Received Date:** Aug 2, 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-Transportation is a critical component of our economic vitality, and important enough for me to share my views as your agencies work to develop national fuel economy standards for 2017-2025

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - Office of External Affairs and Environmental Education  
OP - Office of Policy  
R8 - Region 8 -- 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	Aug 2, 2011	Aug 16, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History



# DAILY REALING FILE

State Representative  
FRANK McNULTY  
P.O. Box 630573  
Highlands Ranch, CO 80163  
Capitol: 303-866-2346  
District: 303-683-8873



SPEAKER OF THE HOUSE

Vice-Chairman:  
Executive Committee of  
Legislative Council  
Legislative Council Committee

COLORADO  
HOUSE OF REPRESENTATIVES  
STATE CAPITOL  
DENVER  
80203

OFFICE OF THE  
EXECUTIVE SECRETARIAT

2011 AUG -2 AM 10:25

REC'D

July 21, 2011

The Honorable Ray LaHood  
Secretary  
Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

The Honorable Lisa Jackson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20004

Dear Secretary LaHood and Administrator Jackson:

As Speaker of the Colorado House of Representatives, my focus is on retaining and creating jobs and bolstering the strength of our state's economy. Transportation is a critical component of our economic vitality, and important enough for me to share my views as your agencies work to develop national fuel economy standards for 2017-2025.

Safe, efficient and reliable transportation impacts each individual, family and business in my state. I encourage your agencies to adopt a single, realistic national fuel economy standard that considers America's needs for increased fuel economy while preserving the choices for families and businesses to meet their transportation needs without sacrificing affordability, safety, or jobs. NHTSA and EPA have already set strong standards for 2012-2016 that raise the fleet average by 40% to 35 miles per gallon. Looking forward, technology improvements will likely continue to support increases in fuel economy. However, it's important to recognize that overreaching and unrealistic regulations can place a significant cost burden on families and small businesses.

I encourage you to carefully consider the factors that impact sensible fuel economy standards, including consumer choice, affordability, and safety in an effort to adopt a realistic standard that does not cause families, small businesses and our nation's fragile economic recovery to suffer.

Sincerely,

  
Frank McNulty  
Colorado Speaker of the House

cc: Don Hunt, Executive Director, Colorado Department of Transportation



# Correspondence Management System

Control Number: AX-11-001-2950

Printing Date: August 02, 2011 05:21:41



## Citizen Information

**Citizen/Originator:** Goutermont, Derrick

Organization: Lake County Courthouse

Address: 601 Third Avenue, Two Harbors, MN 55616

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-2950

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Aug 16, 2011

**# of Extensions:** 0

**Letter Date:** Jul 26, 2011

**Received Date:** Aug 2, 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-On May 2, 2011, the Environmental Protection Agency and the Army Corps of Engineers (the Agencies) published a request for comments on a draft guidance related to the Clean Water Act (CWA).

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - 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
(b) (6) Personal Privacy	OEX	OW	Aug 2, 2011	Aug 16, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					
Valerie Barnes	OW	OW-OWOW	Aug 2, 2011	Aug 16, 2011	N/A
<b>Instruction:</b> N/A					

## Supporting Information

**Supporting Author:** N/A

# DAILY READING FILE



Board of Commissioners  
Lake County Courthouse  
601 Third Avenue  
Two Harbors, MN 55616

Phone: 218-834-8320 Fax: 218-834-8360

Website: [co.lake.mn.us](http://co.lake.mn.us)

First District - Thomas Clifford, M.D.  
Second District - Derrick Goutermont  
Third District - Brad Jones  
Fourth District - Paul Bergman  
Fifth District - Rich Sve

July 26, 2011

The Honorable Lisa P. Jackson  
Administrator  
US Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

The Honorable Jo-Ellen Darcy  
Assistant Secretary of the Army for Civil Works  
108 Army Pentagon  
Room 3E446  
Washington, DC 20310-0108

Dear Administrator Jackson and Assistant Secretary Darcy:

On May 2, 2011, the Environmental Protection Agency and the Army Corps of Engineers (the Agencies) published a request for comments on a draft guidance related to the Clean Water Act (CWA). This guidance was developed from Supreme Court decisions and subsequent opinions.

We have several concerns related to the proposed guidance, the Agencies' interpretations of Supreme Court Justices' opinions, and to the lack of an official rule making process.

It is unclear to which water would not be found to be "jurisdictional." The lack of clarification and definition to what are and what are not waters of the US can only lead to confusion, and in turn may cause potential project and permitting delays.

The Agencies may intend to expand the scope of this guidance, Statute § 404, into other sections, i.e. 402, 401, 311 and 303. This would create a large administrative burden on the Agencies and potentially States and Counties.

Much of this guidance uses the opinion of Justice Kennedy to the Rapanos vs. United States (Rapanos) case and greatly expands and misinterprets that opinion and the limits therein. Further, the Rapanos case gave five opinions, one plurality, two concurring and two dissenting. This is not a majority opinion.

This draft guidance would substantively change the Agencies' policy on jurisdiction over waters and the CWA, impacting States, local governments and individual citizens' rights by circumventing the congressional rule making process.

We have outlined but a few key concerns related to the draft guidance and now respectfully request that you reconsider this action.

Sincerely,

Derrick L. Goutermont  
Chair, Lake County Commissioners

Cc: Senator Amy Klobuchar  
Senator Al Franken  
Representative Chip Cravaack

Laurel D. Buchanan  
Administrative Clerk of the Board

2011 AUG - 2 PM 12:24  
EXECUTIVE SECRETARIAT  
OFFICE OF THE  
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# Correspondence Management System

Control Number: AX-11-001-2968

Printing Date: August 02, 2011 05:28:30



## Citizen Information

**Citizen/Originator:** Denham, Charlie

**Organization:** Crisp County Power Commission  
**Address:** 202 7th Street South, Cordele, GA 31010

**Constituent:** N/A

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

## Control Information

**Control Number:** AX-11-001-2968 **Alternate Number:** N/A  
**Status:** Pending **Closed Date:** N/A  
**Due Date:** Aug 16, 2011 **# of Extensions:** 0  
**Letter Date:** Jul 25, 2011 **Received Date:** Aug 2, 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-On May 2, 2011, the Environmental Protection Agency and the Army Corps of Engineers (the Agencies) published a request for comments on a draft guidance related to the Clean Water Act (CWA).  
**Instructions:** DX-Respond directly to this citizen's questions, statements, or concerns  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - Office of External Affairs and Environmental Education  
ORD - Office of Research and Development -- 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	OAR	Aug 2, 2011	Aug 16, 2011	N/A
	<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns				
Martha Faulkner	OAR	OAR-OAQPS	Aug 2, 2011	Aug 12, 2011	N/A
	<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns				
Jean Walker	OAR-OAQPS	OAR-OAQPS-SPPD	Aug 2, 2011	Aug 10, 2011	N/A
	<b>Instruction:</b> AA-OAR-OAQPS-Prepare Draft response for Steve Page's signature				
Joanne Tammaro	OAR-OAQPS-SPPD	OAR-OAQPS-SP-	Aug 2, 2011	Aug 8, 2011	N/A





CRISP COUNTY POWER COMMISSION

July 25, 2011

Hon. Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

**Re: Docket ID Nos. EPA-HQ-OAR-2009-0234**

Dear Administrator Jackson:

On behalf of the Crisp County Power Commission, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Our community-owned, not-for-profit electric utility serves 12,000 customers. We supply electricity produced in part by coal-fired electric generating units that could be significantly impacted by the proposed EGU MACT rule – even though those coal units are already well-controlled for mercury and for criteria pollutants such as sulfur dioxide and nitrogen oxides.

We have major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Unfunded Mandates Reform Act (UMRA) (Chapters 17 A and 25 of Title 2 of the U.S. Code). We would also request that EPA evaluate the impact of the proposed rules under four presidential executive orders – EO 13563, Improving Regulation and Regulatory Review; EO 13132, Federalism; EO 12866, Regulatory Planning and Review; and EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use. As a not-for-profit electric utility owned and operated by local government, we support these Executive Orders that call for reasonable and cost-effective regulations to achieve reductions in air pollution in a reasonable time-frame.

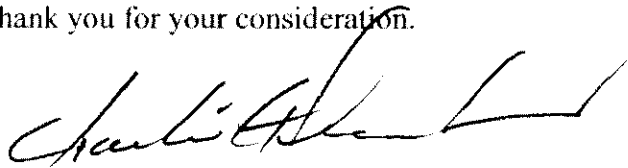
Our concerns include the following:

- The proposed rules create a risk of having to raise electricity rates, that could cause our customers economic hardship, particularly those negatively impacted by the current economic climate, such as the unemployed, the underemployed, and those with limited or fixed incomes.
- The proposed rule raises electricity reliability issues in some regions in 2014 when compliance with these rules begins. While EPA estimates that only 9 GW of coal-fired capacity may face retirement nationally because of the rules, other industry analysts and the North American Electric Reliability Corporation (NERC) estimate that at as many as 70 GW of capacity could face retirement.

RECEIVED  
2011 AUG -2 AM 11:03  
OFFICE OF THE  
EXECUTIVE DIRECTOR

- EPA's economic and reliability analysis in the proposed rules addresses only impacts from the proposed EGU MACT regulations. The analysis does not address the cumulative impacts from approximately eight major EPA rules affecting air, water, and wastewater from electric utilities in the next five to eight years.
- The proposed EGU MACT rules include many additional requirements beyond those to reduce mercury emissions. Control of other emissions under the EGU MACT rule may not be necessary or required under the Clean Air Act or based EPA's own hazardous air pollutants study. EPA should consider whether to decline to adopt the rules not related to control of mercury emissions.
- The statutorily imposed three-year time frame for compliance with the EGU MACT rules is too short. The electric industry needs at a minimum, an additional two years to avoid reliability issues that could arise when coal fired power plants must shut down for an extended period to retrofit emissions controls needed to comply with the rule. We respectfully encourage EPA to grant the one-year extension it is statutorily allowed to do and urge that a second year of extension is granted via a presidential order.
- EPA's own Regulatory Impact Analysis (RIA) appears to suggest that only 97 municipal utilities will be affected, and will face a compliance cost of only \$666.3 million annually. These costs appear to significantly underestimate the real impact and show no regional additional impacts in states such as Indiana, Ohio, Wisconsin, Michigan, Minnesota, Kentucky, Georgia, Alabama and Texas.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Charlie Denham", with a long horizontal flourish extending to the right.

Charlie Denham  
Commission Chairman

Cc: Representative Sanford Bishop  
Senator Saxby Chambliss  
Senator Johnny Isaacs



# Correspondence Management System

Control Number: AX-11-001-4111

Printing Date: August 22, 2011 03:53:35



## Citizen Information

**Citizen/Originator:** Hydock, Ken

**Organization:** American Lung Association

**Address:** 1031 Route 22 W, Bridgewater, NJ 08807

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4111

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Sep 5, 2011

**# of Extensions:** 0

**Letter Date:** Aug 5, 2011

**Received Date:** Aug 22, 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(1) Controlled and Major Corr. Record copy of of the offices of the EPA Administrator & other senior officials - Nonelectronic

**Subject:** Daily Reading File- We urge you to start now and protect public health by cleaning up power plants with stricter standards on toxic pollution.

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OEAE - Office of External Affairs and Environmental Education  
OP - Office of Policy  
R2 - Region 2 -- Immediate Office

## Lead Information

**Lead Author:** N/A

### Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (5) Personal Privacy	OEX	OAR	Aug 22, 2011	Sep 5, 2011	N/A
<b>Instruction:</b> 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

DAILY READING FILE

**† AMERICAN LUNG ASSOCIATION®**  
IN NEW JERSEY

**Bridgewater**  
1031 Route 22 W  
Suite 203  
Bridgewater, NJ 08807  
Phone: 908.685.8040  
Fax: 908.685.8030

**Website**  
[www.lunginfo.org](http://www.lunginfo.org)

August 5, 2011

Administrator Lisa Jackson  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave. NW  
Washington, DC 20004

EXECUTIVE SECRETARIAT

OFFICE OF THE

2011 AUG 22 PM 1:59

RECEIVED

As the New Jersey Leadership Board of the American Lung Association of the Mid-Atlantic, we are writing to urge EPA to close the two-decade old loophole that has allowed coal-fired power plants to avoid having to clean up, unlike all other industries. The cleanup of toxic air pollution from power plants is long overdue. EPA must set stricter standards on toxic pollution from power plants to improve air quality and protect public health.

Cleaning up these power plants can save 17,000 lives a year, all across the country. There are more than 400 coal-fired power plants located in 46 states across the country that release in excess of 386,000 tons of hazardous air pollutants into the atmosphere each year. It is time for them to be cleaned up.

In the 21 counties in the New Jersey area alone, comprising a region of approximately 8.7 million people, the American Lung Association estimates that the following populations\* are at special risk from the kinds of air pollutants produced by coal-fired power plants:

Infants, Children, and Youth Under 18	2,045,848
Persons Aged 65 and Above	1,173,024
Children with Asthma	186,131
Adults with Asthma	512,454
Persons with Emphysema	148,500
Persons with Chronic Bronchitis	294,000
Persons with Heart Disease	256,000
Persons with Diabetes	582,000
Persons of All Ages Living in Poverty	798,000

\* *Note: As there is overlap among categories, numbers may not be added together.*

All coal-fired power plants must be required to install modern pollution control equipment to reduce hazardous air pollution, including the toxic metals, acid gases and other pollutants, by the maximum achievable amount. Only with such measures will the health of children and other vulnerable individuals be protected. The pollution control technologies needed to meet these requirements are commercially available. Plant owners have flexibility under the law to select an appropriate combination of controls that will enable greater protection of human health and the environment.



We urge you to start now and protect public health by cleaning up power plants with stricter standards on toxic pollution. We support the strongest possible mercury and air toxics standards for power plants and urge you to make them final.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken Hydock", with a long, sweeping horizontal line extending to the right.

Ken Hydock  
Chairman



# Correspondence Management System

Control Number: AX-11-001-4121

Printing Date: August 22, 2011 04:30:53



## Citizen Information

**Citizen/Originator:** Drevna, Charles T.

**Organization:** National Petrochemical and Refiners Association (NPRA)

**Address:** 1667 K Street, N.W., Washington, DC 20006

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4121

**Alternate Number:** 7974 2293 4927

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Sep 5, 2011

**# of Extensions:** 0

**Letter Date:** Aug 17, 2011

**Received Date:** Aug 22, 2011

**Addressee:** AD-Administrator

**Addressee Org:** N/A

**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- The National NPRA requests that the EPA reconsider certain provisions of the July 25, 2011 final rule regarding the misfueling of vehicles and engines with gasoline-ethanol blends.

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OEAE - 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) (5) Personal Privacy	OEX	OAR	Aug 22, 2011	Sep 5, 2011	N/A
<b>Instruction:</b> 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

Charles T. Drevna  
President



National Petrochemical & Refiners Association

1667 K Street, NW  
Suite 700  
Washington, DC  
20006

202.457.0480 voice  
202.457.0486 fax  
www.npra.org

VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

August 17, 2011

Administrator Lisa P. Jackson  
U.S. Environmental Protection Agency  
Room 300, Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(jackson.lisa@epa.gov)

Assistant Administrator Gina McCarthy  
U.S. Environmental Protection Agency  
Office of Air and Radiation  
Ariel Rios Building, Mail Code 6101A  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(mccarthy.gina@epa.gov)

**RE: Request for Partial Reconsideration of Stay of EPA's "Misfueling Rule" 76 Fed. Reg. 44,406 (July 25, 2011)**

Dear Administrator Jackson and Assistant Administrator McCarthy:

The National Petrochemical & Refiners Association ("NPRA") requests that the Environmental Protection Agency ("EPA") reconsider certain provisions of the July 25, 2011 final rule regarding the misfueling of vehicles and engines with gasoline-ethanol blends ("Final Misfueling Rule")<sup>1</sup>. NPRA requests that EPA reconsider regulatory requirements and implementation policies affecting 10 percent gasoline-ethanol blends ("E10"), including product transfer document requirements applicable to E10, and labeling, survey and product transfer requirements that apply to gasoline-ethanol blends that will be considered to contain greater than 10 and less than 15 volume percent ethanol ("E15"). These provisions of the Final Misfueling Rule were not subject to public notice and comment in violation of

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<sup>1</sup> Regulation To Mitigate the Misfueling of Vehicles and Engines With Gasoline Containing Greater Than Ten Volume Percent Ethanol and Modifications to the Reformulated and Conventional Gasoline Program, 76 Fed. Reg. 44,406 (July 25, 2011).

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2011 AUG 22 PM 2:13  
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EXECUTIVE SECRETARY

requirements contained in the Clean Air Act (“CAA”) and the Administrative Procedure Act (“APA”).

NPRA additionally requests that EPA stay and toll the effective date and compliance obligations for new labeling, survey and product transfer requirements contained in the Final Misfueling Rule. Since EPA determined that this rule was not a “major rule” as defined in the Congressional Review Act, the requirements of the rule will become effective on August 25, 2011. EPA has authority under the CAA to stay the effectiveness of a rule for a period not to exceed three months.<sup>2</sup> Section 705 of the APA also authorizes the postponement of effective dates of a final rule pending judicial review and based on a finding that justice requires this result. EPA should use such available authorities to ensure that portions of the Final Misfueling Rule that were not subject to public notice and review not be implemented. A stay would also allow EPA the opportunity to reconsider and revise the Final Misfueling Rule. Given the impending compliance date, we ask for your prompt attention to this matter.

**I. EPA Failed to Provide Notice of Substantive Changes to Proposed Misfueling Regulations Affecting Labeling, Survey and Product Transfer Requirements.**

In the Final Misfueling Rule, EPA explained that it was exercising legal authority contained in CAA section 211(c)(1) “to establish a prohibition on the use of gasoline containing more than 10 vol% ethanol in vehicles, engines and equipment not covered by [partial waiver decisions to allow certain MY 2000 on-road vehicles].”<sup>3</sup> In other words, EPA intended that regulations prevent vehicles and engines which cannot use gasoline-ethanol blends greater than E10 from being fueled with gasoline-ethanol blends with an ethanol concentration higher than E10. EPA sought to prevent older light duty vehicles, heavy-duty vehicles, motorcycles and non-road vehicles and engines from using *new* ethanol blends that could contain more ethanol than E10 blends currently in use.

The Final Misfueling Rule, however, has a much broader effect. Due to changes to regulatory language that were not proposed or discussed in the preamble of the proposed misfueling rule<sup>4</sup>, the Final Misfueling Rule effectively lowers the acceptable level of ethanol in E10. It does this by redefining gasoline-ethanol blends that can be considered E10 for purposes of labeling, survey and product transfer documents, imposing a new requirement that such blends contain no more than *10.0 volume percent ethanol*. This new regulatory definition not only conflicts with all previous regulatory definitions and practices regarding E10 – but is unnecessary to implement partial waiver decisions allowing the use of E15 which formed the basis and rationale of the entire Final Misfueling Rule.

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<sup>2</sup> See CAA section 307(d)(7)(B).

<sup>3</sup> 76 Fed. Reg. at 44,411.

<sup>4</sup> 75 Fed. Reg. 68,044 (November 4, 2010)



On its face, the Final Misfueling Rule does not align with either of the partial waivers that EPA has promulgated to increase the allowable ethanol content of gasoline to 15%. Both the partial waiver for MY 2007 and newer light duty vehicles<sup>5</sup> and the partial waiver for MY 2001 through MY 2006 light-duty motor vehicles<sup>6</sup> explicitly reference *10 volume percent ethanol*. EPA provides in both final actions that “the waiver applies to the blending of greater than 10 vol% and no more than 15 vol% anhydrous ethanol into gasoline.”<sup>7</sup> As demonstrated below, this regulatory standard has been consistently defined and implemented to allow “rounding down” of gasoline-ethanol blends that are tested as containing slightly more ethanol than 10 percent by volume.

Previous to both partial waivers for E15 and the Final Misfueling Rule, E10 has been considered to be a fuel “consisting of 90% unleaded gasoline and 10% ethyl alcohol.”<sup>8</sup> This definition and EPA’s CAA section 211(f) waiver for E10 has been in effect for 32 years and broadly utilized in the fuel marketplace. EPA, moreover, has repeatedly indicated that the 1978 waiver for gasoline-ethanol blends was based on an upper limit of 10%.<sup>9</sup> Therefore, it was to be expected that EPA’s proposed misfueling rule retained previous regulatory definitions for E10, explicitly defining this fuel as “a gasoline-ethanol blend that contains between 9 and 10 volume percent ethanol.”<sup>10</sup>

In the proposed rule, *all* requirements related to labeling, surveys and product transfer documents referenced a volume ethanol content of 10%. In specific, EPA proposed that:

- (1) Any retailer or wholesale purchaser-consumer who sells, dispenses, or offers for sale or dispensing “gasoline-ethanol blends that contain greater than *10 volume percent ethanol*” affix a specific label to the fuel dispenser.<sup>11</sup> (Emphasis added).
- (2) Survey requirements applicable to E15 require sending notifications of test results within 24 hours after a laboratory receives a sample containing greater than *10 volume percent ethanol*.<sup>12</sup>

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<sup>5</sup> 75 Fed. Reg. 68,094 (November 4, 2010).

<sup>6</sup> 76 Fed. Reg. 4,662 (January 26, 2011).

<sup>7</sup> 75 Fed. Reg. at 68, 149 and 76 Fed. Reg. at 4,682. Both citations reference paragraph 2 of the partial and condition waiver granted for vehicles subject to the waiver.

<sup>8</sup> 68 Fed. Reg. 20,777 (April 6, 1979).

<sup>9</sup> See for example: Letter from Adam M. Kushner to Bob Greco regarding Gasoline Ethanol Blends, July 31, 2008, referring to gasoline blended with “more than 10% ethanol”.

<sup>10</sup> 75 Fed. Reg. at 68,085.

<sup>11</sup> See 40 C.F.R. 80.1501(a) 75 Fed. Reg. at 68,086.

<sup>12</sup> See 40 C.F.R. 80.1502(b)(3)(iv) 75 Fed. Reg. at 68,087.

- (3) Survey requirements applicable to E15 specifically apply to retail outlets if a sample of gasoline collected contains greater than *10 volume percent* ethanol.<sup>13</sup>
- (4) Product transfer documents contain certain statements for gasoline containing between *9 and 10 volume percent* ethanol.<sup>14</sup>
- (5) Product transfer documents contain certain statements for gasoline containing greater than *10 volume percent* and not more than *15 volume percent* ethanol.<sup>15</sup>

The Final Misfueling Rule, however, replaced “10” with “10.0” in each instance of the regulatory text cited above as well as replaced “9” with “9.0” and “15” with “15.0” in the same provisions. In each instance where EPA had proposed a whole number in the regulatory text of the misfueling rule, the Final Misfueling Rule added a decimal point and an additional digit, yielding a regulatory standard expressed to 1/10<sup>th</sup> of a volume percent. Thus, without any notice or discussion of this action, EPA changed regulatory standards and requirements in the Final Misfueling Rule that address major substantive portions of the rulemaking, *i.e.*, labeling requirements, survey requirements and product transfer documents.

This result was neither anticipated by NPRA or, to NPRA’s knowledge, by any other commenters to the proposed misfueling rule. It was therefore not only impracticable for NPRA to comment on this matter in accordance with CAA section 307(d)(7)(B), but impossible. The preamble of the proposed rule contained no discussion that EPA intended to change regulatory requirements applicable to the sale and transfer of E10 by imposing a “10.0” standard or by making similar changes to the proposed 9 and 15 volume percent values. The proposed regulatory language also contained no language or hint that EPA was considering changing part of its historic definition of E10. A search of the Response to Comments document also yields no discussion on this matter.

Instead, the *only* rationale that is offered for the labeling, survey and product transfer requirements are that these requirements are necessary in order to avert misfueling that could occur under EPA’s decision to grant partial waivers for the sale and transfer of E15<sup>16</sup> The

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<sup>13</sup> See 40 C.F.R. 80.1502(b)(4)(iv)(B) *Id.*

<sup>14</sup> See 40 C.F.R. 80.1503(b)(1)(vi)(C) 75 Fed. Reg. 68,089.

<sup>15</sup> See 40 C.F.R. 80.1503(b)(1)(vi)(D) *Id.*

<sup>16</sup> The Final Misfueling Rule notes that “[t]hese regulations are being issued in conjunction with EPA’s two recent decisions to grant partial waivers for E15 under section 211(f)(4) of the Clean Air Act . . . The E15 partial waivers impose a number of conditions designed to help ensure that E15 is introduced into commerce for use only in MY 2001 and new light-duty motor vehicles and in flexible-fueled vehicles . . . [s]ome of the regulatory provisions in this action parallel those waiver conditions and are expected to be a more efficient way to minimize in-use emission increases that might result from misfueling with E15.” 76 Fed. Reg. at 44, 407.

technical basis for the final rule reiterates concerns regarding the potential for catalyst deterioration in older vehicles and equipment, elevated exhaust and evaporative emissions and engine failure from overheating.<sup>17</sup> But all these matters and concerns relate to using a gasoline-ethanol blend other than the blend currently used – E10. EPA’s analysis of both partial waivers was with respect to 10% volume ethanol, not 10.0% volume ethanol. Thus, not only did EPA fail to provide any notice for changing the regulatory definition of E10, but the agency also did not provide any rationale, technical support or data that would support changing the standard from 10% to 10.0%.

## **II. The Final Misfueling Rule Changes Previous EPA Regulatory Implementation and Guidance Without Required Rulemaking**

Ethanol can be splash-blended into gasoline feedstock. While due care is taken in this practice and in the transport, handling and storage of E10, the actual ethanol content of E10 can slightly vary. EPA has recognized that ethanol-gasoline blends are subject to small variances and has explicitly allowed such variances to occur.

EPA has made clear that the 10 percent parameter in E10 is subject to “rounding down.” As indicated in 2006, “Each of EPA’s motor vehicle fuel standards indicates the number of significant digits which should be present in an observed measurement number to be compared to the standard for the purpose of demonstrating compliance. The appropriate number of significant digits to determine compliance with a fuel standard regulation or to report on a reporting form should be determined from the method outlined in section 3.1 of the ASTM standard practice E 29-02 . . . a test method used to measure certain fuel parameter may provide more significant digits in its output than specific in the standard. When this situation occurs, the regulated party should round their test result to determine if they are in compliance with the standard.”<sup>18</sup> EPA has also made clear that “[r]eferencing the [ASTM] rounding method . . . provides consistent guidance for the regulated community when determining whether a test result is in conformance with our motor vehicle standards.”<sup>19</sup>

ASTM methods<sup>20</sup> provide that where specification limits indicate a particular value, the limits “are taken to imply that, for purpose of determining conformance with specifications, an observed value or a calculated value should be rounded to the nearest [value that conforms

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<sup>17</sup> See Section IV.F of the Final Misfueling Rule. 76 Fed. Reg. at 44,439.

<sup>18</sup> 71 Fed. Reg. 16,492, 16,496 (April 3, 2006).

<sup>19</sup> 71 Fed. Reg. at 16,497.

<sup>20</sup> *Standard Practice for Using Significant Digits in Test Data to Determine Conformance with Specifications*, ASTM International, Designation E29-06b, 07/24/2007.



to the limit].”<sup>21</sup> ASTM further indicates that rounding procedure is to “round down” all values of 4 or below where this value is the “beyond the last place to be retained.”<sup>22</sup> Thus, under ASTM methods, E10 volume percentage measurements at least 10.4 and below should be considered to constitute E10.

Without notice either as to the agency’s intent to take this specific action – or to amend existing regulations, guidance and determinations respecting E10<sup>23</sup> – EPA has redefined E10 in the Final Misfueling Rule and applied various regulatory requirements on the basis of this redefinition. The net result of this action is to change a regulatory definition and agency interpretation that allowed gasoline-ethanol blends of 10.4 and below to constitute E10 to a regulatory definition and agency interpretation that E10 can contain no more than 10.0 volume percent ethanol.

While measures of 1/10<sup>th</sup> of 1 percent may appear nominally small, the effect of the Final Misfueling Rule is to substantially change current practices regarding the sale, transfer and marketing of E10 throughout the United States. With no allowance for “rounding down,” EPA has tightened requirements for E10 which will effectively ensure that *less ethanol* is used in this fuel. As the agency well knows, those subject to regulatory requirements will often impose a margin of safety to ensure that their products meet EPA specifications. Therefore a 10.0 standard has the potential to significantly reduce the amount of ethanol used to produce E10. In order to meet a 10.0 standard, it is likely that ethanol blenders and others in the supply chain will use a gasoline-ethanol level that is significantly below 10.0. Such a result would appear contrary to EPA’s efforts to implement an E15 standard that is designed to result in the use of more ethanol in the United States.

An unintended consequence is that a gasoline blend with 10.3 vol% ethanol qualifies for the one psi RVP waiver and is deemed by the Agency to be E15. EPA did not intend for any E15 to qualify for the one psi RVP waiver if the area is subject to a maximum 9.0 psi RVP standard during the summer months.

EPA should also consider the very real ramifications of making such a substantial change in the fuel distribution system within 30 days of final rule publication in the Federal Register. As noted above, NPRA could uncover no comments in the docket which referenced this issue. Yet the regulated community now has a matter of days to comply with the final rule. Such a situation is demanding both of the Agency’s immediate attention and action to stay the final rule provisions that produce this result.

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<sup>21</sup> *Id.* at 4.1.3 Rounding Methods.

<sup>22</sup> *Id.* at 6.4.1.

<sup>23</sup> As noted earlier, the 1978 “Gasohol” waiver and both partial waivers for E15 reference E10 as previously defined and express the standard in terms of 10% not 10.0%.





Page 7

### **III. Conclusion**

EPA should take prompt action on this petition and stay the effective date of all portions of the Final Misfueling Rule that utilize the new standard of 10.0 ethanol volume percentage. Since these provisions take effect on August 24, time is of the essence. NPRA stands ready to work with EPA to resolve this matter in an expeditious fashion.

If you have any questions, please contact Tim Hogan at 202-552-8462.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Drevna", is positioned above the printed name of the signatory.

Charles T. Drevna  
President, NPRA

cc     Margo Oge  
       Chet France  
       Paul Argyropoulos  
       Jeff Kodish  
       Paul Machiele  
       Karl Simon  
       Tim Hogan



# Correspondence Management System

Control Number: AX-11-001-4125

Printing Date: August 22, 2011 04:49:17



## Citizen Information

**Citizen/Originator:** Stippler, A. David

**Organization:** Indiana Office of Utility Consumer Counselor  
**Address:** 115 West Washington Street, Indianapolis, IN 46204

**Constituent:** N/A

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

## Control Information

**Control Number:** AX-11-001-4125 **Alternate Number:** N/A  
**Status:** Pending **Closed Date:** N/A  
**Due Date:** Sep 6, 2011 **# of Extensions:** 0  
**Letter Date:** Aug 3, 2011 **Received Date:** Aug 22, 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:** DRF - Docket No. EPA-HQ-OAR-2011-0044  
**Instructions:** DX-Respond directly to this citizen's questions, statements, or concerns  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAAE - 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
(b) (6) Personal Privacy	OEX	OAR	Aug 22, 2011	Sep 6, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History

Action By	Office	Action	Date
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DAILY READING FILE

## INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

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

August 3, 2011

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

Dear Administrator Jackson:

After careful review of the proposed Utility MACT Rule to regulate hazardous air pollutants, I respectfully request that you consider extending the compliance schedule for fossil fired generating units.

As the Indiana Utility Consumer Counselor, I am concerned about the possible short term impacts of this proposed rule on Indiana ratepayers. The need to regulate and reduce hazardous air pollutants emitted from coal fired power plants is undisputable. However, forcing an untenable timeframe creates specific concerns. The constrained compliance timeline will likely put a strain on the utilities' ability to comply with interim dates, resulting in unnecessary increases in the cost to comply. Reasonable and carefully considered rules that mitigate rapid increases in power prices, minimize rate shock to consumers, and ensure reliability will support Indiana businesses and thereby maintain jobs and promote competitiveness.

I understand that the compliance timetable is about three years. The nation's electric utilities have made a reasonable case for additional compliance time to acquire the materials and labor needed to construct and install the required equipment without creating unnecessary cost increases and an unreliable electricity supply. In addition, these projects require substantial engineering, permitting and regulatory approval, all prior to construction. This timetable is all the more problematic in a state like Indiana where construction of major projects (like scrubbers or new generating plants) requires the issuance of a Certificate of Public Convenience and Necessity (CPCN) to a utility by the Indiana Utility Regulatory Commission. This process takes time to administer. Once a CPCN is issued, Indiana ratepayers bear virtually all of the cost and risk of construction. Rushing this process exposes Indiana ratepayers to excessive risks and potentially poor decisions caused by insufficient time for sound planning and engineering.

In view of these considerations, the EPA should reconsider this timetable and provide some flexibility in the implementation of the proposed rule by extending the deadline for completion of the compliance schedule.

Sincerely,

A. David Stippler,  
Indiana Utility Consumer Counselor

RECEIVED  
2011 AUG 22 PM 2:13  
OFFICE OF THE  
EXECUTIVE SECRETARIAT



# Correspondence Management System

Control Number: AX-11-001-4127

Printing Date: August 22, 2011 04:50:00



## Citizen Information

**Citizen/Originator:** Stippler, A. David

**Organization:** Indiana Office of Utility Consumer Counselor  
**Address:** 115 West Washington Street, Indianapolis, IN 46204

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4127  
**Status:** Pending  
**Due Date:** Sep 6, 2011  
**Letter Date:** Aug 3, 2011  
**Addressee:** AD-Administrator  
**Contact Type:** LTR (Letter)  
**Signature:** DX-Direct Reply  
**File Code:** 404-141-02-01\_141\_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.  
**Alternate Number:** N/A  
**Closed Date:** N/A  
**# of Extensions:** 0  
**Received Date:** Aug 22, 2011  
**Addressee Org:** EPA  
**Priority Code:** Normal  
**Signature Date:** N/A  
**Subject:** DRF - Docket ID No. EPA-HQ-OW-2008-0667  
**Instructions:** DX-Respond directly to this citizen's questions, statements, or concerns  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - 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
(b) (6) Personal Privacy	OEX	OW	Aug 22, 2011	Sep 6, 2011	N/A
	<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns				
Wanda Fields	OW	OW-OST	Aug 22, 2011	Sep 6, 2011	N/A
	<b>Instruction:</b> N/A				
Tamar Stone	OW-OST	OW-OST-EAD	Aug 22, 2011	Sep 1, 2011	N/A
	<b>Instruction:</b> N/A				

## Supporting Information

**Supporting Author:** N/A





## INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

The Honorable Lisa Jackson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building, Mail Code: 4203M  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

August 3, 2011

2011 AUG 22 PM 2:13  
OFFICE OF THE  
EXECUTIVE SECRETARIAT

RECEIVED

Re: Docket ID No. EPA-HQ-OW-2008-0667

Dear Administrator Jackson:

On behalf of the Indiana Office of the Utility Consumer Counselor (OUCC), I am writing to comment on the EPA's proposed cooling water intake structure rule that was published in the Federal Register on April 20, 2011 at 76 FR 22,174. The proposed rule would require power plants and other industrial or manufacturing facilities to minimize adverse environmental impacts associated with the operation of cooling water intake structures, and ensure that these structures reflect best technology available for minimizing adverse environmental impact. On June 24, 2011, the Commissioner of the Indiana Department of Environmental Management (IDEM), Thomas W. Easterly, sent your office a letter addressing this issue. I have attached that letter to my correspondence for ease of reference and defer to IDEM's expertise and support its analysis in this regard.

It is not the OUCC's routine practice to become involved with EPA matters. However, as the statutory representative of utility consumers' interests within the State of Indiana, the OUCC is compelled to draw your attention to certain concerns. The current proposed rule appropriately allows state authorities to decide on what constitutes best technology available at a given site for the proposed entrainment standard. However, the proposed standard for impingement does not include the flexibility afforded to state authorities for entrainment. This inconsistency undermines the flexibility provided for in the entrainment provisions. The OUCC urges the EPA to amend the proposed rule and allow state environmental regulators to consider factors that vary from site to site, such as the costs and benefits of a specific technology. If states are allowed such discretion, compliance measures for both entrainment and impingement can be evaluated together, which could take advantage of the economies, both from an environmental, as well as a cost perspective.

If EPA does not amend the final rule to allow the flexibility to be utilized for impingement as well as entrainment, utilities in Indiana could be confronted with unnecessary operating costs that in turn will be passed on to Indiana ratepayers in the form of higher electric rates. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "A. David Stippler".

A. David Stippler,  
Indiana Utility Consumer Counselor



# Correspondence Management System

Control Number: AX-11-001-4159

Printing Date: August 22, 2011 03:54:35



## Citizen Information

Citizen/Originator: Williams, Aaron S

Organization: The Peace Corps  
Address: 1111 20th Street, NW, Washington, DC 20526

Constituent: N/A

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

## Control Information

Control Number: AX-11-001-4159 Alternate Number: N/A  
Status: For Your Information Closed Date: N/A  
Due Date: N/A # of Extensions: 0  
Letter Date: Aug 15, 2011 Received Date: Aug 22, 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 - Delighted to hear of Administrator's successful trip to Kenya and Ethiopia earlier this year and of the positive meetings with Peace Corps country directors and volunteers  
Instructions: For Your Information -- No action required  
Instruction Note: N/A  
General Notes: N/A  
CC: OEAE - Office of External Affairs and Environmental Education

## 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	OITA	Aug 22, 2011

## History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OCIR	Aug 22, 2011
(b) (6) Personal Privacy	OEX	Control Taken Over	Aug 22, 2011
(b) (6) Personal Privacy	OEX	Forward control to OITA	Aug 22, 2011

# DAILY READING FILE

THE DIRECTOR OF THE PEACE CORPS  
WASHINGTON, D.C.

August 15, 2011

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

Dear Ms. Jackson:

*Lisa*

OFFICE OF THE  
EXECUTIVE SECRETARIAT

2011 AUG 22 PM 1:58

RECEIVED

I was delighted to hear of your successful trip to Kenya and Ethiopia earlier this year and of the positive meetings that you had with Peace Corps country directors and Volunteers. And thank you for sharing the photographs from your trip.

Our Volunteers and staff members are doing a tremendous job of assisting the people of Ethiopia and Kenya meet the environmental challenges that confront them. They are also delighted to be working in constructive partnership with the EPA. The support they are receiving from the EPA is invaluable to the success of their work.

Should you be traveling to any other countries in which the Peace Corps has a program, we would be delighted to assist you in meeting with our Volunteers and staff.

Best wishes.

Sincerely,

*Aaron S. Williams*

Aaron S. Williams  
Director



# Correspondence Management System

Control Number: AX-11-001-4165

Printing Date: August 22, 2011 04:24:02



## Citizen Information

**Citizen/Originator:** Earp, James P.

**Organization:** Town of Brinson (Georgia)

**Address:** P.O. Box 728, Brinson, GA 39825

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4165

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Sep 5, 2011

**# of Extensions:** 0

**Letter Date:** Aug 16, 2011

**Received Date:** Aug 22, 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 regarding the EPA's proposed EGU MACT rules. We have major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under SBREFA and UMRA Act.

**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  
OEAE - 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) (5) Personal Privacy	OEX	OAR	Aug 22, 2011	Sep 5, 2011	N/A
<b>Instruction:</b> 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.			



James P. Earp

*Mayor*

Sherrie M. Bowers

*City Clerk*

Harvey King

*Maintenance Superintendent*

***Town of Brinson***

*P.O. Box 728*

*Brinson, GA 39825*

*Phone 229-248-1752*

*Fax 229-248-1758*

*[townofbrinson@att.net](mailto:townofbrinson@att.net)*

*Councilmen*

Joe Belvin

Franklin B. Faircloth

Stanley Harrell

Alan Sims

August 16, 2011

Hon. Lisa P. Jackson

Administrator

U.S. Environmental Protection Agency

1200 Pennsylvania Avenue, N.W.

Washington, D.C. 20460

OFFICE OF THE  
EXECUTIVE SECRETARIAT

2011 AUG 22 PM 1:59

RECEIVED

**Re: Docket ID Nos. EPA-HQ-OAR-2009-0234**

Dear Administrator Jackson:

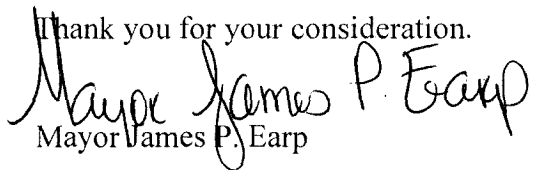
On behalf of the Town of Brinson, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Our community-owned, non-for-profit electric utility serves 125 customers. We supply electricity produced in part; by coal-fired electric generating units that could be significantly impacted by the proposed EGU MACT rule—even though those coal units are already well-controlled for mercury and for criteria pollutants such as sulfur dioxide and nitrogen oxides.

We have major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Unfunded Mandates Reform Act (UMRA) (Chapters 17 A and 25 of Title 2 of the U.S. Code). We would also request that EPA evaluate the impact of the proposed rules under four presidential executive orders – EO 13563, Improving Regulation and Regulatory Review; EO 13132, Federalism; EO 12866, Regulatory Planning and Review; and EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use. As a not-for-profit electric utility owned and operated by local government, we support these Executive Orders that call for reasonable and cost – effective regulations to achieve reductions in air pollution in a reasonable time frame.

Our Concerns include the following:

- The proposed rules create a risk of having to raise electricity rates, that could cause our customers economic hardship, particularly those negatively impacted by the current economic climate, such as the unemployed, the underemployed, and those with limited or fixed incomes.
- The proposed rule raises electricity reliability issues in some regions in 2014 when compliance with these rules begins. While EPA estimates that only 9 GW of coal-fired capacity may face retirement nationally because of the rules, other industry analysts and the North American Electric Reliability Corporation (NERC) estimates that at as many as 70 GW of capacity could face retirement.
- EPA's economic and reliability analysis in the proposed rules addresses only impacts from the proposed EGU MACT regulations. The analysis does not address the cumulative impacts from approximately eight major EPA rules affecting air, water, and wastewater from electric utilities in the next five to eight years.
- The proposed EGU MACT rules include many additional requirements beyond those to reduce mercury emissions. Control of other emissions under the EGU MACT rule may not be necessary or required under the Clean Air Act or based EPA's own hazardous air pollutants study. EPA should consider whether to decline to adopt the rules not related to control of mercury emissions.
- The statutorily imposed three-year time frame for compliance with the EGU MACT rules is too short. The electric industry needs at a minimum, an additional two years to avoid reliability issues that could arise when coal fired power plants must shut down for an extended period to retrofit emissions controls needed to comply with the rule. We respectfully encourage EPA to grant the one-year extension it is statutorily allowed to do and urge that a second year of extension is granted via a presidential order.
- EPA's own Regulatory Impact Analysis (RIA) appears to suggest that only 97 municipal utilities will be affected, and will face a compliance cost of only \$666.3 million annually. These costs appear to significantly underestimate the real impact and show no regional additional impacts in states such as Indiana, Ohio, Wisconsin, Michigan, Minnesota, Kentucky, Georgia, Alabama and Texas.

Thank you for your consideration.

  
Mayor James P. Earp



# Correspondence Management System

Control Number: AX-11-001-4201

Printing Date: August 23, 2011 03:15:27



## Citizen Information

**Citizen/Originator:** Smith, Wayne

Organization: Texas House of Representatives  
Address: Post Office Box 2910, Austin, TX 78768-2910

**Constituent:** N/A

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

## Control Information

**Control Number:** AX-11-001-4201 **Alternate Number:** N/A  
**Status:** Pending **Closed Date:** N/A  
**Due Date:** Sep 6, 2011 **# of Extensions:** 0  
**Letter Date:** Aug 17, 2011 **Received Date:** Aug 23, 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 Serious concerns regarding the negative impact that the Cross State Air Pollution Rule (CSAPR) will have on the availability and reliability of electricity for the consumers and businesses of Texas.  
**Instructions:** DX-Respond directly to this citizen's questions, statements, or concerns  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
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	Aug 23, 2011	Sep 6, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

**Supporting Assignments:**

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History

Wayne Smith  
Chairman  
Jessica Farrar  
Vice Chair



Committee Members

Warren Chisum  
Lon Burnam  
Kelly Hancock  
Ken Legler  
Jose Aliseda  
Lanham Lyne  
Ron Reynolds

*Texas House of Representatives  
Committee on Environmental Regulation*

August 17, 2011

Administrator Lisa Jackson  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code 101A  
Washington, DC 20460

OFFICE OF THE  
EXECUTIVE SECRETARY

2011 AUG 23 AM 8:23

RECEIVED

As chairman of the House Committee on Environmental Regulation I have been provided the opportunity to review the sizable number of new final and pending EPA rulemakings affecting Texas and the electric power generators in Texas. In my capacity as a member of the Texas legislature and as a Licensed Professional Engineer I wish to express my serious concerns regarding the negative impact that the Cross State Air Pollution Rule (CSAPR) will have on the availability and reliability of electricity for the consumers and businesses of Texas.

I fully support cleaner air and believe that the Texas Legislature has been attentive to that and other environmental goals, which have resulted in increasingly cleaner air over the last decades. However, for the reasons I will detail in this letter, I urge you to reconsider and stay the implementation of the final CSAPR rule as currently constructed.

From an engineering and construction perspective, there are numerous flaws in the final rule. Below are just a few of the defects in the rule:

- In setting the 2012 SO<sub>2</sub> budget for Texas, EPA mistakenly included 3 flue gas desulfurization scrubbers as in operation that are not even under construction at this time.
- EPA appears to have failed to factor in that certain existing smokestack designs may not accommodate the higher scrubbing efficiencies assumed by EPA because of construction materials and small inside diameters.

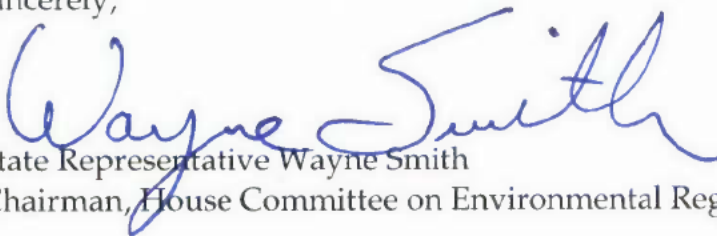


- EPA assumes that power plants can immediately switch to 100% Western coal as fuel in the boilers. However, some boilers may not be able to fire 100% Western coal without de-rating the unit's output due to this coal's higher heat content. Other plants may not be able to comply with the retrofitting of equipment for compliance by the deadline of January 1, 2012 imposed by the rule and may have to shut down.
- EPA erred when it concluded that Texas could maintain electric grid reliability and still comply with this final rule by January 1, 2012. Certain power plants will need to design, permit, engineer, fabricate, and install extremely large and expensive emission control equipment. Anyone who has been engaged in large projects can tell you that the compliance deadline in the final rule is impossible.
- Even when assuming the immediate switching to Western coal as a fuel at the existing power plants, EPA apparently failed to consider the plants' coal handling infrastructure that has to be in place for the processing of more Western coal, as well as the railroads' main-line "pinch points" where the increased number of trains could result in increased localized emissions in areas such as Dallas-Fort Worth.

Because the rule disproportionately applies to Texas, both the availability and reliability of electricity are negatively impacted. The very real result will be to place the lives of Texas citizens at risk. As you know, the extremely hot Texas summers create peak demand on our electric grid. Air conditioning is essential for public health. With no electricity during potential rolling blackouts, the lives of many Texans, particularly our senior citizens, will be at risk.

For the reasons I have outlined in this letter, I respectfully request that EPA stay the implementation of the rule in Texas, and reconsider the rule as it is currently crafted for the state of Texas. I look forward to your response and hope that we can work together to address these issues and reach a solution.

Sincerely,



State Representative Wayne Smith  
Chairman, House Committee on Environmental Regulation



# Correspondence Management System

Control Number: AX-11-001-4208

Printing Date: August 23, 2011 01:24:26



## Citizen Information

**Citizen/Originator:** Workman, Martha L.

**Organization:** United States Environmental Protection Agency- Office of Water Immediate Office

**Address:** 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460

**Stoner, Nancy**

**Organization:** Natural Resources Defense Council, Clean Water Project

**Address:** 1200 New York Avenue, NW, Washington, DC 20005

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4208

**Alternate Number:** N/A

**Status:** For Your Information

**Closed Date:** N/A

**Due Date:** N/A

**# of Extensions:** 0

**Letter Date:** Aug 22, 2011

**Received Date:** Aug 23, 2011

**Addressee:** AD-Administrator

**Addressee Org:** EPA

**Contact Type:** EML (E-Mail)

**Priority Code:** Normal

**Signature:** SNR-Signature Not Required

**Signature Date:** N/A

**File Code:** 401\_127\_a General Correspondence Files Record copy

**Subject:** DRF - FY 2011 Federal Managers' Financial Integrity Act Assurance Letter

**Instructions:** For Your Information -- No action required

**Instruction Note:** N/A

**General Notes:** N/A

**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	OCFO	Aug 23, 2011

## History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OCFO	Aug 23, 2011




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

OFFICE OF WATER

**AUG 22 2011**

**MEMORANDUM**

**SUBJECT:** FY 2011 Federal Managers' Financial Integrity Act Assurance Letter

**FROM:** Nancy K. Stoner   
Acting Assistant Administrator

**TO:** Lisa P. Jackson  
Administrator

**PURPOSE**

In accordance with the *Federal Managers' Financial Integrity Act* (FMFIA) and Agency guidance, I am submitting the FY 2011 annual assurance letter attesting to the soundness of internal controls for the Office of Water (OW).

**STATEMENT OF ASSURANCE**

Under my leadership, OW has assessed the effectiveness of its internal controls based on the five standards for internal control established by the Government Accountability Office. In my judgment, OW complies with Federal Managers' Financial Integrity Act requirements, and the internal controls within OW are adequate to reasonably ensure the protection of the programs, operations, functions, and resources for which I am responsible against fraud, waste, abuse, and mismanagement.

Additionally, in accordance with the American Recovery and Reinvestment Act of 2009 (Recovery Act) and Agency guidance, I can provide reasonable assurance that:

- All Recovery Act programs were managed effectively and efficiently, utilized reliable and accurate data to report achievement of program goals, and were in compliance with laws and regulations;
- All Recovery Act funds designated for the Clean Water State Revolving Fund, the Drinking Water State Revolving Fund, and the Water Quality Management Planning Grants have been used solely for the purpose of that program and, if applicable, were awarded and distributed in a prompt, fair, and reasonable manner;
- OW is monitoring the risks and internal controls identified in EPA's Recovery Act Stewardship Plan and is in compliance with the Stewardship Plan.

**CERTIFICATION OF MANAGEMENT INTEGRITY TRAINING**

I certify that the appropriate OW staff (Senior Executive Service employees, GS-15 managers and supervisors, selected staff, and Management Integrity Advisors) have completed the Agency's on-line Management Integrity Training on Internal Controls.

## **FRAMEWORK FOR ASSESSING INTERNAL CONTROLS**

OW's approach to internal control focuses on both programmatic responsibilities and competent operation of administrative processes. OW's five component offices have major responsibility for operation of OW programs, and annually submit an assurance letter documenting their compliance with FMFIA guidelines. Each office periodically reviews its human resource, grants and contracts management, purchase card, records management, information security, and funds control performance. The Deputy Assistant Administrator (DAA) annually convenes a midyear review of these key functions in May of each year and engages the Offices, including senior managers, in reviews of their performance against Agency and OW benchmarks. The results of this year's review are described in the attached FY 2011 Control Environment Form.

In accordance to the FY 2010 FMFIA guidance, OW has identified program review strategies for 26 key programs, and conducted assessments of internal and external risks for each program. Each program review strategy describes control objectives, risks and risk level, internal control activities, and monitoring. OW also has a multiyear plan, that was submitted in FY 2010, which outlines the timeline or frequency of internal control reviews for each program, a summary of the review activities, and deficiencies identified. Additionally, OW solicited input from the lead region on the identification of program risks and incorporated regional comments in their office-level assurance letters.

Based on the results of review, OW decided to raise the risk level for the Analytical Methods Program. In 2010, we identified a low risk related to the lack of Part 136 analytical methods sensitive enough to properly measure for compliance with water quality standards for numerous pollutants. In addition, we identified the absence of Part 136 methods for many emerging contaminants as a medium risk. We were concerned that EPA and delegated States will be unable to issue individual permits that can properly measure certain pollutants to assure compliance with water quality standards. For FY 2010, we felt comfortable assigning an overall low risk for this program.

However, beyond FY 2011, there will be increased efforts needed for developing new methods and improving method sensitivity increasing the likelihood that we would not be able to meet program objectives. Consequently, we are raising the overall risk level for the Analytical Program to Medium.

The National Water Program Guidance (NWPG) describes how EPA, states, and tribal governments will work together to achieve the long-term strategic goals and OW priorities. The NWPG describes water program priorities, implementation strategies, and annual performance measures. Priorities are set at the Administrator and OW AA level. Within EPA, OW oversees the delivery of the national water programs, while the regional offices work with states, tribes, and others to implement these programs. The National Water Program uses an organizational structure of workgroups and staff to develop, review, and revise the NWPG. This structure includes an Oversight Group of managers, chaired by the OW DAA, to address policy level



issues and appropriate deliverables. A staff workgroup, with membership from HQ and regions for all water subobjectives, also meets regularly to address technical implementation issues. Within each water subobjective, HQ and regions work closely together on programmatic issues. Programs and regions use the targets and commitments developed in the NWPG process to show progress made. The Oversight Group meets at mid-year and end-of-year to assess progress meeting annual commitments for all measures in the NWPG. Performance results are published on the internet in a final report.

## **RESULTS OF INTERNAL CONTROL REVIEWS**

### **Programmatic Operations**

Within the OW Multi-Year Plan, which outlines the timeline or frequency of internal control reviews for each program, a summary of the review activities, and deficiencies identified, several programs were targeted for review in FY 2011.

#### **Public Water System Supervision (PWSS) Program**

Since FY 1976, the Congress has appropriated funds under the Safe Drinking Water Act (SDWA) to help states develop and implement a Public Water System Supervision (PWSS) program to establish and enforce health protection standards for drinking water. The program objective is to protect public health by ensuring that drinking water systems, of all types and sizes, remain in compliance (where currently in compliance), and achieve compliance (where not currently in compliance). The states continue to work with drinking water systems of all sizes to comply with new drinking water regulatory requirements under the Ground Water Rule which applies to 147,000 public water systems, under that rule, a first round of sanitary surveys for all community water systems that must be completed by December 2012.

The PWSS grant program provides grants to states and tribes with primary enforcement authority (primacy) to implement and enforce National Primary Drinking Water Regulations (NPDWRs). These grants help to ensure the safety of the nation's drinking water resources and thereby protect public health. The states are the primary implementers of the national drinking water program and ensure that the systems within their jurisdiction are in compliance with drinking water rules. NPDWRs set forth monitoring, reporting, compliance tracking, and enforcement elements to ensure that the nation's drinking water supplies do not contain substances at levels that may pose adverse health effects. Not all states and tribes have primary enforcement authority.

OW maintains a variety of mechanisms to ensure the PWSS program is aligned with the Agency Strategic Plan and is reflected in the Government Performance Results Act (GPRA). These efforts are, in addition to existing, overall management integrity processes, carried out in accordance with FMFIA. The PWSS program control activities consist of but are not limited to: Developing and maintaining a database to hold compliance information on public water systems; certifying laboratories that can perform the analysis of drinking water that will be used to determine compliance with regulations; and conducting webinar training on new and existing rules. PWSS program information is communicated through monthly regional calls and Drinking Water managers' meetings (previously held semi-annually, but now to be held annually with supplemental conference calls as needed), as well as periodic EPA-State meetings that provide

timely and reliable information. To help monitor the program, OW conducts audits of several state programs and Regions conduct at least annual reviews of state programs. Currently, the PWSS program is identified as a medium risk.

### **Biosolids Program**

Already identified as a high risk program, the Office of the Inspector General (OIG) and others have been concerned that EPA is devoting insufficient resources to improving our scientific understanding, as well as enforcement and compliance, regarding implementation of the Part 503 Standards for the Use or Disposal of Sewage Sludge. To address potential weaknesses in the science, EPA asked the National Research Council (NRC) to conduct an evaluation of the biosolids program. The NRC issued a report in July 2002 concluding that there is no documented scientific evidence that EPA's Part 503 sewage sludge standards failed to protect public health. However, the NRC stated that additional scientific work was needed to reduce the uncertainty about adverse effects from exposure to land-applied biosolids. The Agency has addressed NRC concerns by developing and implementing a 14 project action plan. EPA has made slow progress in the completion of these projects.

In March 2011, I met with the Health and Ecological Criteria Division (HECD) to discuss and provide direction on-going program activities, including the Biosolids Action Plan, research priorities, potential amendments to Part 503 regulations, and risk assessment challenges for FY 2012 and beyond.

The Biosolids program review revealed that we are making slow progress to implement a research strategy to reduce scientific uncertainties. We believe that there are adequate internal controls and management oversight over programmatic resources to monitor program operations. However, EPA remains potentially vulnerable, if and when a biosolids-related event occurs. Such an event would mirror a recent incident in Decatur, Alabama when perfluorinated compounds (PFCs) were detected in the groundwater as a result of land application of biosolids. We lack information on the potential risks land application of biosolids might pose now and in the future due to emerging contaminants. In addition, adequate studies are needed to address toxicity to human and ecological receptors, physical and chemical properties, and fate and transport in the environment. Also, to ensure that treatment of biosolids adequately eliminates or minimizes any risk will require a significant increase in efforts above the current program.

### **National Pollution Discharge Elimination System (NPDES) Program**

Under the Clean Water Act, EPA is responsible for administering a national wastewater permitting program, called the National Pollutant Discharge Elimination System (NPDES) program. Identified as a high risk program, the standards for internal controls address EPA's responsibility to administer and collect data under the NPDES program. EPA promulgates regulations to achieve the Clean Water Act's goal to eliminate the discharge of pollutants into waters of the United States and the goal of fishable and swimmable water quality. The Clean Water Act prohibits any discharge of a pollutant from a point source to waters of the United States without a permit. EPA writes and issues general permits for certain types of discharges, advises States on proper implementation of the NPDES program in authorized States, and manages a data collection system on permit issuance and compliance nationwide. To manage this large program, EPA tracks several performance measures, and frequently communicates with internal and external stakeholders about responsibilities and best practices.

Recent court decisions and EPA-initiated decisions to address environmental impacts have expanded the types and numbers of discharges subject to permit requirements under the Clean Water Act. The large increase in the universe of dischargers requiring permit coverage means that adequate permitting, inspection, and enforcement of permitted facilities will require a significant increase in efforts for EPA and States. There is a risk states may fail to revise their regulations, issue and enforce permits, and inspect facilities, thereby compromising the integrity of the NPDES program and failing to protect water quality.

### **U.S.-Mexico Border Water Infrastructure Program**

EPA Headquarters, Region 6 and Region 9 work as a team to ensure the sound management of projects selected to receive Congressionally-directed grant funding for the US-Mexico Border Water Infrastructure Program. Identified as a medium risk program, the standards for internal control address EPA's responsibility to manage the award and liquidation of US-Mexico Border Program funds. The control objectives are to provide leadership and assist Regions 6 and 9 to award Border funding expeditiously and manage the timely construction of funded projects; to manage the unliquidated obligation (UO) balance at the North American Development Bank; and to provide underserved homes with first-time drinking water/wastewater service and underserved homes with improved drinking water/wastewater service. Internal risks to the program involve competing priorities that can impede program/project implementation. External risks to the program include: construction delays due to catastrophic events and emergencies; lawsuits and legal challenges over the project; and turnover or change in the governing administration.

### **Effluent Guidelines**

OW is conducting an ongoing review of the Effluent Guidelines program. In the near future, OW is planning to issue a Preliminary Plan for Effluent Guidelines for FY 2011 and will solicit public comment.

### **Alaska Native Villages**

In early 2011, Alaska Native Villages (ANV) program staff conducted a review of all ANV-funded water infrastructure projects to identify delayed and stalled projects (as per the 2008 ANV Management Control Policy). As of August 4, 2011 three active projects have been identified as stalled or delayed. For the three active projects, the funds have been deobligated and the funds were reallocated to 7 projects that could be completed in a timely manner. In addition, 7 other projects have recently been identified as stalled or delayed. For the second set of 7 projects, the State of Alaska is currently preparing requests to deobligate funds and is planning to reobligate the funds to 16 projects that can be completed in a timely manner. Both requests are expected to be completed before the end of FY 2011. As a result of this review, two grant extensions have been processed for the ANV program in FY2011. This program is currently identified as a low risk.

### **Recovery Act Operations**

The \$4 billion allocated to the Clean Water State Revolving Fund (CWSRF) Program under the American Recovery and Reinvestment Act (ARRA or Recovery Act) and the \$2 billion allocated to the Drinking Water State Revolving Fund (DWSRF) were awarded to all States and Puerto

Rico. In addition to receiving their ARRA grants, all State CWSRFs and Puerto Rico complied with the ARRA requirement that all CWSRF and DWSRF ARRA dollars be under contract or construction by February 17, 2010.

To ensure the proper use of ARRA funds, EPA Headquarters developed an oversight plan which requires Regions to conduct on-site State reviews twice per year (approximately every six months). During each State on-site review, Regions are to review four ARRA project files and conduct four cash transaction tests using checklists developed for ARRA oversight. After each State on-site review, Regions are to develop a Program Evaluation Report (PER) which will document the review and include any findings and necessary corrective measures. The PER is to be sent to the State and to OW. To date, all States and Puerto Rico have received three to four CWSRF and DWSRF ARRA reviews. As ARRA on-site reviews continue in 2011, Regions also are being asked to participate in one project site inspection per year with each of their States in order to assess the adequacy of the States' ARRA inspections. Due to the fact that many ARRA projects will be completed by the end of fiscal year 2011, EPA Headquarters has developed a new oversight plan for fiscal year 2012. The new plan will require Regions to conduct one on-site ARRA State review in fiscal year 2012 and to review two ARRA project files and conduct one cash transaction test when a State's outlays are between 75-99%. If a State's outlays are below 75%, two cash transaction tests are required. In 2012, Regions will not be asked to participate in State project site inspections.

In 2010, CWSRF staff participated in ARRA reviews in over 35 States and are continuing in 2011 to participate in as many State ARRA reviews as possible. In 2009 and 2010, DWSRF staff participated in ARRA reviews at each Regional office and conducted conference calls with each State while on-site at the Region. In 2011, CWSRF and DWSRF staff are conducting SRF oversight training for the ten Regional offices. CWSRF staff are also conducting training for States in five Regions.

Additionally, the CWSRF program, with the support of contractors, is randomly selecting between 20 and 30% of all CWSRF projects for inspection. The DWSRF program, with the support of contractors, is randomly selecting two DWSRF projects in each State for inspection and plans to add more. The purpose of these inspections is to ensure proper implementation of specific ARRA requirements, such as the Davis-Bacon Act and the Buy American requirements.

Also with the passing of the American Reinvestment Recovery Act in February 2009, OW became responsible for overseeing the administration of \$39.4 million in stimulus funding to Water Quality Management (WQM) Planning grants. In addition to initial regional guidance documents and the development of new terms and conditions to ensure recipients use funds in accordance with the Recovery Act, OW has taken several actions to ensure these funds are spent in accordance with the Recovery Act guidance set forth by the Office of Management and Budget and the Office of Grants and Debarment, including:

- Developing a post award monitoring plan, which requires more frequent monitoring of activities funded under WQM Planning grants;
- WQM Planning grant project officers conducting quarterly baseline reviews and annual advanced reviews to monitor the performance of the grantees; and



- WQM Planning grant recipients submitting quarterly reports on project status, jobs created, and expenditures. These reports are thoroughly reviewed by EPA prior to publishing on <http://www.recovery.gov>.

### **Financial Activities (OMB Circular A-123, Appendix A)**

AL-Form 2011-008a was submitted in March 2011. OW utilized the checklist provided in OCFO's guidance to complete its review of the review. OW has no identified financial significant deficiencies or weaknesses.

### **CURRENT WEAKNESSES**

The Office of Water does not have the lead for addressing any of EPA's current weaknesses. However, where appropriate, we provided feedback to Lead Regions on weaknesses for which other offices/regions have the lead.

### **MANAGEMENT CHALLENGES AND POTENTIAL WEAKNESSES IDENTIFIED BY OIG, GAO, AND OMB**

The GAO proposed a Management Challenge, "Reducing Pollution in Our Nation's Waters." EPA partners with federal, state, and local agencies and others to reduce pollution in the nation's waters, but many pollution sources are difficult to monitor and regulate. GAO believes the Agency still lacks comprehensive and reliable data on the number, location, and size of the Concentrated Animal Feeding Operations (CAFOs) that have been issued permits and the amounts of discharge they release. In addition, GAO notes that EPA has neither the information it needs to assess the extent to which these CAFOs may be contributing to water pollution, nor the information it needs to ensure compliance with the Clean Water Act. Furthermore, GAO has an ongoing review about the extent to which EPA coordinates the implementation of its section 319 program with similar efforts to control agricultural nonpoint sources of pollution undertaken by Agriculture, as well as with other federal funded efforts to control nonpoint sources of pollution. EPA is working with GAO to provide any assistance it needs to conduct its review. See attached "FY 2011 Agency Response to OIG, GAO, or OMB" form.

Additionally, OW contributed to OIG and GAO Management Challenges, "Oversight of Delegations to States" and "Need for Greater Coordination of Environmental Efforts."

### **NEW OR EMERGING ISSUES**

#### **Underground Injection Control (UIC)**

In 2010, OGWDW identified the Underground Injection Control (UIC) program as an emerging issue. I continue to be concerned that issues persist regarding implementation of the UIC program. The Safe Drinking Water Act (SDWA) established the UIC program to provide safeguards so that injection wells do not endanger current and future underground drinking water sources. I remain concerned that there are insufficient controls and resources to provide adequate management and oversight of the UIC program. The Office has worked to develop training materials and to address program implementation through guidance development as much as possible, however, these efforts are insufficient to provide for most of the need. The office will

continue to work with Regions to share expertise where it exists, and to provide technical guidance documents and clarify policy determinations to aid in UIC program management.

The UIC program continues to be challenged to provide (in a timely manner) the support needed to fully implement the program. This includes the ability to update existing regulations on State primary enforcement programs in the Code of Federal Regulations for more than 40 states as well as providing oversight and enforcement for more technically complex well types and deeper and more geologically complex formations. Also, EPA has recently finalized requirements for geologic sequestration, including the development of a new class of wells, Class VI. These requirements are designed to further protect underground sources of drinking water, as well as build on existing UIC Program requirements, with requirements that address carbon dioxide injection for long-term storage to ensure that wells used for geologic sequestration are appropriately sited, constructed, tested, monitored, funded, and closed.

In addition, EPA is developing UIC permitting guidance for hydraulic fracturing activities that use diesel fuels in fracturing fluids. Natural gas plays a key role in our nation's clean energy future and the process known as hydraulic fracturing (HF) is one way of accessing that vital resource. HF is used by gas producers to stimulate wells and recover natural gas from sources such as coalbeds and shale gas formations. HF is also used for other applications including oil recovery. Over the past few years, several key technical, economic, and energy policy developments have spurred increased use of HF for gas extraction over a wider diversity of geographic regions and geologic formations. Along with the expansion of HF, there has been increasing concerns about its potential impacts on drinking water resources, public health, and environmental impacts in the vicinity of these facilities.

Technical assistance to states associated with implementation of these new requirements, as well as guidance to address HF that uses diesel fuels as fracturing fluids continue to tax program capacity. The ability to appropriately manage underground injection wells is critical to protecting underground sources of drinking water, reducing climate impacts, and enabling the use of new and critical energy extraction techniques used in natural gas and uranium extraction.

### **Section 319**

In FY 2011 OW participated in two programmatic reviews of our Section 319 program. Through an EPA-led review, we are working with State partners to complete a detailed study of how States are using Section 319 resources to implement TMDLs and restore impaired waters. EPA will develop recommendations on program revisions, as appropriate, to improve program accountability and ensure that States are using cost effective approaches to protect and restore their waters. The second review is GAO's ongoing review of the Agency's Nonpoint Source Management Program as they evaluate the extent to which EPA coordinates the implementation of our Section 319 program with similar efforts to control agricultural nonpoint sources of pollution undertaken by the United States Department of Agriculture (USDA), as well as with other federally funded efforts to control nonpoint sources of pollution. This may be an area of continuing interest/review depending on the findings of the GAO review and our own internal review. We look forward to the findings/recommendations of the reviews and plan on addressing them in next year's FMFIA process.

This may be an area of continuing interest/review depending on the findings of the GAO review and our own internal reviews. We look forward to the findings/recommendations of the reviews and plan on addressing them in next year's FMFIA process.

## **Appalachian Coal Mining Initiative**

In support of Agency's Appalachian coal mining initiative, OW continues to lead a multi-agency effort to comprehensively review and evaluate policy and practice for permitting mountaintop mining operations with the goal of reducing the harmful environmental effects of Appalachian surface coal mining. The multi-faceted initiative involves enhanced environmental review and coordination with the Army Corps of Engineers on 79 pending or backlogged Clean Water Act Section 404 permits as well as additional new permits, more rigorous review of CWA Section 402 permits, and several significant technical documents and Clean Water Act policy actions to guide future practice in Appalachian surface coal mining.

Recent studies, as well as the experiences of Appalachian coalfield communities, point to new environmental and health challenges which were largely unknown even ten years ago. Since 1992, more than 1,200 miles of Appalachian streams have been filled by Appalachian surface coal mining practices, at an estimated ongoing rate of 120 miles per year. Further, while precise estimates are limited, the estimated scale of deforestation from existing Appalachian surface mining operations is greater in size than the state of Delaware, or 5,700 square kilometers predicted to be affected by 2012. These estimates do not reflect recent efforts to promote reforestation of previously mined sites. The full cumulative effects of surface coal mining operations at this scope and scale have not been fully calculated. Potential human health impacts from coal mining activities have also been documented, including peer-reviewed public health literature that has preliminarily identified associations between increases in surface coal mining activities and increasing rates of cancer, birth defects, and other serious health consequences in Appalachian communities.

At this time, OW does not believe the issues described rise to the level of a material or Agency weakness. We will continue to monitor the issues and report as appropriate.

### **CLOSING**

If you have any questions concerning this report, please contact Jill Smink of my staff at [smink.jill@epa.gov](mailto:smink.jill@epa.gov)

### **ATTACHMENTS**

FY 2011 Control Environment

FY 2011 Agency Response to OIG, GAO or OMB: Reducing Pollution in our Nation's Waters  
Recovery Act Stewardship Plan

cc: Annette Morant, OCFO  
Aileen Atcherson, OCFO  
Patrick Gilbride, OIG



# Correspondence Management System

Control Number: AX-11-001-4266

Printing Date: August 24, 2011 02:48:20



## Citizen Information

**Citizen/Originator:** Solheim, Erik

**Organization:** Royal Ministry of the Environment

**Address:** Post Office Box 8013 Dep, N-0030 Oslo, Norway, 972 417 88

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4266

**Alternate Number:** N/A

**Status:** For Your Information

**Closed Date:** N/A

**Due Date:** N/A

**# of Extensions:** 0

**Letter Date:** Aug 15, 2011

**Received Date:** Aug 24, 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- Thank you for your kind and comforting words. I have been profoundly moved by the strong international response and support in the wake of the atrocities in Norway on July 22nd.

**Instructions:** For Your Information -- No action required

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OEAAE - Office of External Affairs and Environmental Education

## 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	OITA	Aug 24, 2011

## History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OITA	Aug 24, 2011

## Comments



DET KONGELIGE  
MILJØVERNDEPARTEMENT*Royal Ministry of the Environment  
The Minister*

REC

2011 AUG 23 PM 1:33

OFF  
EXECUT

ARAT

Lisa P. Jackson  
United States Protection Agency  
Washington, D.C. 20460  
USA

Your ref

Our ref

Date 15 AUG 2011

Dear Lisa!

**Dear Ms Jackson,**

Thank you for your kind and comforting words. I have been profoundly moved by the strong international response and support in the wake of the atrocities in Norway on July 22<sup>nd</sup>. The Norwegian people have also responded with tremendous solidarity and compassion. We are a small country and very many people have been hit directly or indirectly by this tragedy.

Neither I nor those closest to me have been directly affected. The most important task now is to help victims and those who have lost loved ones. These acts of terrorism sought to destroy fundamental values – tolerance, diversity, solidarity and democracy. In our grief and despair, it is comforting and encouraging to see that they had the opposite effect. The Norwegian people and the international community have blazoned their support for these values in response to the tragedy.

Yours sincerely,

Erik Solheim



# Correspondence Management System

Control Number: AX-11-001-4271

Printing Date: August 24, 2011 03:30:35



## Citizen Information

**Citizen/Originator:** Putnam, Adam H

**Organization:** Florida Department of Agriculture and Consumer Services

**Address:** The Capitol, Tallahassee, FL 32399-0800

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4271  
**Status:** Pending  
**Due Date:** Sep 8, 2011  
**Letter Date:** Aug 16, 2011  
**Addressee:** AD-Administrator  
**Contact Type:** LTR (Letter)  
**Signature:** DX-Direct Reply  
**File Code:** 404-141-02-01\_141\_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.  
**Alternate Number:** N/A  
**Closed Date:** N/A  
**# of Extensions:** 0  
**Received Date:** Aug 24, 2011  
**Addressee Org:** EPA  
**Priority Code:** Normal  
**Signature Date:** N/A  
**Subject:** DRF - Docket ID No. EPA-HQ-OW-2008-0667  
**Instructions:** DX-Respond directly to this citizen's questions, statements, or concerns  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - 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
(b) (6) Personal Privacy	OEX	OW	Aug 24, 2011	Sep 8, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History

Action By	Office	Action	Date
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FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
 COMMISSIONER ADAM H. PUTNAM  
 THE CAPITOL

August 16, 2011

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

Re: Docket ID No. EPA-HQ-OW-2008-0667

Dear Administrator Jackson:

This letter is in response to the U.S. Environmental Protection's (EPA) proposed draft rule under Section 316(b) of the Clean Water Act (CWA) governing cooling water intake structures at existing electric generation and manufacturing facilities.

In its current form, the proposed rule has the potential for significant economic impacts to Florida residential and business energy consumers without taking into consideration the full cost and associated benefits to justify such impact. While the rule appropriately gives state governments the primary responsibility for making technology decisions regarding how best to minimize the entrainment of aquatic organisms by cooling water intake structures, the EPA has not adopted a similar approach to minimizing the impacts associated with impingement of aquatic life. Instead, the EPA has proposed a uniform national impingement mortality standard without adequate consideration for costs or benefits of meeting such strategy on a site-specific basis.

I have serious concerns with this one-size-fits-all approach, and I urge you instead to establish a national regulation that allows for state flexibility through the use of technological alternatives and site-specific and cost-benefit analyses. The need for site specific solutions is especially important to our state's resources in light of the unique circumstances that may occur at many of the potentially affected facilities in this state.

I also support the comments recently submitted by the Florida Public Service Commission seeking adequate flexibility to address the site specific needs to protect Florida's environment. This flexibility is essential to avoid unnecessary and overly prescriptive regulatory provisions that can have a minimal benefit in protecting Florida's environment while having a significant detrimental impact on utility ratepayers.



OFFICE OF THE  
 EXECUTIVE SECRETARIAT

2011 AUG 23 PM 1:33

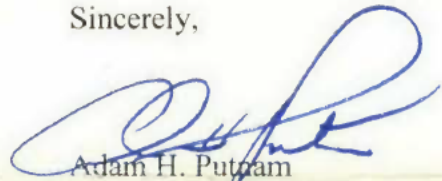
RECEIVED

Administrator Lisa Jackson  
August 16, 2011  
Page Two

Accordingly, I urge the EPA to avoid imposing a new national mandate that could seriously impact electricity supply, reliability, and affordability for the residential, business and industrial customers in my state and across the United States.

Thank you for your attention to this matter.

Sincerely,



Adam H. Putnam  
Commissioner of Agriculture





# Correspondence Management System

Control Number: AX-11-001-4304

Printing Date: August 24, 2011 03:32:59



## Citizen Information

**Citizen/Originator:** Hannapel, Jeffery S.

Organization: The Policy Group, American Foundry Society

Address: 1695 N. Penny Lane, Schaumburg, IL 60173

**Call, Jerry**

Organization: American Foundry Society

Address: 1695 N. Penny Lane, Schaumburg, IL 60173

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4304

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Sep 8, 2011

**# of Extensions:** 0

**Letter Date:** Aug 23, 2011

**Received Date:** Aug 24, 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:** DRF - IRIS Human Health Assessment for Hexavalent Chromium

**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

R5 - Region 5 -- 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	Aug 24, 2011	Sep 8, 2011	N/A
	<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns				
Harita Rao	ORD	ORD-NCEA	Aug 24, 2011	Sep 8, 2011	N/A
	<b>Instruction:</b> N/A				

## Supporting Information

**Supporting Author:** N/A



# AMERICAN FOUNDRY SOCIETY

*publishers of MODERN CASTING & Metal Casting Design & Purchasing*

1695 N. Penny Lane • Schaumburg, IL 60173  
 800.537-4237 • 847.831.0131  
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August 23, 2011

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

RE: Toxicological Review of Hexavalent Chromium Pursuant to the  
 Integrated Risk Information System (IRIS)

Dear Administrator Jackson:

On behalf of the American Foundry Society (AFS), we are concerned about the potential impact of the U.S. Environmental Protection Agency's (EPA) Toxicological Review of hexavalent chromium under its Integrated Risk Information System (IRIS) program on the surface technology sector. AFS urges EPA to use the best and most relevant recent scientific evidence as part of the pending IRIS assessment for oral exposures of hexavalent chromium.

## Directors

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## Metalcasting Industry Profile

AFS is the major trade and technical association for the North American metalcasting industry. AFS has more than 7,000 members representing over 2,000 metalcasting firms, their suppliers and customers. Over one hundred AFS member facilities operate one or more thermal sand reclamation units that recondition and reuse foundry sand as part of the continuous industrial process.

The organization exists to provide knowledge and services that strengthen the metalcasting industry for the ultimate benefit of its customers and society. AFS seeks to advance the sciences related to the manufacture and utilization of metalcasting through research, education and dissemination of technology. AFS also provides leadership in government relations, marketing, management and human resources for the metalcasting industry.

The practice of melting and casting metal into solid forms has served society's needs for more than 5,000 years. Metal castings are the foundation for all other manufacturing, and metalcasters have been a vital building block for every nation's economic wealth. Every sector relies on castings, 90 percent of all manufactured goods and capital equipment incorporate engineered castings into their makeup. The major industries supplied by metalcasting include agriculture, construction, mining, railroad, automotive, aerospace, communications, health care, defense and national security.

The American metalcasting industry provides employment for over 200,000 men and women directly and supports thousands of other jobs indirectly. The industry supports a payroll of more than \$8 billion and sales of more than \$36 billion annually. Metalcasting plants are found in every state, and the industry is made up of predominately small businesses. Approximately 80 percent of domestic metalcasters have fewer than 100 employees.

***Scientific Information for Consideration in IRIS Process***

On May 12, 2011, during a peer review workshop conducted by EPA, a panel of nine scientific experts recommended significant revisions to the current draft IRIS assessment for hexavalent chromium. Specifically, these scientists urged EPA incorporate the findings from the significant research program conducted by ToxStrategies in the agency's Toxicological Review for hexavalent chromium. The preliminary results from this research program involving state of the art mode of action and pharmacokinetic information show mounting evidence of a biological threshold for hexavalent chromium toxicity.

EPA staff was aware of this research program when it began in 2009 and has been briefed on the early findings. In fact, program staff specifically expressed interest in this type of data to inform the agency on whether further regulation is needed and, if so, the scientific basis for any such regulatory action.

EPA's original published schedule for the completion of its draft Toxicological Review for hexavalent chromium was fall 2012. This schedule would have easily enabled EPA staff to incorporate the results of the research studies into its IRIS assessment for hexavalent chromium. Nonetheless, EPA recently accelerated the assessment by two years.

The potential cost impact of EPA's premature hexavalent chromium assessment is very likely to be far-reaching. EPA should consider the best and most relevant data on the potential health effects of hexavalent chromium, particularly at reasonable levels to which the general public is exposed, before completing the Toxicological Review of hexavalent chromium and launching any further associated regulatory action on top of the expansive risk reduction framework that already exists.

We agree with the experts on the peer review panel and urge EPA to allow the scientists' groundbreaking work to be completed so EPA scientists can review and incorporate these data into EPA's draft Toxicological Review.

***Conclusion***

Potential risks posed by oral exposure of hexavalent chromium are serious human health concerns. It is, therefore, critical that industries managing hexavalent chromium implement appropriate environmental and engineering controls and good industry practices to minimize potential releases of hexavalent chromium to the environment.

Before proceeding with its final IRIS assessment for oral exposure of hexavalent chromium, EPA must incorporate and consider the critical new data from the new research project. Any minor delay in the IRIS process will be substantially outweighed by the benefits from a more robust data base to support informed future regulatory decisions.

On behalf of the American Foundry Society (AFS), we appreciate your personal attention to this matter and look forward to hearing from you soon. If you have any questions or would like additional information, please contact Jeff Hannapel in the AFS Washington office at 202-257-3756 or [jhannapel@thepolicygroup.com](mailto:jhannapel@thepolicygroup.com).

Respectfully submitted,



Jerry Call  
Executive Vice President

cc: Becki Clark  
Vincent Cogliano



# Correspondence Management System

Control Number: AX-11-001-4308

Printing Date: August 24, 2011 02:38:38



## Citizen Information

**Citizen/Originator:** Bellsnyder, Luke

Organization: Texas Association of Manufacturers. Texas Products. Texas Jobs.  
Address: P.O. Box 11510, Austin, TX 78711-1510

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4308      **Alternate Number:** N/A  
**Status:** Pending      **Closed Date:** N/A  
**Due Date:** Sep 7, 2011      **# of Extensions:** 0  
**Letter Date:** Aug 17, 2011      **Received Date:** Aug 24, 2011  
**Addressee:** AD-Administrator      **Addressee Org:** EPA  
**Contact Type:** LTR (Letter)      **Priority Code:** Normal  
**Signature:** AA-OAR-Assistant Administrator      **Signature Date:** N/A  
- OAR  
**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- Texas Association of Manufacturers requests that the US EPA grant partial reconsideration and immediately stay compliance deadline of EPA's final rule  
**Instructions:** AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OEAE - 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) (5) Personal Privacy	OEX	OAR	Aug 24, 2011	Sep 7, 2011	N/A
<b>Instruction:</b> 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





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2011 AUG 24 AM 10:55

OFFICE OF THE  
EXECUTIVE SECRETARIAT

August 17, 2011

Administrator Lisa P. Jackson  
U.S. Environmental Protection Agency  
Room 3000, Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(jackson.lisa@epa.gov)

Assistant Administrator Gina McCarthy  
U.S. Environmental Protection Agency  
Office of Air and Radiation  
Ariel Rios Building, Mail Code: 6101A  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
(mccarthy.gina@epa.gov)

Dear Administrator Jackson and Assistant Administrator McCarthy:

The Texas Association of Manufacturers (TAM) respectfully requests that the U.S. Environmental Protection Agency ("EPA") grant partial reconsideration and immediately stay the compliance deadline and effective date of EPA's Final Rule signed July 6, 2011, titled "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States" as it applies to Texas.

As manufacturers, energy is not only an overhead cost but also a feedstock that goes into the finished product. One of the reasons for Texas' ability to grow jobs and attract businesses has been the reliability and affordability of electricity. If this rule is finalized both the reliability and affordability of the Texas energy grid will be put in jeopardy.

The standard time frame for permitting, constructing and installing new emission controls is several years, yet the rule unrealistically allows less than six months for these controls to be installed. Significant emissions reductions and adherence to the rule would then be required in an extremely short time period - as early as January 2012. Thus, curtailing plant and/or mine operations will be the only option.

**Texas Products. Texas Jobs.**

• P.O.Box 11510, Austin, Texas 78711-1510 • 512-330-4124 • FAX 512-330-4126 • [www.manufacturetexas.org](http://www.manufacturetexas.org) •



These requirements would seriously jeopardize the ability of the state's electric grid to supply power to Texas businesses and consumers and threaten the loss of thousands of high-paying jobs. This summer Texas has endured a considerable heat wave, which demonstrated that Texas needs all of its power generation resources. By removing power generation from the market to comply with this rule, the EPA's recent action threatens electric reliability in Texas.

Should this final rule be published with Texas included, it could have a far-reaching impact throughout the state and nation. Effects could include:

- The loss of thousands of well-paying jobs, further exacerbating the already high unemployment rate;
- An increase in wholesale and consumer electricity prices, making the US less competitive in the global market;
- A negative impact on the state's electric reliability, jeopardizing not only industrial operations but the safety of some of our most vulnerable citizens; and
- The loss of indirect and third-party jobs and services which support the state's electric industry.

TAM firmly believes that this rule has a substantially negative effect on Texas and the future prosperity of the state and nation. It is our sincere request that the EPA grant partial reconsideration and immediately stay the compliance deadline and effective date of the rule entitled "Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone in 27 States" as related to Texas.

Respectfully,

Luke Bellsnyder  
Executive Director

**Texas Products. Texas Jobs.**

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# Correspondence Management System

Control Number: SAB-11-001-4044

Printing Date: August 24, 2011 05:59:37



## Citizen Information

**Citizen/Originator:** Vu, Vanessa T.

**Organization:** Environmental Protection Agency  
**Address:** 1200 Pennsylvania Ave., NW, Washington, DC 20460

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** SAB-11-001-4044      **Alternate Number:** EPA-SAB-11-013  
**Status:** Pending      **Closed Date:** N/A  
**Due Date:** Sep 30, 2011      **# of Extensions:** 0  
**Letter Date:** Aug 18, 2011      **Received Date:** Aug 18, 2011  
**Addressee:** AD-Administrator      **Addressee Org:** EPA  
**Contact Type:** LTR (Letter)      **Priority Code:** Normal  
**Signature:** AD-Administrator      **Signature Date:** N/A  
**File Code:** 316-259\_181\_a Records Created by Advisory Groups Established under the Fed. Adv. Comm. Act (FACA) documenting the Commission's establishment, membership, policy, organization, deliberations  
**Subject:** Reactive Nitrogen in the United States: An Analysis of Inputs, Flows, Consequences, and Management Options - A Report of the EPA Science Advisory Board  
**Instructions:** AD-Prepare draft response for the Administrator's signature  
**Instruction Note:** For the Administrator, pls. cc: Bob Perciasepe, Larry Elworth, Diane Thompson, Mary Hanley and John Reeder  
**General Notes:** DRF - for the reading file  
**CC:** Cheryl Woodward - OGC-ARLO  
Mary Hanley - AO-IO  
OAR - Office of Air and Radiation -- 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
Wanda Bright	SAB	OEX	Aug 18, 2011	Sep 30, 2011	N/A
<b>Instruction:</b> AD-Prepare draft response for the Administrator's signature					
(b) (6) Personal Privacy	OEX	OW	Aug 23, 2011	Aug 30, 2011	N/A
<b>Instruction:</b> AD-Prepare draft response for the Administrator's signature					
Diane Jones-Coleman	OW	OW-OWOW	Aug 24, 2011	Aug 29, 2011	N/A
<b>Instruction:</b> AD-Prepare draft response for the Administrator's signature					



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**WASHINGTON, DC 20460**

August 18, 2011

EPA-SAB-11-013

OFFICE OF THE ADMINISTRATOR  
SCIENCE ADVISORY BOARD

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Subject: Reactive Nitrogen in the United States: An Analysis of Inputs, Flows, Consequences, and Management Options – A Report of the EPA Science Advisory Board

Dear Administrator Jackson:

Excess reactive nitrogen compounds in the environment are associated with many large-scale environmental concerns, including eutrophication of surface waters, toxic algae blooms, hypoxia, acid rain, nitrogen saturation in forests, and global warming. In addition, reactive nitrogen is associated with harmful human health effects caused by air pollution and drinking water contamination. Reactive nitrogen (hereafter referred to as Nr) includes all biologically active, chemically reactive, and radiatively active nitrogen compounds in the atmosphere and biosphere of the earth, in contrast to non-reactive gaseous N<sub>2</sub>. EPA and other federal and state agencies have implemented programs to reduce the risks posed by excessive Nr, but a more comprehensive and integrated approach is needed to manage the use of Nr in a way to achieve its benefits, such as fertilizer for food production, and mitigate its damages as it is introduced to and cycles repeatedly through the environment in different forms and media.

The Science Advisory Board (SAB) Integrated Nitrogen Committee has conducted a study to analyze sources and fate of Nr in the United States and provide advice to EPA on integrated nitrogen research and control strategies. We are pleased to submit the SAB report, *Reactive Nitrogen in the United States: An Analysis of Inputs, Flows, Consequences, and Management Options*. Our objectives for this study were to:

- Identify and analyze from a scientific perspective the problems Nr presents in the environment and the links among them;
- Evaluate the contribution an integrated nitrogen management strategy could make to environmental protection;
- Identify additional risk management options for EPA's consideration; and
- Make recommendations to EPA concerning improvements in nitrogen research to support risk reduction.

The SAB report provides findings and recommendations addressing these study objectives. Assessment of the challenges and costs to the Agency of implementing the recommendations is beyond the scope of the report.

In general, the SAB finds that:

- In the United States, human activities across multiple sources currently introduce more than five times the Nr into the environment than natural processes. The largest U.S. sources of new Nr entering the U.S. environment include: the creation and use of synthetic fertilizers, Nr created by legumes, and the combustion of fossil fuels.
- Much of the Nr used to ensure a plentiful supply of food, fiber and biofuel is released to the environment, as is the Nr formed during fossil fuel combustion.
- The introduction of human created Nr into the environment degrades air and water quality, which can cause harmful algae blooms, hypoxia, fish kills, loss of drinking water potability, loss of biodiversity, forest declines, and human health problems resulting in losses of billions of dollars per year.



- Multiple strategies and actions exist to more effectively minimize the inputs of Nr to the environment and maximize nitrogen use efficiency.

The SAB provides the following overarching recommendations to improve the management of Nr.

- The framing of the movement of nitrogen among various environmental reservoirs in terms of the nitrogen cascade concept provides a means for tracking nitrogen as it changes form and passes through multiple ecosystems and media. Given this complexity, innovative management systems and regulatory structures reflecting these characteristics of Nr are required to address the significant environmental and human health damage caused by Nr. New institutional structures and relationships that also reflect the multi-media and multi-form character of Nr and its flows and transformations through the environment will have to be created for effective control and management.
- The SAB recommends an integrated approach to the management of Nr. This approach must use a combination of implementation mechanisms appropriate to the specific environmental and policy contexts and supported by critical research on the specific risks of Nr and on decreasing the risks of Nr. The approach must reflect an integrated policy that recognizes the complexity and trade-offs associated with the nitrogen cascade while recognizing that intervention points vary in terms of efficiency and cost effectiveness.
- EPA should form an intra-Agency Nr management task force that will build on the existing breadth of Nr research and management capabilities within the Agency. Its objective should be to increase scientific understanding of: (1) Nr impacts on terrestrial and aquatic ecosystems, human health, and climate; (2) Nr-relevant monitoring requirements; and (3) the most efficient and cost effective means by which to decrease various adverse impacts of Nr loads as they cascade through the environment.
- Successful Nr management will require changes in the way EPA interacts with other agencies. The SAB recommends that EPA convene a reactive nitrogen inter-agency management task force with broad representation from other agencies and departments involved with Nr control or utilization. This is essential to coordinate federal programs that address Nr concerns and would help ensure clear responsibilities for monitoring, modeling, researching, and managing Nr in the environment. Similar efforts at coordination and joint action need to be made among and between agencies at both the state and federal level.

In the context of addressing the specific study objectives, the SAB explored how an estimated 25 percent reduction in Nr introduced into the environment might be achieved with existing technology in the coming 10 to 20 years through actions that could be taken by EPA, other management authorities, and other public and private organizations. Specific actions include increased controls of oxides of nitrogen, improved reactive nitrogen uptake by agricultural crops, large-scale creation and restoration of wetlands for nitrogen removal in agricultural landscapes with high Nr in surface waters, decreased loss of reactive nitrogen from agricultural lands and animal feeding operations, and decreased discharge of reactive nitrogen from point sources and developed (urban) lands. However, dealing effectively with reactive nitrogen's cascade through air, water and land will require an integrated management approach that is multi-media and multi-stressor as suggested by recent initiatives by EPA's Office of Research and Development.

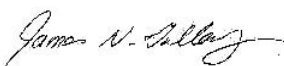
The most important task for EPA and allied agencies and departments will be to effectively inform the public of the costs and dangers of excess Nr. Without strong public support, the widespread efforts necessary to control Nr will not be possible.

In closing, we appreciate the opportunity to provide advice on this very important topic, and we look forward to receiving your response. The SAB stands ready to provide more information as it may be useful and would be pleased to assist EPA in the implementation of the report's recommendations, if the EPA would find such support valuable.

Sincerely,



Dr. Otto C. Doering III  
Chair  
Integrated Nitrogen  
Committee  
Science Advisory Board



Dr. James N. Galloway  
Chair (2007-2009)  
Integrated Nitrogen Committee  
Science Advisory Board



Dr. Thomas L. Theis  
Vice-Chair (2008-2009)  
Integrated Nitrogen Committee  
Science Advisory Board



Dr. Deborah L. Swackhamer  
Chair  
Science Advisory Board



# Correspondence Management System

Control Number: AX-11-001-4479

Printing Date: August 29, 2011 02:05:57



## Citizen Information

**Citizen/Originator:** LaRoque, Stephen

**Organization:** North Carolina General Assembly, House of Representatives

**Address:** Legislative Office Building, 300 North Salisbury Street, Roo, Raleigh, NC  
27603-5925

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4479

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Sep 13, 2011

**# of Extensions:** 0

**Letter Date:** Jul 14, 2011

**Received Date:** Aug 29, 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:** DRF - Urge EPA to leave the primary ozone standard at its present level

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - 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
(b) (6) Personal Privacy	OEX	OAR	Aug 29, 2011	Sep 13, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History

Action By	Office	Action	Date
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# DAILY READING FILE



## North Carolina General Assembly House of Representatives

REPRESENTATIVE STEPHEN LAROQUE  
10TH DISTRICT

TELEPHONE: (919) 715-3017  
(919) 754-3312 FAX

DISTRICT ADDRESS: POST OFFICE BOX 1034  
KINSTON, NC 28503

EMAIL: stephen.laroque@ncleg.net

### COMMITTEES:

CHAIRMAN, RULES, CALENDAR, AND  
OPERATIONS OF THE HOUSE  
APPROPRIATIONS  
VICE CHAIRMAN, APPROPRIATIONS  
SUBCOMMITTEE ON NATURAL AND ECONOMIC  
RESOURCES  
COMMERCE AND JOB DEVELOPMENT  
COMMERCE AND JOB DEVELOPMENT ON  
BUSINESS AND LABOR  
ENVIRONMENT  
PUBLIC UTILITIES

July 14, 2011

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

Dear Administrator Jackson;

I strongly oppose any action by the Environmental Protection Agency that would lower the primary ozone standard. North Carolina's economy is still much too fragile to withstand the devastating financial effects of this regulatory policy change.

North Carolina has lost about 300,000 jobs since the beginning of the recession in 2007; our unemployment rate is still above the national average. When you consider everyone affected by the weak job market – the underemployed, people retraining in hopes of future employment and those who have simply given up on finding work – almost one out of every five North Carolinians cannot find the full-time employment they need to support their families.

A drastically lowered ozone standard, in the 60 ppb to 70 ppb range that has been discussed, would make our state's already troubling employment situation even worse. It is estimated that almost 114,000 North Carolina jobs could be lost if the standard is dropped to the lowest proposed level. It would reduce our state GDP by \$9 billion.

This is totally unacceptable. North Carolina is no different than any other state, all of which would be similarly affected by this plan. In times like these the federal government must not even consider implementing any policy that would put more people out of work or diminish economic growth.

OFFICE OF THE  
EXECUTIVE SECRETARIAT

2011 AUG 29 PM 12:34

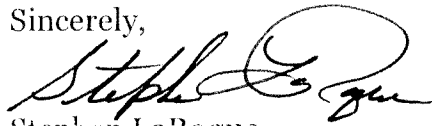
REC'D



Regulatory agencies like the EPA have a responsibility to fully consider all the ramifications of their policies and take no action that will make it harder for Americans to provide for their families, find rewarding careers and contribute to the success of our nation. Lowering the primary ozone standard, just three years after the already stringent regulations were put in place, does not meet that test.

Please reconsider this plan. I urge you to leave the primary ozone standard at its present level.

Sincerely,

A handwritten signature in black ink, appearing to read 'Stephen LaRoque', with a large, stylized flourish at the end.

Stephen LaRoque

Cc: The White House Office of Public Engagement and Intergovernmental Affairs  
White House Chief of Staff Bill Daley  
Senator Richard Burr  
Senator Kay Hagan

*NC unemp - [http://www.joplinglobe.com/crime\\_and\\_courts/x2099951911/Sheriff-Shooting-in-wounding-of-man-accidental](http://www.joplinglobe.com/crime_and_courts/x2099951911/Sheriff-Shooting-in-wounding-of-man-accidental)*





# Correspondence Management System

Control Number: AX-11-001-4484

Printing Date: August 29, 2011 03:12:33



## Citizen Information

**Citizen/Originator:** Klein, Jeffrey D.

**Organization:** Senate of the State of New York  
**Address:** 304 Legislative Office Building, Albany, NY 12247

**Constituent:** N/A

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

## Control Information

**Control Number:** AX-11-001-4484 **Alternate Number:** N/A  
**Status:** Pending **Closed Date:** N/A  
**Due Date:** Sep 12, 2011 **# of Extensions:** 0  
**Letter Date:** Aug 19, 2011 **Received Date:** Aug 29, 2011  
**Addressee:** AD-Administrator **Addressee Org:** EPA  
**Contact Type:** LTR (Letter) **Priority Code:** Normal  
**Signature:** RA-R2-Regional Administrator - Region 2 **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 in reference to the proposed EPA mandate for the construction of a concrete cover over the Hillview Reservoir located in southeast Yonkers, New York.  
**Instructions:** RA-R2-Prepare draft response for signature by the Regional Administrator for Region 2  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OCSPP - OCSPP - Immediate Office  
OEAE - 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
(b) (6) Personal Privacy	OEX	R2	Aug 29, 2011	Sep 12, 2011	N/A
<b>Instruction:</b> RA-R2-Prepare draft response for signature by the Regional Administrator for Region 2					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

# DAILY READING FILE

THE SENATE  
STATE OF NEW YORK

304 LEGISLATIVE OFFICE BUILDING  
ALBANY, NEW YORK 12247  
(518) 455-3595  
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3612 EAST TREMONT AVENUE  
BRONX, NEW YORK 10465  
(718) 822-2049  
(800) 718-2039  
FAX (718) 822-2321  
JDKLEIN@NYSENATE.GOV



JEFFREY D. KLEIN  
34TH SENATE DISTRICT

August 19, 2011

Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460  
Dear Administrator Jackson:

RECEIVED  
2011 AUG 29 PM 12:34  
OFFICE OF THE  
EXECUTIVE SECRETARY

I am writing in reference to the proposed Environmental Protection Agency (EPA) mandate for the construction of a concrete cover over the Hillview Reservoir located in southeast Yonkers, New York. My constituents and I believe that this capital project is not only redundant, but that the ratepayer will end up bearing the brunt of the 1.6 billion dollar cost for this development.

As you know, New York City currently maintains the largest and safest public drinking water system in the world providing safe drinking water for 9 million people daily. Keeping up with its commitment for safer drinking water, New York City is in the process of building the Catskill-Delaware Water Ultraviolet Distillation Facility in Westchester County. This facility will use ultraviolet light to purify water by killing pathogens that cause cryptosporidiosis and other illnesses. Once completed, the site will host the largest ultraviolet disinfection facility in the world.

Although I understand that the construction of a concrete cover over the Hillview Reservoir will theoretically stop pathogens from entering the water system, I do not agree with the EPA's recent findings that there are 3500 cases of cryptosporidiosis per year in New York City. The New York City Department of Environmental Conservation released a recent report detailing that cryptosporidiosis accounts for only 100 cases per year, most of which are not related to drinking water.

I am also concerned that the cost of this capital project potentially increases the average ratepayer's bill by almost 3%. For the past five years, residents in of the district I represent have seen a steady increase in their water bills, most recently with the introduction of digital water meters throughout the city.

I urge the EPA to work with myself and New York City in order to implement a plan that avoids these erroneous costs and works towards the goal of providing clean and affordable drinking water for the millions of New York City residents throughout the five boroughs. I am confident, considering the history of collaboration between New York and the EPA, that we will all find a common sense solution that will achieve all of our goals.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeffrey D. Klein', written over a horizontal line.

Senator Jeffrey D. Klein  
34<sup>th</sup> Senate District  
Bronx-Westchester

JDK: MDG



# Correspondence Management System

Control Number: AX-11-001-4487

Printing Date: August 29, 2011 03:37:19



## Citizen Information

**Citizen/Originator:** Mull, Stephen D

**Organization:** United States Department of State  
**Address:** 2201 C Street, NW, Washington, DC 20520

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4487  
**Status:** Pending  
**Due Date:** Nov 25, 2011  
**Letter Date:** Aug 26, 2011  
**Addressee:** AD-Administrator  
**Contact Type:** LTR (Letter)  
**Signature:** AD-Administrator  
**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.  
**Alternate Number:** N/A  
**Closed Date:** N/A  
**# of Extensions:** 0  
**Received Date:** Aug 29, 2011  
**Addressee Org:** EPA  
**Priority Code:** Normal  
**Signature Date:** N/A  
**Subject:** Daily Reading File-Keystone XL Pipeline  
**Instructions:** AD-Prepare draft response for the Administrator's signature  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** N/A

## Lead Information

**Lead Author:** N/A

### Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OITA	Aug 29, 2011	Nov 25, 2011	N/A
<b>Instruction:</b> AD-Prepare draft response for the Administrator's signature					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Assign OITA as lead office	Aug 29, 2011
(b) (6) Personal Privacy	OEX	Changed Due Date September 12, 2011 November 25, 2011	Aug 29, 2011





RECEIVED

2011 AUG 29 PM 12:33

OFFICE OF THE  
EXECUTIVE SECRETARIAT

UNCLASSIFIED

201114989

United States Department of State

Washington, D.C. 20520

August 26, 2011

MEMORANDUM FOR:

MR. MICHAEL L. BRUHN  
EXECUTIVE SECRETARY  
OFFICE OF THE SECRETARY OF  
DEFENSE  
DEPARTMENT OF DEFENSE

MS. CAROL DARR  
DIRECTOR  
EXECUTIVE SECRETARIAT  
DEPARTMENT OF  
TRANSPORTATION

MS. FAY IUDICELLO  
DIRECTOR  
OFFICE OF THE EXECUTIVE  
SECRETARIAT AND REGULATORY  
AFFAIRS  
DEPARTMENT OF THE INTERIOR

MR. ERIC E. NACHTER  
DIRECTOR  
OFFICE OF THE EXECUTIVE  
SECRETARIAT  
ENVIRONMENTAL PROTECTION  
AGENCY

MS. DANA PAIGE  
DIRECTOR  
OFFICE OF THE EXECUTIVE  
SECRETARIAT  
DEPARTMENT OF JUSTICE

MR. PHIL MCNAMARA  
EXECUTIVE SECRETARY  
DEPARTMENT OF HOMELAND  
SECURITY

MS. LATOYA MURPHY  
DIRECTOR  
EXECUTIVE SECRETARIAT  
DEPARTMENT OF COMMERCE

MS. ERICA DEVOS  
DIRECTOR  
OFFICE OF THE EXECUTIVE  
SECRETARIAT  
DEPARTMENT OF ENERGY

SUBJECT: Keystone XL Pipeline

On June 16, 2010, the Department of State formally notified your agency of its receipt of an application under E.O. 13337, as amended, from TransCanada Keystone Pipeline, LP to construct, connect, operate, and maintain the Keystone XL pipeline at the U.S.-Canadian border at Phillips County, Montana. In that

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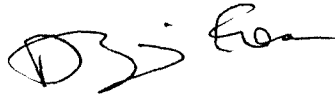
UNCLASSIFIED

- 2 -

notification, among other matters, we requested that you provide us your agency's views on whether issuance of a permit for this facility is in the national interest by September 15, 2010, which was 90 days from the date of our notification, as required by E.O. 13337. In response, a number of agencies (including the Environmental Protection Agency and the Department of Energy) indicated that they would need a copy of the Final Environmental Impact Statement (EIS) on the proposed pipeline before they would be prepared to provide their views. On July 21, 2010, we held an interagency meeting at the State Department to discuss this issue, among others. At that time, it was agreed by the interagency attendees that agency views to the Department of State on this application would be due 90 days from issuance of the Final EIS.

The purpose of this ExecSec to ExecSec memo is to inform you that the Final EIS is being issued by the Department today. A CD of the Final EIS is included. In accord with E.O. 13337, therefore, the Department expects to receive your agency's views on the TransCanada Keystone Pipeline, LP application by Friday, November 25, 2011. Earlier responses, of course, will be appreciated.

Thank you for your cooperation and assistance in this matter.

A handwritten signature in black ink, appearing to read "SD Mull", is positioned above the printed name.

Stephen D. Mull  
Executive Secretary

Attachment:

Final Environmental Impact Statement (in CD form)

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## INTRODUCTION

In September 2008, TransCanada Keystone Pipeline, LP (Keystone) filed an application for a Presidential Permit with the U.S. Department of State (DOS) to build and operate the Keystone XL Project. The proposed Project would have the capacity to transport 700,000 barrels per day (bpd) of crude oil to delivery points in Oklahoma and southeastern Texas.

This Executive Summary of the final environmental impact statement (final EIS) summarizes the proposed Project, including the purpose of and need for the Project, and the major conclusions and areas of concern raised by agencies and the public. More detailed information on the proposed Project, alternatives to the proposed Project, and the associated potential environmental impacts is presented in the final EIS that is provided in the CD in the sleeve on the back page.

## PRESIDENTIAL PERMITTING PROCESS

All facilities which cross the international borders of the United States require a Presidential Permit. For liquid hydrocarbon pipelines, the President, through Executive Order 13337, directs the Secretary of State to decide whether a project is in the national interest before granting a Presidential Permit.

As part of the Presidential Permit review process, DOS determined that it should prepare an EIS consistent with the National Environmental Policy Act (NEPA). DOS is the lead federal agency for the NEPA environmental review of the Proposed Project because the need for a Presidential Permit is the most substantial federal decision related to the Proposed Project. To assist in preparing the EIS, DOS retained an environmental consulting firm, Cardno ENTRIX, following DOS guidelines on third-party contracts. The DOS environmental and safety review of the proposed Project that lead to the final EIS was conducted for nearly 3 years and included consultations with the third-party contractor, cooperating agencies, and scientists and engineers

with expertise in key areas of concern related to the proposed Project.

The determination of national interest involves consideration of many factors, including energy security; environmental, cultural, and economic impacts; foreign policy; and compliance with relevant federal regulations. Before making a decision, DOS will consult with the eight federal agencies identified in Executive Order 13337: the Departments of Energy, Defense, Transportation, Homeland Security, Justice, Interior, and Commerce, and the Environmental Protection Agency (EPA). DOS will also solicit public input on the national interest determination by accepting written comments and holding comment meetings in the six states traversed by the proposed route and in Washington, D.C.

Figure ES-1 lists the major events, public outreach activities, and other details of the environmental review and national interest determination processes.

## SUMMARY OF THE KEYSTONE XL PROJECT

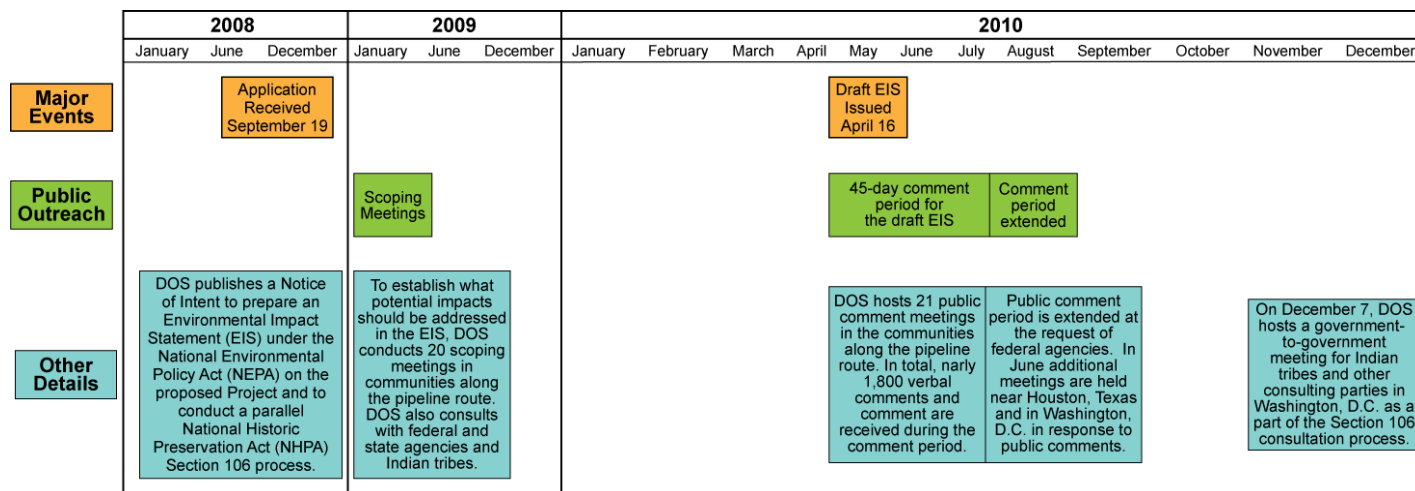
The proposed Keystone XL Project consists of a crude oil pipeline and related facilities that would primarily be used to transport Western Canadian Sedimentary Basin crude oil from an oil supply hub near Hardisty, Alberta, Canada to delivery points in Oklahoma and Texas. The proposed Project would also be capable of transporting U.S. crude oil to those delivery points. The U.S. portion of the pipeline would begin near Morgan, Montana at the international border of the United States and extend to delivery points in Nederland and Moore Junction, Texas. There would also be a delivery point at Cushing, Oklahoma. These three delivery points would provide access to many other U.S. pipeline systems and terminals, including pipelines to refineries in the U.S. Gulf Coast region. Market conditions, not the operator of the pipeline, would determine the refining locations of the crude oil.

### Aboveground Facilities

- 30 pump stations on 5- to 15-acre sites
- Delivery facilities at Cushing, Oklahoma and Nederland and Moore Junction, Texas
- Densitometer sites located at all injection points and at all delivery points
- 112 mainline valves along pipeline and 2 mainline valves at each pump station
- Tank farm at Cushing, Oklahoma on a 74-acre site

See Section 2.2 for further information on aboveground facilities.

**Figure ES-1**  
**U.S. Department of State Environmental and National Interest Determination Review Processes**



The proposed Keystone XL pipeline would consist of approximately 1,711 miles of new 36-inch-diameter pipeline, with approximately 327 miles of pipeline in Canada and 1,384 miles in the U.S. Figure ES-3 depicts the three segments of the proposed Project in the U.S. As noted in that illustration, the proposed Project would connect to the northern and southern ends of the existing Cushing Extension of the Keystone Oil Pipeline System.

Figure ES-4 illustrates the construction sequence that would be followed for the proposed Project. The proposed Project would also include 30 electrically operated pump stations, 112 mainline valves, 50 permanent access roads, and a new oil storage facility in Cushing, Oklahoma. If market conditions change, the capacity of the proposed Project could be increased to 830,000 bpd by increasing pumping capacity at the proposed pump stations.

The overall proposed Keystone XL Project is estimated to cost \$7 billion. If permitted, it would begin operation in 2013, with the actual date dependant on the necessary permits, approvals, and authorizations.

#### Transport of Canadian Oil Sands Crude Oil

The proposed Keystone XL Project would primarily transport crude oil extracted from the oil sands areas in Alberta, Canada. Oil sands (which are also referred to as tar sands) are a combination of clay, sand, water, and bitumen, which is a material similar to soft asphalt. Bitumen is extracted from the ground by mining or by injecting steam underground to heat

the bitumen to a point where it liquefies and can be pumped to the surface.

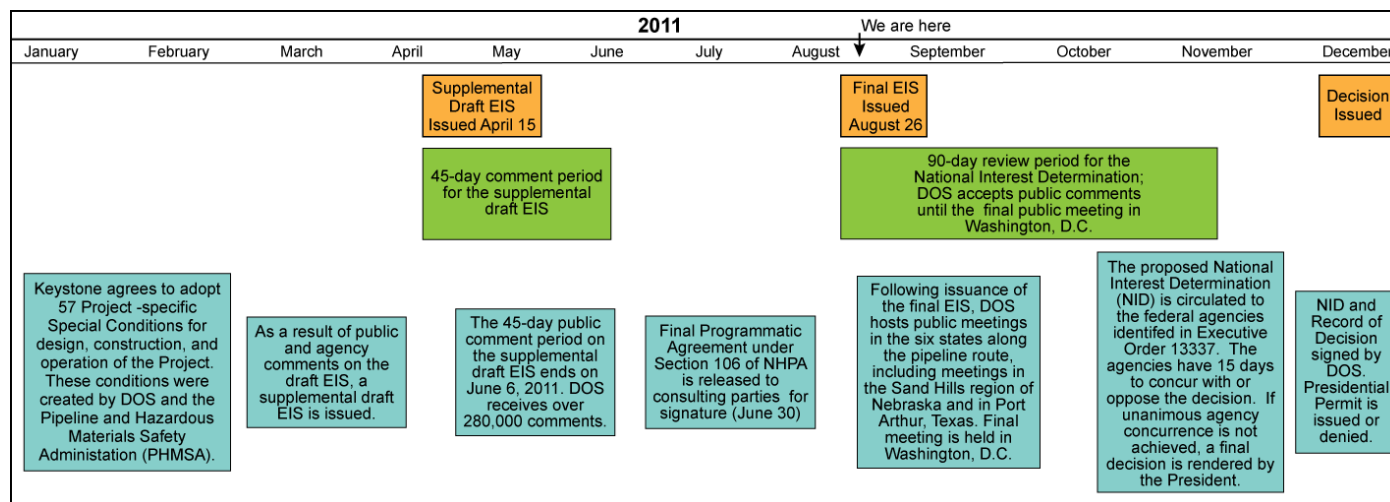
Bitumen is treated in several ways to create crude oil suitable for transport by pipeline and refining. The types of Canadian crude oil that would be transported by the proposed Project would primarily consist of synthetic crude oil and diluted bitumen.

Synthetic crude oil is produced from bitumen using refining methods – a process termed upgrading – that in general converts bitumen into lighter liquid hydrocarbons. In other words, the bitumen is converted into a crude oil similar to conventional crude oil.

**Figure ES-2**  
**36-Inch-Diameter Crude Oil Pipe**



**Figure ES-1 (Cont.)**  
**U.S. Department of State Environmental and National Interest Determination Review Processes**



Diluted bitumen – often termed dilbit – consists of bitumen mixed with a diluent, which is a light hydrocarbon liquid such as natural gas condensate or refinery naphtha. The bitumen is diluted to reduce its viscosity so that it is in a more liquid form that can be transported via pipeline. Dilbit is also processed to remove sand, water, and other impurities. The diluents in dilbit are integrally combined with the bitumen to form a crude oil that is a homogenous mixture that does not physically separate when released.

Both synthetic crude oil and dilbit are similar in composition and quality to the crude oils currently transported in pipelines in the U.S. and being refined in Gulf Coast refineries. Neither type of crude oil requires heating for transport in pipelines.

### Transport of U.S. Crude Oil

In late 2010, Keystone Marketlink, LLC announced plans for two separate projects that would enable crude oil from domestic sources to be transported in the proposed Keystone XL Project. Those two projects, the Bakken Marketlink Project and the Cushing Marketlink Project, are considered “connected actions” under NEPA. The Bakken Marketlink Project would allow transport of up to 100,000 bpd of crude oil from the Bakken formation in the Williston Basin in Montana and North Dakota.

#### Pipe Specifications

- Material: High-strength X70 steel pipe, API 5L
- Outside diameter: 36 inches
- Operating Pressure: 1,308 psig
- External Coating: fusion-bonded epoxy

See Section 2.3.1 for further information on pipe specifications.

These fields have experienced high growth in the last few years as new technology has allowed the oil to be profitably extracted. Keystone currently has long-term commitments for transporting 65,000 bpd of crude oil in the proposed Keystone XL Project from the Bakken Marketlink Project.

The Cushing Marketlink Project would allow transport of up to 150,000 bpd on the proposed Project from the Cushing, Oklahoma area to the proposed Keystone XL Project delivery points in Texas.

### Other Connected Actions

In addition to the Marketlink projects, there are two other types of connected actions associated with the proposed Project: electrical distribution lines and substations that would provide power for the pump stations, and an electrical transmission line that would be required to ensure transmission system reliability

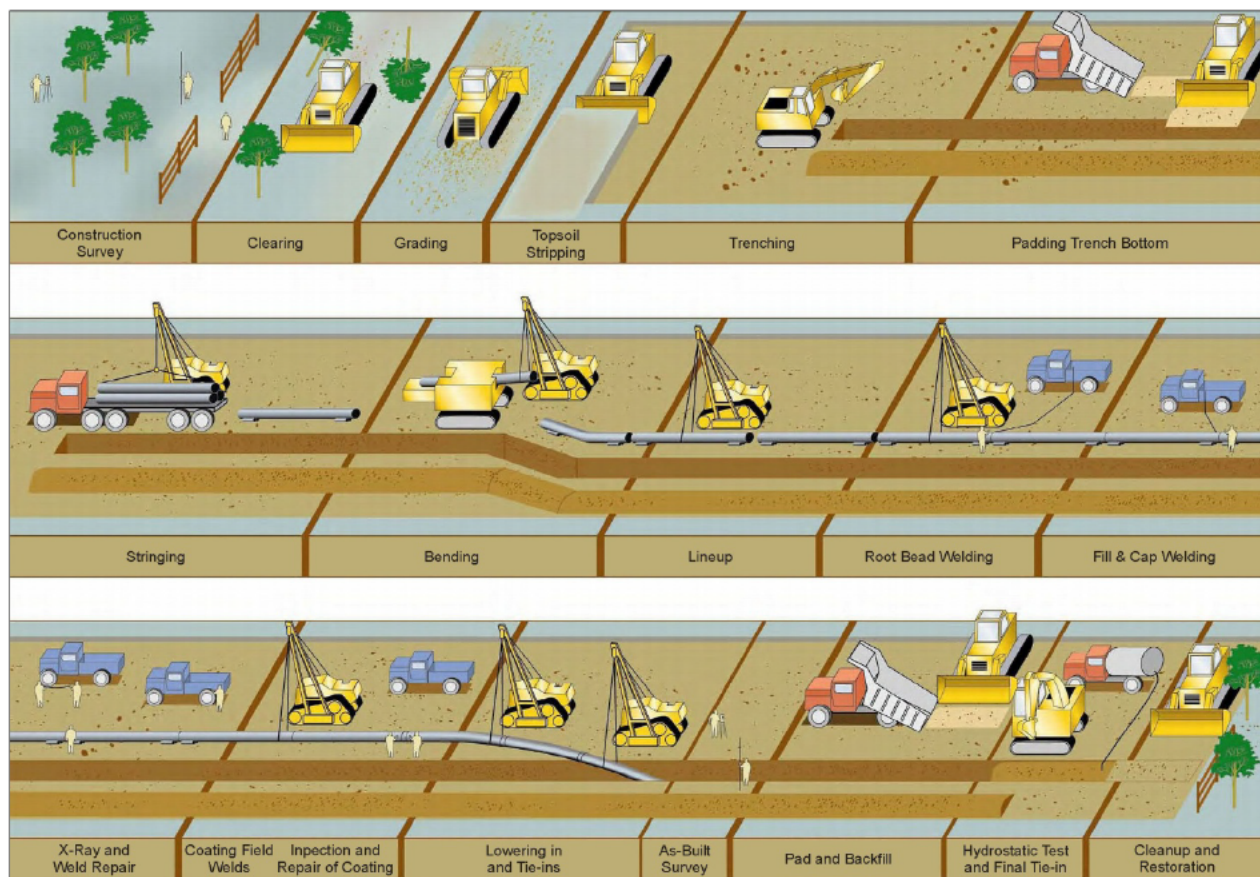
when the proposed Project is operating at maximum capacity. Those projects would not be built or operated by Keystone, and the permit applications for those projects would be reviewed and acted on by other agencies. Although only limited information was available on the design, construction, and operation of the projects, DOS assessed the potential impacts of the projects based on currently available information.



**Figure ES-3  
Proposed Pipeline Route**



**Figure ES-4**  
**Typical Pipeline Construction Sequence**



## PURPOSE OF AND NEED FOR THE KEYSTONE XL PROJECT

The primary purpose of the proposed Project is to provide the infrastructure necessary to transport Western Canadian Sedimentary Basin heavy crude oil from the U.S. border with Canada to delivery points in Texas in response to the market demand of Gulf Coast refineries for heavy crude oil. This market demand is driven by the need of the refiners to replace declining feed stocks of heavy crude oil obtained from other foreign sources with crude oil from a more stable and reliable source. Keystone currently has firm, long-term contracts to transport 380,000 bpd of Canadian crude oil to the Texas delivery points.

An additional purpose of the proposed Project is to transport Canadian heavy crude oil to the proposed Cushing tank farm in response to the market demand of refineries in the central and Midwest U.S. for heavy crude oil. Keystone also has firm contracts to transport 155,000 bpd of Canadian crude oil to

Cushing, Oklahoma in the existing Keystone Oil Pipeline Project. If the proposed Project is approved and implemented, Keystone would transfer shipment of crude oil under those contracts to the proposed Project. Although there is sufficient pipeline capacity from Canada to the U.S. in general to accommodate projected additional imports of Canadian crude in the short to medium term, there is extremely limited pipeline transport capacity to move such crude oils to Gulf Coast refineries.

The 58 refineries in the Gulf Coast District provide a total refining capacity of approximately 8.4 million bpd, or nearly half of U.S. refining capacity. These refineries provide substantial volumes of refined petroleum product, such as gasoline and jet fuel, via pipeline to the Gulf Coast region as well as the East Coast and the Midwest.

In 2009, Gulf Coast refineries imported approximately 5.1 million bpd of crude oil from more than 40 countries. The top four suppliers were Mexico, Venezuela, Saudi Arabia, and Nigeria. Of the total

volume imported, approximately 2.9 million bpd was heavy crude oil similar to the crude oil that would be transported by the proposed Project; Mexico and Venezuela were the major suppliers. However, imports of heavy crude oil from these two countries have been in steady decline while Gulf Coast refining capacity is projected to grow by at least 500,000 bpd by 2020, with or without the proposed Project.

## PROJECT DESIGN AND SAFETY

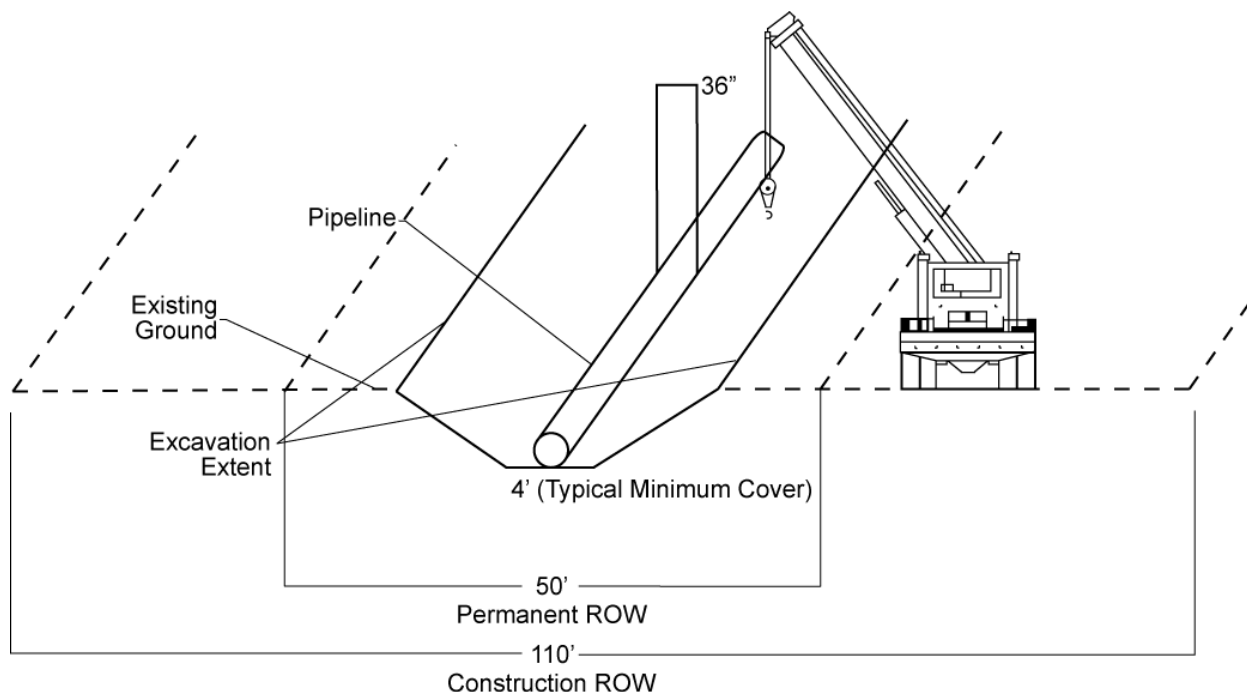
The Pipeline and Hazardous Materials Safety Administration (PHMSA), a federal agency within the U.S. Department of Transportation, is the primary federal regulatory agency responsible for ensuring the safety of America's energy pipelines, including crude oil pipeline systems. As a part of that responsibility, PHMSA established regulatory requirements for the construction, operation, maintenance, monitoring, inspection, and repair of hazardous liquid pipeline systems.

In 2009, Keystone applied to PHMSA for a Special Permit to operate the proposed Project at a slightly higher pressure than allowed under the existing regulations. DOS worked with PHMSA to develop Project-specific Special Conditions that would have

been incorporated into the Special Permit. However, in August 2010, Keystone withdrew its application to PHMSA for a Special Permit. However, to enhance the overall safety of the proposed Project, DOS and PHMSA continued working on Special Conditions specific to the proposed Project and ultimately established 57 Project-specific Special Conditions. As a result, Keystone agreed to design, construct, operate, maintain, and monitor the proposed Project in accordance with the more stringent 57 Project-specific Special Conditions in addition to complying with the existing PHMSA regulatory requirements.

In consultation with PHMSA, DOS determined that incorporation of the Special Conditions would result in a Project that would have a degree of safety greater than any typically constructed domestic oil pipeline system under current regulations and a degree of safety along the entire length of the pipeline system that would be similar to that required in high consequence areas as defined in the regulations. Key aspects of the Special Conditions are summarized below. Appendix U of the EIS presents the Special Conditions and a comparison of the conditions with the existing regulatory requirements.

**Figure ES-5  
Pipeline Cross-section**





### Pipe Design and Manufacturing

The first nine Special Conditions present design standards to be used in manufacturing the pipe and requirements for pipe materials, pipe inspections at the mill and in the field, performance tests, and quality control procedures.

### System Design, Construction and Testing

Conditions 10 through 23 address design and construction of the proposed Project, including testing of Project components. Those Conditions present requirements for aspects of the proposed Project such as field coatings, depth of cover over the pipeline, temperature and overpressure control, welding procedures, and testing prior to operations. Testing requirements include hydrostatic testing, a process which involves filling the line with water and increasing the pressure within the pipeline to test the pipeline's ability to withstand pressure. If the test water pressure drops, further testing must be conducted and reported to PHMSA, and faulty pipeline sections must be repaired or replaced. Operations could not begin until the entire system has passed the required hydrostatic testing.

### Operations, Maintenance, and Monitoring

Conditions 24 through 49 present the requirements for the Supervisory Control and Data Acquisition (SCADA) system that would be used to remotely monitor and control the pipeline, as well as requirements for internal corrosion inspection, cathodic protection, identification of the location of the pipeline with aboveground markers, internal pipeline inspections using electronic sensing devices termed "smart pigs," visual monitoring of the pipeline corridor, and repair procedures. The SCADA system would alert the Operations Control Center of an abnormal operating condition, indicating a possible release of oil. The system would include automatic features that would ensure operation within prescribed pressure limits. There would also be a complete backup system.

**Figure ES-6  
Smart Pig**



Pipeline pressure is the primary indicator used by the SCADA system to detect an oil spill. If the monitoring system identifies a pressure change in the pipeline, the controller would evaluate the data to determine if it is a false alarm or an actual spill. Using pipeline pressure allows the operator to detect leaks down to approximately 1.5 to 2 percent of pipeline flow rate.

The proposed Project would also include a computer-based system that does not rely on pipeline pressure to assist in identifying leaks below the 1.5 to 2 percent detection thresholds.

In addition to computer monitoring, there would be scheduled patrols of the pipeline right-of-way as well as public and landowner awareness programs. Communities along the pipeline would be given information to facilitate the reporting of suspected leaks and events that could suggest a threat to pipeline safety.

### Reporting, Record Keeping, and Certification

The final eight conditions present requirements for maintaining detailed records, development a right-of-way management plan, reporting to PHMSA, and providing PHMSA with certification from a senior officer of Keystone that it has complied with the Special Conditions.



## SPILL POTENTIAL AND RESPONSE

Spills could result from many causes, including corrosion (external or internal), excavation equipment, defects in materials or in construction, overpressuring the pipeline, and geologic hazards, such as ground movement, washouts, and flooding. Although the leak detection system would be in place, some leaks might not be detected by the system. For example, a pinhole leak could be undetected for days or a few weeks if the release volume rate were small and in a remote area.

In most cases the oil from a small leak would likely remain within or near the pipeline trench where it could be contained and cleaned up after discovery. As a result, for most small leaks it is likely that the oil would be detected before a substantial volume of oil reaches the surface and affects the environment. Spills may be identified during regular pipeline aerial inspections, by ground patrols and maintenance staff, or by landowners or passersby in the vicinity of the spill.

For larger spills, the released oil would likely migrate from the release site. However, DOS analysis of previous large pipeline oil spills suggests that the depth and distance that the oil would migrate would likely be limited unless it reaches an active river, stream, a steeply sloped area, or another migration pathway such as a drainage ditch.

### Estimated Frequency of Spills

In spite of the safety measures included in the design, construction, and operation of the proposed Project, spills are likely to occur during operation over the lifetime of the proposed Project. Crude oil could be released from the pipeline, pump stations, or valve stations.

Although a large spill could occur at the proposed Cushing tank farm, each of the three 350,000-barrel tanks would be surrounded by a secondary containment berm that would hold 110 percent of the contents of the tank plus freeboard for precipitation. Therefore, there would have to be a concurrent failure of the secondary containment berm for a tank-farm spill to reach the area outside of the tank. Such an event is considered unlikely.

DOS calculated estimates of spill frequency and spill volumes. Those estimates included potential spills from the pipeline, pump stations, and valve stations. The calculations used data from the PHMSA spill incident database for hazardous liquid pipelines and crude oil pipelines, and from the National Response

Center (NRC) database for releases and spills of hazardous substances and oil.

Based on those data, DOS calculated that there could be from 1.18 to 1.83 spills greater than 2,100 gallons per year for the entire Project. The estimated frequency of spills of any size ranged from 1.78 to 2.51 spills per year.

Keystone submitted a risk analysis that also included an estimate of the frequency of spills over the life of the proposed Project. Keystone's analysis was for the pipeline only and did not include releases from pump stations, valve stations, or the tank farm.

Keystone initially calculated a spill frequency of 1.38 spills per year based only on the historical PHMSA spill incident database available in 2008 when the application was submitted. Keystone also calculated a Project-specific spill frequency for the pipeline that considered the specific terrain and environmental conditions along the proposed Project corridor, required regulatory controls, depth of cover, strength of materials, and technological advances in the design of the proposed Project. Using those factors, Keystone estimated that there could be 0.22 spills per year from the pipeline.

### Spills from the Existing Keystone Oil Pipeline System

The existing Keystone Oil Pipeline System has experienced 14 spills since it began operation in June 2010. The spills occurred at fittings and seals at pump or valve stations and did not involve the actual pipeline. Twelve of the spills remained entirely within the confines of the pump and valve stations. Of those spills, 7 were 10 gallons or less, 4 were 100 gallons or less, 2 were between 400 and 500 gallons, and 1 was 21,000 gallons.

The spill of 21,000 gallons occurred when a fitting failed at the Ludden, North Dakota pump station. As a result, PHMSA issued a Corrective Action Order, halting pipeline operation. Keystone was required to consult with PHMSA before returning the pipeline to operation. In that incident, most of the oil was contained within the pump station, but 210 gallons discharged from the pump station to adjacent land. The land affected was treated in place in compliance with North Dakota Department of Health land treatment guidelines.

## Maximum Spill Volume

Keystone conducted an assessment of the maximum potential pipeline spill volume from a complete pipeline structural failure. Keystone estimated that the maximum spill volume would be approximately 2.8 million gallons, which would be possible along less than 1.7 miles of the proposed pipeline route due to topographic conditions. For approximately 50 percent of the proposed pipeline route (approximately 842 miles), the maximum spill volume would be approximately 672,000 gallons.

**Figure ES-7**  
**Pump Station on the Existing Keystone Oil Pipeline System**



## Emergency Planning

As required by PHMSA regulations, Keystone must submit an Emergency Response Plan and a Pipeline Spill Response Plan to PHMSA for review prior to initiation of operation of the proposed Project. These plans would not be completed until the final details of the proposed Project are established in all applicable permits.

If a leak is suspected, the Emergency Response Plan and Pipeline Spill Response Plan would be initiated. After confirmation that a spill occurred, the operator would shut down pumps and close the isolation valves, actions that would require approximately 12 minutes.

## Local Emergency Planning Committees (LEPCs)

LEPCs were established as a part of the Emergency Planning and Community Right-to-Know Act. Keystone has committed to a communication program to reach out to LEPCs along the proposed pipeline corridor during development of the Emergency Response Plan and the Pipeline Spill Response Plan, with particular consideration given to emergency

planning for low income and minority populations. The LEPCs would participate in emergency response consistent with their authority under the Right-to-Know Act and as required by their local emergency response plans.

## POTENTIAL ENVIRONMENTAL IMPACTS OF OIL SPILLS

Impacts from an oil spill would be affected by variables such as the weather, time of year, water level, soil, local wildlife, and human activity. The extent of impact would also depend on the response time and capabilities of the emergency response team.

The greatest concern would be a spill in environmentally sensitive areas, such as wetlands, flowing streams and rivers, shallow groundwater areas, areas near water intakes for drinking water or for commercial/industrial uses, and areas with populations of sensitive wildlife or plant species.

## General Types of Potential Impacts

There are two primary types of impacts that occur with a spill of crude oil – physical impacts and toxicological impacts. Physical impacts typically consist of the coating of soils, sediments, plants, and animals. The coating of organisms can result in effects such as preventing them from feeding or obtaining oxygen, reducing the insulating ability of fur or feathers, and adding weight to the organism so that it cannot move naturally or maintain balance. In addition, oil may coat beaches along rivers or lakes and foul other human-use resources.

Toxicological impacts of an oil spill are a function of the chemical composition of the oil, the solubility of each class of compounds in the oil, and the sensitivity of the area or organism exposed. Crude oil may be toxic when ingested. Ingestion typically occurs when an oiled animal attempts to clean its fur or feathers. Some of the possible toxic effects include direct mortality, interference with feeding or reproductive capacity, disorientation, reduced resistance to disease, tumors, reduction or loss of various sensory perceptions, and interference with metabolic, biochemical, and genetic processes.

Birds typically are the most affected wildlife due to an oil spill. Oil on feathers causes hypothermia or drowning due to the loss of flotation, and birds may suffer both acute and chronic toxicological effects. In addition, dead oiled birds may be scavenged by other animals.

Fish and aquatic invertebrates could also experience toxic impacts of spilled oil. The potential impacts would generally be greater in standing water habitats – such as wetlands, lakes and ponds – than in flowing rivers and creeks.

Crude oil spills are not likely to have toxic effects on the general public because of the many restrictions that local, state and federal agencies impose to avoid environmental exposure after a spill.

### Potential Impacts to the Ogallala Aquifer and other Groundwater Areas

DOS recognizes the public's concern for the Northern High Plains Aquifer System, which includes the Ogallala aquifer formation and the Sand Hills aquifer unit.

The Northern High Plains Aquifer system supplies 78 percent of the public water supply and 83 percent of irrigation water in Nebraska and approximately 30 percent of water used in the U.S. for irrigation and agriculture. Of particular concern is the part of the aquifer which lies below the Sand Hills region. In that region, the aquifer is at or near the surface.

DOS assessed the potential impacts of the proposed Project on many aquifer systems. The aquifer analysis included the identification of potable groundwater in water wells within 1 mile of the proposed centerline of the pipeline. More than 200 Public Water Supply wells, most of which are in Texas, are within 1 mile of the proposed centerline, and 40 private water wells are within 100 feet of the centerline. No sole-source aquifers, or aquifers serving as the principal source of drinking water for an area, are crossed by the proposed pipeline route.

The potential for a crude oil spill to reach groundwater is related to the spill volume, the viscosity and density of the crude oil, the characteristics of the environment into which the crude oil is released (particularly the characteristics of the underlying soils), and the depth to groundwater. The depth to groundwater is less than 10 feet for about 65 miles of the proposed route in Nebraska and there are other areas of shallow groundwater in each state along the proposed route. Diluted bitumen and synthetic crude oil, the two types of crude oil that would be transported by the proposed Project, would both initially float on water if spilled. Over time, the lighter aromatic fractions of the crude oil would evaporate, and water-soluble components could enter the groundwater.

Studies of oil spills from underground storage tanks indicate that potential surface and groundwater

impacts are typically limited to several hundred feet or less from a spill site. An example of a crude oil release from a pipeline system into an environment similar to the Northern High Plains Aquifer system occurred in 1979 near Bemidji, Minnesota.

While the conditions at Bemidji are not fully analogous to the Sand Hills region, extensive studies of the Bemidji spill suggest that impacts to shallow groundwater from a spill of a similar volume in the Sand Hills region would affect a limited area of the aquifer around the spill site. In no spill incident scenario would the entire Northern High Plains Aquifer system be adversely affected.

In addition to the Northern High Plains Aquifer system, there are other groundwater areas along the proposed route, including shallow or near-surface aquifers. DOS in consultation with PHMSA and EPA determined that Keystone should commission an independent consultant to review the Keystone risk assessment. The independent review will be conducted by a firm approved by DOS in concurrence with PHMSA and EPA, and would focus on a review of valve placement and the possibility of deploying external leak detection systems in areas of particularly sensitive environmental resources, but would not be limited to those issues. The specific scope of the analysis will be approved by DOS, PHMSA, and EPA. DOS, with concurrence from PHMSA and EPA, will determine the need for any additional mitigation measures resulting from the analysis.

### Potential Environmental Justice Concerns

Low income and minority communities could be more vulnerable to health impacts than other communities in the event of a spill, particularly if access to health care is less available in the release area. Exposure pathways could include direct contact with the crude oil, inhalation of airborne contaminants, or consumption of food or water contaminated by either the crude oil or components of the crude oil. Keystone agreed to remediate spills, restore the affected areas, and provide alternative water supplies if a spill contaminates groundwater or surface water. Keystone also agreed to develop communications directed at bilingual communities, such as signage in both English and Spanish languages, and emergency communications in both languages.

### ALTERNATIVES CONSIDERED

DOS considered the following three major alternative scenarios:

- No Action Alternative – potential scenarios that could occur if the proposed Project is not built and operated;
- System Alternatives – the use of other pipeline systems or other methods of providing Canadian crude oil to the Cushing tank farm and the Gulf Coast market;
- Major Route Alternatives – other potential pipeline routes for transporting heavy crude oil from the U.S./Canada border to Cushing, Oklahoma and the Gulf Coast market.

### No Action Alternative

Under the No Action Alternative, the potential adverse and positive impacts associated with building and operating the proposed Project would not occur. However, there is an existing market demand for heavy crude oil in the Gulf Coast area. The demand for crude oil in the Gulf Coast area is projected to increase and refinery runs are projected to grow over the next 10 years, even under a low demand outlook.

A report commissioned by the Department of Energy (DOE) indicated that whether the proposed Project is built or not is unlikely to impact the demand for heavy crude oil by the Gulf Coast refineries. Even if improved fuel efficiency and broader adoption of alternative fuels reduced overall demand for oil, demand for Canadian heavy crude oil at Gulf Coast refineries would not be substantially affected.

At the same time, three of the four countries that are major crude oil suppliers to Gulf Coast refineries currently face declining or uncertain production horizons. As a result, those refineries are expected to obtain increased volumes of heavy crude oil from alternative sources in both the near term and further into the future. Implementation of the No Action Alternative would not meet this need.

If the proposed Project is not built and operated, Gulf Coast refineries could obtain Canadian crude oil transported through other new pipelines or by rail or truck transport. Other pipeline projects have been proposed to transport Canadian crude oil to the Gulf Coast area, and both rail transport and barge transport could be used to meet a portion of the need. In addition, the Gulf Coast refineries could obtain crude oil transported by marine tanker from areas outside of North America. Many of the sources outside of North America are in regions that are experiencing declining production or are not secure

and reliable sources of crude oil, including the Middle East, Africa, Mexico, and South America.

As a result of these considerations, DOS does not regard the No Action Alternative to be preferable to the proposed Project.

If the proposed Project is not implemented, Canadian producers would seek alternative transportation systems to move oil to markets other than the U.S. Several projects have been proposed to transport crude oil out of using pipelines to Canadian ports.

Whether or not the proposed Project is implemented, Canadian producers would seek alternative transportation systems to move oil to markets other than the U.S. Several projects have been proposed to transport crude oil out of the oil sands area of Alberta using pipelines to Canadian ports.

### System Alternatives

System alternatives would use combinations of existing or expanded pipeline systems, pipeline systems that have been proposed or announced, and non-pipeline systems such as tank trucks, railroad tank cars, and barges and marine tankers to transport Canadian heavy crude oil to Gulf Coast refineries.

None of the pipeline systems considered would be capable of transporting Canadian crude oil to Gulf Coast delivery points in the volumes required to meet Keystone's commitments for transporting 380,000 bpd to delivery points in Texas. Therefore they would not meet the purpose of the proposed Project. A combination of the pipeline systems considered could, over time, deliver volumes of Canadian oil sands crude oil in volumes similar to the volumes that would be transported by the proposed Project. However, that would not meet the near-term need for heavy crude oil at the Gulf Coast refineries. Expanding the pipeline systems that were considered to meet the purpose of the proposed Project or construction of new components or a combination of those systems would result in impacts similar to those of the proposed Project.

The trucking alternative would add substantial congestion to highways in all states along the route selected, particularly at and near the border crossing and in the vicinity of the delivery points. At those locations it is likely that there would be significant impacts to the existing transportation systems. Trucking would also result in substantially higher greenhouse gas emissions and a higher risk of accidents than transport by pipeline.



Development of a rail system to transport the volume of crude oil that would be transported by the proposed Project would likely produce less impact from construction than would the proposed Project because it could be done using existing tracks. However, there would be greater safety concerns and greater impacts during operation, including higher energy use and greenhouse emissions, greater noise impacts, and greater direct and indirect effects on many more communities than the proposed Project.

As a result of these considerations as described in Section 4.2 of the EIS, system alternatives were considered either not reasonable or not environmentally preferable.

### Major Route Alternatives

The analysis of route alternatives considered 14 major route alternatives. Figure ES-8 depicts the alternative routes considered. The analysis of alternative routes was conducted following the approach to assessments of alternative pipeline routes used by the Federal Energy Regulatory Commission. As a result, the analysis began with a screening process that first established criteria for screening alternatives, then identified potential alternatives that met the criteria, and determined whether or not they would (1) meet the purpose of and need for the proposed Project, and (2) be technically and economically practicable or feasible. For those alternatives meeting the criteria, DOS assessed whether or not the alternative offered an overall environmental advantage over the proposed route.

Due to public concern regarding the Ogallala Aquifer (Northern High Plains Aquifer system) and the Sand Hills region, 5 of the alternative routes were developed to either minimize the pipeline length over those areas or avoid the areas entirely. These alternative routes consisted of I-90 Corridor Alternatives A and B, Keystone Corridor Alternatives 1 and 2 (which are parallel to all or part of the route of the existing Keystone Oil Pipeline System), and the Western Alternative.

The assessment considered the environmental characteristics of the areas that these alternatives would cross, including the presence of aquifers, the depth of wells, developed land, forested areas, wetlands, and streams and rivers.

The Western Alternative was eliminated since it was financially impracticable. Although the other four route alternatives could have been eliminated based on consideration of economical and technical practicability and feasibility without further evaluation, they were nonetheless examined further with an emphasis on groundwater resources. The I-90 Corridor and Keystone Corridor alternatives would all avoid the Sand Hills; however, they would not avoid the Northern High Plains Aquifer system, and they would not avoid areas of shallow groundwater. Instead, these routes would shift risks to other areas of the Northern High Plains Aquifer system and to other aquifers.

In addition, these alternatives would be longer than the proposed route and would disturb more land and cross more water bodies than the proposed route. In addition, I-90 Corridor Alternatives A and B require crossing Lake Francis Case on the Missouri River which would pose technical challenges due to the width of the reservoir and the slope of the western side of the crossing area.

Keystone Corridor Alternatives 1 and 2 would cost about 25 percent more than the proposed Project (about \$1.7 billion more) and implementation of either of those alternatives would compromise the Bakken Marketlink Project and the opportunity to transport crude oil from the producers in the Bakken formation to markets in Cushing and the Gulf Coast.

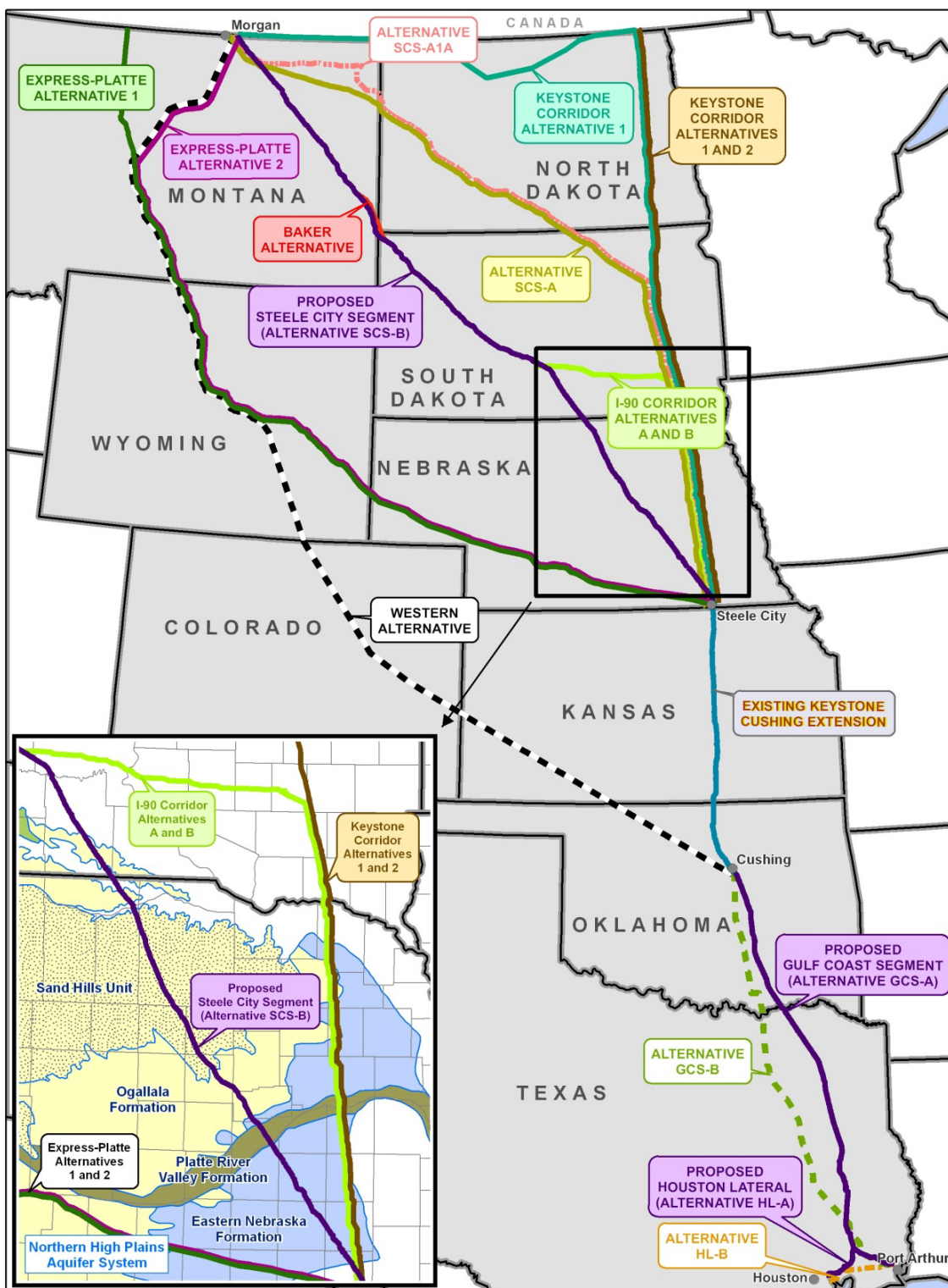
Based on the above considerations and as described in Section 4.3 of the EIS, DOS eliminated the major potential route alternatives from further consideration.

### Route Variations and Minor Realignments

A route variation is a relatively short deviation from a proposed route that replaces a segment of the proposed route. Variations are developed to resolve landowner concerns and impacts to cultural resource sites, wetlands, recreational lands, and terrain.

DOS consulted with the Bureau of Land Management and state agencies to negotiate route variations and minor realignments, including nearly 100 in Montana and about 240 minor realignments in other states along the proposed route. Additional route variations and minor realignments may be added in response to specific conditions that may arise throughout the construction process.

Figure ES-8  
Major Route Alternatives



The variations and minor realignments would replace short segments of the proposed Project, are relatively close to the proposed route, and would be implemented in accordance with applicable regulatory requirements of federal, state, or local permitting agencies. DOS considers the variations and minor realignments selected to have been evaluated sufficiently to meet the environmental review requirements of the National Environmental Protection Act.

### Other Alternatives Considered

DOS also considered several other scenarios in response to comments on the draft EIS. The alternative pipeline designs considered consisted of an aboveground pipeline and a smaller diameter pipe to decrease the volume of oil released from a spill. DOS also considered alternative sites for the major aboveground facilities of the proposed Project, including pump stations, mainline valves, and the Cushing tank farm. None of the alternative designs or facility locations were considered safer or environmentally preferable to the proposed Project design.

### Agency Preferred Alternative

DOS did not find any of the major alternatives to be preferable to the proposed Project for the reasons presented in the final EIS and summarized above. As a result, the agency-preferred alternative is the proposed Project route with the variations and minor route realignments described in the EIS, and the proposed location of the Cushing tank farm.

## ENVIRONMENTAL ANALYSES

Four levels of impact duration were considered in the analysis of potential environmental impacts due to construction and normal operation of the proposed Project: temporary, short-term, long-term, and permanent. Temporary impacts generally occur during construction, with the resources returning to pre-construction conditions almost immediately afterward. Short-term impacts could continue for approximately 3 years after construction, and impacts were considered long term if the resources would require more than 3 years to recover. Permanent impacts would occur if the resources would not return to pre-construction conditions during the life of the proposed Project, such as impacts to land use due to installation of pump stations.

Conclusions in the EIS are based on the analysis of environmental impacts and the understanding that:

- Keystone would comply with all applicable laws and regulations;
- The proposed Project would be constructed, operated, and maintained as described in the EIS;
- Keystone has agreed to incorporate the 57 Project-specific Special Conditions developed by PHMSA into the proposed Project;
- Keystone has agreed to implement the measures designed to avoid or reduce impacts described in its application for a Presidential Permit and supplemental filings with DOS, the measures in its Construction, Mitigation, and Reclamation (CMR) Plan presented in Appendix B of the EIS, and the construction methods for the Sand Hills region described in Appendix H to the EIS; and
- Keystone would incorporate the mitigation measures required in permits issued by environmental permitting agencies into the construction, operation, and maintenance of the proposed Project.

### Environmental Justice

Executive Order 12898 requires federal agencies to address and mitigate potential adverse impacts to minority and low income populations. In consultation with EPA, DOS identified these communities within a 4-mile-wide corridor centered on the pipeline using census and county level data.

**Potential Construction Impacts:** The assessment suggested that potential impacts to minority and low income populations could occur primarily in Harris, Jefferson, and Angelina Counties in Texas and in Lincoln County, Oklahoma. During construction, potential impacts include exposure to increased dust and noise, disruption of traffic patterns, and increased competition for social services in underserved populations. At any given location along the proposed pipeline route, the duration of the construction period would typically range from 20 to 30 working days. As a result, the impacts to minority and low-income populations due to construction would be temporary and minor.

**Medical Services:** Areas along the pipeline route that are medically underserved may be more vulnerable during construction periods. These communities have been identified as Health Professional Shortage Areas or Medically Underserved Areas/Populations. However, construction-related disruptions in those areas would be temporary and minor. In areas in

Montana and South Dakota, minor medical needs of workers would be handled in construction camps to avoid or minimize the need for medical services from the surrounding communities.

**Air Emissions Related to Environmental Justice Issues:** The refineries that are likely to receive oil transported by the pipeline are already configured to process heavy crude oil, and in the future would seek to continue processing heavy crude oil whether or not the proposed pipeline is constructed. The analysis in the EIS, including a DOE-commissioned study, indicates that the proposed Project would not likely affect the overall quality or quantity of crude oil refined in the Gulf Coast region, and, as a result, would not likely effect refinery emissions.

### Greenhouse Gas Emissions

DOS commissioned a detailed study of greenhouse gas life-cycle emissions that compared Canadian oil sands crude with other selected reference crudes. This study was a thorough review of recent scientific literature on greenhouse gas life-cycle emissions for Canadian oil sands crude including extraction, upgrading, transportation, refining, and combustion.

The study's major conclusion was that, throughout its life cycle, oil sands crude is, on average, more greenhouse gas intensive than the crude oil it would replace in the U.S. However, the relative greenhouse gas intensity varies depending on (1) study design factors, such as the reference crudes selected for comparison with Canadian oil sands crudes (e.g., 2005 U.S. average crude oil, Venezuelan Bachaquero, Middle East Sour, and Mexican Heavy) and the timeframe selected, and (2) study assumptions, such as the extraction method and the mix of crudes that would be transported by the pipeline.

For example, the Department of Energy's National Environmental Technology Lab (NETL) study indicated that the life-cycle greenhouse gas emissions of gasoline produced from Canadian oil sands crude are approximately 17 percent higher than gasoline from the 2005 average mix of crude oil consumed in the U.S. The NETL study serves as a key input for analyses conducted by EPA and DOE. In comparison, a study conducted by TIAX, LLC, found that the greenhouse gas emissions from gasoline produced from Canadian oil sands crude are only 2 percent higher when compared to gasoline from Venezuelan heavy crude, a type of crude oil that is similar to the crude oil that would be transported by

the proposed Project and is currently refined in large quantities by Gulf Coast refineries.

The proposed Project is not likely to impact the amount of crude oil produced from the oil sands. However, for illustrative purposes, the DOS-commissioned study estimated that incremental life-cycle U.S. greenhouse gas emissions from displacing reference crude oils with Canadian oil sands crude oils imported through the proposed Project would be between 3 and 21 million metric tons of carbon dioxide emissions annually. This range is equivalent to annual greenhouse gas emissions from the combustion of fuels in 588,000 to 4,061,000 passenger vehicles.

In addition, current projections suggest that the amount of energy required to extract all crude oils is projected to increase over time due to the need to extract oil from ever deeper reservoirs using more energy intensive techniques. However, while the greenhouse gas intensity of reference crude oils may trend upward, the projections for the greenhouse gas intensity of Canadian oil sands crude oils suggests that they may stay relatively constant. Although there is some uncertainty in the trends for both reference crude oils and oil sands derived crude oils, on balance it appears that the gap in greenhouse gas intensity may decrease over time.

### Geology and Soils

**Geologic Hazards:** Potential geologic hazards assessed in the EIS include seismic hazards (earthquakes), landslides, or subsidence (sink holes). The proposed route extends through relatively flat and stable areas and the potential for these events is low. The pipeline would not cross any known active faults with confirmed surface offsets. During construction, land clearing could increase the risk of landslides and erosion. Keystone agreed to construct temporary erosion control systems and revegetate the right-of-way after construction.

There is a risk of subsidence (sink holes) where the proposed route potentially crosses karst formations in Nebraska, Oklahoma, and Texas. Site-specific studies would be conducted as necessary to characterize the karst features, if they are encountered, and evaluate and modify construction techniques as necessary in these areas. The overall risk to the pipeline from karst-related subsidence is expected to be minimal.

**Soils and Sediments:** Potential impacts to soils include soil erosion, loss of topsoil, soil compaction, soil contamination, damage to existing tile drainage



systems, and permanent increases in the proportion of large rocks in the topsoil. However, Keystone agreed to construction procedures that are designed to reduce the likelihood and severity of Project impacts to soils and sediments, including topsoil segregation methods, and to mitigate impacts to the extent practicable.

**Sand Hills Region:** Of particular concern is the soil of the Sand Hills region of Nebraska, which is particularly vulnerable to wind erosion. To address this concern, Keystone developed and agreed to construction, reclamation, and post-construction procedures specifically for this area in consultation with local experts and state agencies. The goal of the Sand Hills region reclamation plan is to protect this sensitive area by maintaining soil structure and stability, stabilizing slopes to prevent erosion, restoring native grass species, and maintaining wildlife habitat and livestock grazing areas. Keystone agreed to monitor the right-of-way through the Sand Hills region for several years to ensure that reclamation and revegetation efforts are successful.

### Water Resources

**Groundwater:** Many of the aquifers along the proposed route are isolated from the surface due to soil types above the aquifers that prevent or slow downward migration of water. However, shallow or near-surface aquifers are also present along the proposed route, as discussed above. Construction of the proposed Project may result in temporary to short-term increases in suspended solids in the shallow aquifers. The risk of dewatering shallow groundwater aquifers during construction or reducing groundwater quality due to increased sediments in the water would be temporary to short term.

At some locations, groundwater may be used as a source of water for pressure testing the pipeline during construction. Keystone must obtain all applicable water withdrawal and discharge permits prior to testing, and the test water would be tested and discharged in accordance with permit requirements.

**River and Stream Crossings:** Surface water bodies would be crossed using one of three methods: the open-cut wet method, the dry-cut method, or the horizontal directional drilling method. The method selected would be based on the characteristics of the

crossing location and the requirements of the permitting agencies.

The open-cut wet method, which involves trenching while the stream is flowing, would result in temporary increases in turbidity and bank erosion where vegetation is removed. The dry-cut method, which involves diverting stream flow around the construction site, results in lower increases in turbidity than the open-cut wet method.

Horizontal directional drilling would minimize impacts to the stream or river because it involves drilling well below the streambed. This method would be selected at large body crossings to avoid disturbing the streambeds and streamflow and to reduce the potential that deep scour during flooding would endanger pipeline integrity. Figure ES-9 presents a cross section of a river crossing using the horizontal directional drilling method.

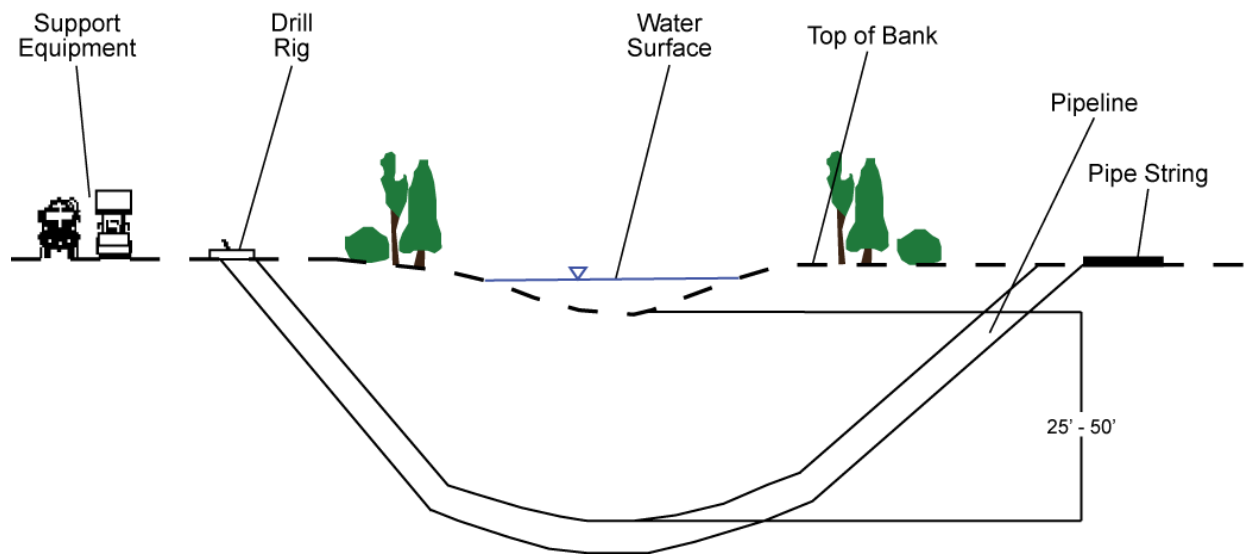
At all water crossings, Keystone agreed to use vegetative buffer strips, drainage diversion structures, and sediment barriers, and limit vegetation clearing to reduce siltation and erosion. After construction, the right-of-way would be restored and revegetated to reduce the potential for erosion of the stream bank.

**Hydrostatic Test Water:** Water used to pressure test the pipeline during construction would be discharged to its source waters or to an approved upland area within the same drainage and tested to ensure it meets applicable water quality standards and discharge rates.

### Wetlands

The proposed Project route crosses emergent, scrub/shrub, and forested wetlands that are protected by the U.S. Army Corps of Engineers (USACE) and applicable state agencies under the review of EPA through Section 401 and 404 of the Clean Water Act. Specific plans regarding wetland avoidance and minimization of impacts, and the development of mitigation to compensate for the permanent loss or conversion of forested to emergent wetlands would be further developed during the permitting process. Wetland impacts presented in the EIS represent preliminary estimates based on the best available wetland information. DOS reviewed potential impacts to wetlands and the avoidance, minimization, and mitigation process that would be followed with USACE and EPA.

**Figure ES-9**  
**Cross Section of Horizontal Directional Drilling Method**



Most wetlands crossed by the proposed Project in Montana, South Dakota, and Nebraska are emergent wetlands, and most wetlands crossed by the proposed Project in Oklahoma and Texas are forested wetlands. Construction of the pipeline would affect wetlands and their functions primarily during and immediately after construction activities, but permanent changes also are possible. Keystone agreed to use construction methods that avoid or minimize impacts to wetlands. These measures include installing trench breakers and/or sealing the trench to maintain the original wetland hydrology to avoid draining wetlands, using timber mats to protect wetlands during construction, and restoring wetland areas to a level consistent with the requirements of the applicable permits.

Most wetland vegetation communities would transition back into a community that would function similarly to the previously undisturbed wetland. Because most wetlands would be restored, the overall impact of the proposed Project to wetlands would be minor to moderate and would range in duration from short term to the life of the proposed Project. However, some forested and scrub-shrub wetlands over the pipeline would be converted to herbaceous wetlands since trees and shrubs would not be allowed to grow over the pipeline for inspection and integrity purposes. Keystone is working with each USACE district along the proposed route to identify wetlands and to develop wetland mitigation and compensation plans for the permanent conversion of forested wetland to herbaceous wetland.

**Texas Bottomland Hardwood Wetlands:** These are forested wetlands with trees, such as Bald Cypress, Water Oak, Water Hickory, and Swamp Tupelo that can exist in lowland floodplains in the Gulf Coast states. Clearing bottomland hardwood trees during construction would result in long-term to permanent impacts because forests require decades to re-establish and would mature over the span of centuries. DOS reviewed potential Project impacts on bottomland hardwood wetlands with EPA and USACE. Preliminary mitigation measures to protect bottomland hardwood wetlands are discussed in the EIS and would be developed further by the USACE during the wetland permitting process.

**Figure ES-10**  
**Texas Bottomland Hardwood Wetland**



## Terrestrial Vegetation

The proposed Project crosses primarily grasslands and rangelands, followed by croplands, upland forests, developed lands, and wetlands. After construction, Keystone agreed to restore topsoil, slopes, contours, and drainage patterns to preconstruction conditions as practicable and to reseed disturbed areas to restore vegetation cover, prevent erosion, and control noxious weeds. Keystone committed to controlling the introduction and spread of noxious weeds and pests by adhering to construction and restoration procedures recommended by local, state, and federal agencies. Soils and vegetation over the pipeline would be warmed slightly compared to surrounding soils by heat loss from the pipeline during operation.

**Native Grasslands and Rangelands:** Native mixed shrub rangelands would be crossed by the proposed Project in Montana and South Dakota and native grasslands would be crossed by the proposed Project in the Sand Hills region in Nebraska. Both of these native prairie habitats would be challenging to reclaim. In recognition of these challenges, Keystone developed specific construction and reclamation methods for the proposed Project in consultation with local, state, and federal agencies and local experts to ensure that sagebrush and native grasses are restored to rangelands in Montana and South Dakota and that fragile soils and diverse native vegetation cover are re-established in the Sand Hills region of Nebraska.

**Figure ES-11**  
**Sand Hills Grassland**



**Upland and Riparian Forests:** Native forests, especially forested floodplains, were once an integral component of the landscape throughout the Great Plains and they provide important habitats for wildlife. Clearing trees in upland and riparian forest

communities would result in long-term impacts because trees would be required to remain outside of the 50-foot-wide permanent right-of-way. These impacts would last throughout the life of the proposed Project because trees would not be allowed to reestablish within the permanent right-of-way and because forests require decades to re-establish and would mature over the span of centuries.

## Wildlife

Big game animals, small game animals and furbearers, waterfowl and game birds, and other nongame animals use habitats in and around the six states crossed by the proposed Project. Construction would result in the temporary and permanent loss and alteration of habitats which provide foraging, cover, and breeding habitats for wildlife. Most habitat loss would be temporary as vegetation cover would be re-established after construction and would be small in context to habitats available throughout the region crossed by the proposed Project. Loss of shrublands and wooded habitats would be long-term (from 5 to 20 years or more), however; and trees and tall shrubs would not be allowed to re-establish over the pipeline for inspection and integrity purposes. Aboveground facilities would result in some permanent habitat loss. Power lines to pump stations can provide vantage perches for raptors that lead to increased predation on ground nesting birds and small mammals. Construction can produce short-term barriers to wildlife movement, direct and indirect mortality, and reduced survival and reproduction. Disturbance from construction activities may have moderate local effects on wildlife if important remnant habitats are crossed or when sensitive breeding or overwintering periods are not avoided. Habitat alteration and fragmentation caused by the pipeline right-of-way may reduce habitat suitability and use by wildlife.

Construction could also produce short-term barriers to wildlife movement, direct and indirect mortality, and reduced survival and reproduction. Disturbance from construction activities would have moderate local effects on wildlife if important remnant habitats are crossed or when sensitive breeding or overwintering periods are not avoided. Habitat alteration and fragmentation caused by construction of the pipeline could reduce habitat suitability and use by wildlife.

During the environmental review of the proposed Project, state and federal wildlife management agencies were contacted and they provided information on sensitive seasons and wildlife habitats such as big game overwintering habitats, important riparian corridors, and raptor and other migratory bird



nesting habitats. In addition state and federal wildlife management agencies provided recommendations for surveys to more specifically locate areas such as raptor nests and prairie dog colonies that could potentially be avoided. Keystone is working with state and federal wildlife management agencies to minimize impacts to wildlife during sensitive breeding periods. Measures developed to minimize impacts to wildlife include development of a Migratory Bird Conservation Plan in consultation with the USFWS, removal of litter and garbage that could attract wildlife, control of unauthorized off-road vehicle access to the construction right-of-way, and reclamation of native range with native seed mixes. Overall, the impact of construction to wildlife is expected to be minor and would be primarily temporary to short term. Normal Project operation would result in negligible effects to wildlife.

**Figure ES-12**  
**Mule Deer**



Keystone must work with state and federal wildlife management agencies to minimize impacts to wildlife during sensitive breeding periods. Overall, the impact of construction to wildlife is expected to be minor and would be primarily temporary to short term. Normal Project operation would result in negligible effects to wildlife.

### Fisheries Resources

The proposed route would cross rivers and streams, including perennial streams that support recreational or commercial fisheries. Most potential impacts to fisheries resources would occur during construction and would be temporary to short term. Potential

impacts from construction of stream crossings include siltation, sedimentation, bank erosion, sediment deposition, short-term delays in movements of fish, and transport and spread of aquatic invasive animals and plants. Keystone has agreed to minimize vehicle contact with surface waters and to clean equipment to prevent transportation of aquatic invasive animals and plants on equipment.

Most streams would be crossed using one of several trenching methods. Trenching stream crossings when water is still flowing through the stream bed can result in destruction of fish that do not avoid the construction area. Trenching methods may also use dams, pumps, and flumes to divert the stream flow around the trench location to allow a “dry” trenching method. However, direct disturbance to the stream bed can release fine sediments during construction through flowing waters or after the flow is returned to the stream bed. Sediment would be transported downstream and could affect fish, other aquatic life, and aquatic habitats through either direct exposure or smothering. Most stream crossings would be completed in less than 2 days, grading and disturbance to waterbody banks would be minimized, and crossings would be timed to avoid sensitive spawning periods, such that resulting stream bed disturbance and sediment impacts would be temporary and minor.

Most large rivers would be crossed using the horizontal directional drilling method which would install the pipeline well below the active river bed. As a result, direct disturbance to the river bed, fish, aquatic animals and plants, and river banks would be avoided. Keystone has developed site specific plans for horizontal directional drill crossings and has agreed to develop site-specific contingency plans to address unintended releases of drilling fluids that include preventative measures and a spill response plan.

**Figure ES-13**  
**Recreational Fishing**





### Threatened and Endangered Species

The U.S. Fish and Wildlife Service (USFWS) is responsible for protecting threatened and endangered species under the Endangered Species Act (ESA). Federally-protected threatened or endangered species that are known or thought to be in the vicinity of the proposed Project include three mammals, five birds, one amphibian, five reptiles, three fish, two invertebrates, and four plants. DOS prepared a Biological Assessment and consulted with USFWS to evaluate the proposed Project's potential impact on federally-protected threatened or endangered species.

USFWS has determined that the proposed Project would have no effect on 12 of the listed species, and may affect, but is not likely to adversely affect 10 of those species. These evaluations are based on species occurrence and conservation measures developed in consultation with USFWS that Keystone has agreed to implement. DOS and USFWS determined that the proposed Project would likely adversely affect the American burying beetle and a formal consultation was initiated to determine whether impacts could jeopardize the continued existence of the species and to further develop conservation measures and an incidental take statement. Based on the formal consultation, USFWS is formulating a Biological Opinion that would be required prior to the issuance of a Record of Decision by DOS or any other federal cooperating agency.

Direct impacts to beetles could occur due to habitat loss, construction, and pre-construction conservation measures (where beetles would be trapped and relocated away from the project area). During operation, the flow of oil through the pipeline would generate heat that would warm the surrounding soils and could affect beetles during the winter when they bury themselves in the soil to hibernate. During formal consultation with the USFWS, conservation measures were developed that include Keystone providing funding for conservation efforts and monitoring of American burying beetle habitat restoration, and the establishment of a performance bond for supplemental habitat reclamation if initial reclamation efforts are unsuccessful.

Several candidate species for federal protection under the ESA are known or thought to be in the vicinity of the proposed Project including three birds, one reptile, one fish, and two plants. Measures that have been developed to avoid and minimize potential impacts to these species include reclamation of native range with native seed mixes, development of a

Migratory Bird Conservation Plan in consultation with USFWS, and development of greater sage-grouse mitigation implementation plans for Montana and South Dakota in consultation with state and federal agencies.

**Figure ES-14**  
**American Burying Beetle**



A total of 35 state-protected species may also be present along the proposed right-of-way. These species have been designated by state wildlife management agencies as being of concern to assist with conservation planning and maintenance of the state's natural heritage. Conservation measures developed in consultation with state agencies include conducting additional species-specific surveys to determine whether nests, dens, or suitable habitats are present along the proposed right-of-way; adhering to construction timing restrictions to avoid the breeding, denning, and spawning seasons; and reducing the width of the construction right-of-way in areas where state-protected plant populations have been identified.

### Cultural Resources

DOS, in coordination with consulting parties, has minimized the potential for adverse effects to historic properties along the Area of Potential Effect (APE) of the proposed Project by the development of avoidance and mitigation measures. Since 2008, DOS has consulted with Indian tribes, State Historic Preservation Officers, federal agencies and local agencies under Section 106 of the National Historic Preservation Act. As part of this effort, DOS initially contacted over 95 Indian tribes to find out their level of interest in becoming a consulting party. DOS also conducted Section 106 government-to-government consultation with the consulting parties for the proposed Project. DOS also invited the consulting tribes to prepare Traditional Cultural Property studies as part of the lead agency responsibilities for the

identification, evaluation and mitigation of historic properties.

A Programmatic Agreement was developed by DOS and the parties. The Programmatic Agreement establishes a procedure for the further identification, evaluation, mitigation, and treatment of historic properties and will be completed prior to construction of the proposed Project. The Advisory Council on Historic Preservation participated in the development of this agreement with DOS and the other consulting parties. As part of this agreement, a Tribal Monitoring Plan and a Historic Trails and Archaeological Monitoring Plan were also developed. If previously unidentified archaeological sites are encountered during construction of the proposed Project, Keystone, DOS, and the consulting parties would follow the procedures described in the Unanticipated Discovery Plans.

### Air Quality and Noise

**Air Quality:** Air quality impacts from construction would include emissions from construction equipment, temporary fuel transfer systems, fuel storage tanks, and dust and smoke from open burning. Most of these emissions would occur only intermittently, would be limited to active construction areas, and would be controlled to the extent required by state and local agencies.

All pump stations will be electrically powered by local utility providers. As a result, during normal operation there would be minor emissions from valves and pumping equipment at the pump stations. There would also be low levels of emissions from mobile sources, and low levels of emissions from the proposed Cushing tank farm and the surge relief systems at the delivery points. The proposed Project would not cause or contribute to a violation of any federal, state, or local air quality standards and it would not require a Clean Air Act Title V operating permit.

The proposed Project would cross five counties where the background concentration of ozone is greater than the national ambient air quality standards. Those areas are designated as nonattainment for the federal 8-hour ozone standard. However, the emissions from the proposed Project would be consistent with state implementation plans for air quality issues.

**Noise:** During construction there would be intermittent, temporary, and localized increases in sound levels as construction activities move through an area. To reduce construction noise impacts,

Keystone agreed to limit the hours during which activities with high-decibel noise levels are conducted in residential areas, require noise mitigation procedures, monitor sound levels, and develop site-specific mitigation plans to comply with regulations. As a result, the potential noise impacts associated with construction would be minor and temporary.

During operation, sound levels within 2,300 feet of pump stations would increase. Outside of this distance, noise levels would remain at existing sound levels. Keystone committed to performing a noise assessment survey and to mitigating identified impacts by installing noise reducing measures at the pump stations.

### Land Use, Recreation, and Visual Resources

The majority of land that would be affected by the project is privately owned (21,333 acres) with nearly equal amounts of state (582 acres) and federal (579 acres) lands being impacted.

**Agriculture:** After construction, nearly all agricultural land and rangeland along the right-of-way would be allowed to return to production with little impact on production levels in the long term. However, there would be restrictions on growing woody vegetation and installing structures within the 50-foot-wide permanent right-of-way. Keystone has agreed to compensate landowners for crop losses on a case-by-case basis.

There are 102 tracts of land that would be impacted which are part of the Conservation Reserve Program. The proposed Project is not expected to affect landowner ability to participate in that program.

Keystone agreed to use construction measures designed to reduce impacts to existing land uses, such as topsoil protection, avoiding interference with irrigation systems except when necessary, reducing construction time in irrigated areas, repairing or restoring drain tiles, restoring disturbed areas with custom seed mixes to match the native plants, providing access to rangeland during construction, installing temporary fences with gates around construction areas to prevent injury to livestock or workers, providing trench crossing areas to allow livestock and wildlife to cross the trench safely, and controlling noise and dust control.

**Recreation:** Operation of the proposed Project would not affect recreational resources, national or state parks, or users of those resources. Keystone has committed to cooperating with private landowners, and with federal, state, and local agencies to reduce

the conflict between recreational users and Project construction.

**Visual Resources:** During construction, there would be visual impacts associated activities along the proposed right-of-way such as clearing, trenching, pipe storage, and installing above-ground structures. Most of the visual impacts of the pipeline corridor in agricultural and rangeland areas would be substantially reduced with restoration and revegetation. Keystone agreed to install vegetative buffers around the pump stations to reduce the visual impacts of those facilities. Overall, the visual impacts of the proposed Project would generally be minor to moderate.

### Socioeconomics

During construction, there would be temporary, positive socioeconomic impacts as a result of local employment, taxes on worker income, spending by construction workers, and spending on construction goods and services. The construction work force would consist of approximately 5,000 to 6,000 workers, including Keystone employees, contractor employees, and construction and environmental inspection staff. That would generate from \$349 million to \$419 in total wages. An estimated \$6.58 to \$6.65 billion would be spent on materials and supplies, easements, engineering, permitting, and other costs.

Adverse impacts during construction could include temporary and minor increases in the need for public services, disruption of local transportation corridors, and reduced availability of transient housing. Keystone would establish four temporary work camps in southeastern Montana and northwestern South Dakota to minimize impacts to transient housing and public services in those areas. Operation of the proposed Project would also result in long-term to permanent beneficial socioeconomic impacts, including employment and income benefits resulting from long-term hires and local operating expenditures, and increased property tax revenues. An estimated \$140.5 million in annual property tax revenues would be generated by the proposed Project.

### Cumulative Impacts

The analysis of cumulative impacts combined the potential impacts of the proposed Project with the impacts of past, present, and reasonably foreseeable future actions in the vicinity of the proposed route. This assessment included consideration of the many

existing pipelines, electrical transmission lines, and roadways, as well as other linear projects that are under construction, planned, proposed, or reasonably foreseeable in the vicinity of the proposed route. The analysis also included existing and likely energy development projects.

During construction, the proposed Project would contribute to cumulative dust and noise generation, loss of vegetation or crop cover, and minor localized traffic disruptions where other linear projects are under construction at the same time and are in the vicinity of the proposed route.

One of the primary contributions to cumulative effects during operation would be emissions from storage tanks. However, the proposed Project and all other petroleum storage projects would have to comply with the emissions limitations of air quality permits. In addition, where Project-related aboveground facilities and visible corridors are present along with those of other projects, there would be cumulative effects to visual resources. Other cumulative impacts associated with operation include changes in land use, terrestrial vegetation, wetland function, and wildlife habitat, as well as increases in tax revenues, and employment. Where the pump stations or compressor stations of other pipeline systems are in the vicinity of the pump stations for the proposed Project, there would also be cumulative noise impacts.

An increase in the development of wind power projects in the central plains region as well as increased need for electrical power is likely to increase the number of electrical transmission lines in the vicinity of the proposed route. If the construction of power distribution or transmission lines in the vicinity of the proposed route overlaps with construction of the proposed Project, short-term cumulative impacts associated with noise, dust, and general construction activity could occur. Likely cumulative impacts of the proposed Project and operation of new transmission lines include viewshed degradation, changes to land uses and vegetation, and impacts to birds.

### Environmental Impacts in Canada

An evaluation of the impacts resulting from extraction of crude oil from the oil sands in Canada is outside of the scope of analysis required under the National Environmental Policy Act. However, in response to comments and as a DOS policy decision, the general regulatory oversight and the environmental impacts in

Canada related to oil sands production were summarized in the EIS.

The potential environmental effects of the proposed Project have been assessed on both sides of the international border. In March 2010, the National Energy Board of Canada determined that the proposed Keystone XL Project is needed to meet the present and future public convenience and necessity, provided that the Board's terms and conditions presented in the project certificate are met. The Board's assessment included evaluations of need, economic feasibility, potential commercial impacts, potential environmental and socioeconomic effects, appropriateness of the general route of the pipeline, potential impacts on Aboriginal interests, and other issues.

Oil sands development projects undergo an environmental review in Canada under Alberta's

Environmental Protection and Enhancement Act and other environmental regulations. Other federal and provincial agencies may participate in the review as Responsible Authorities or as Federal Authorities with specialist advice. Government regulators of oil sands activities in Canada are working to manage and provide regional standards for air quality, land impact, and water quality and consumption based on a cumulative effects approach.

Oil sands mining projects have reduced greenhouse gas emissions intensity by an average of 39 percent between 1990 and 2008 and are working toward further reductions. In addition, the Alberta Land Stewardship Act supports the Land-use Framework, which includes province-wide strategies for establishing monitoring systems, promoting efficient use of lands, reducing impact of human activities, and including aboriginal people in land-use planning.



## EIS Contents

The locations of information within the EIS is provided below.

### Section 1: Introduction

- Section 1.1: Overview of the Proposed Project
- Section 1.2: Purpose and Need
- Section 1.3: Presidential Permit Process
- Section 1.4: Overview of the Crude Oil Market
- Section 1.5: Agency Participation
- Section 1.6: Indian Tribe Consultation
- Section 1.7: SHPO Consultation
- Section 1.8: Environmental Review of the Canadian Portion of the Proposed Keystone XL Project
- Section 1.9: Preparation and Review of the EIS

### Section 2: Project Description

- Section 2.1: Overview of the Proposed Project
- Section 2.2: Aboveground Facilities
- Section 2.3: Project Design and Construction Procedures
- Section 2.4: Operations and Maintenance
- Section 2.5: Connected Actions
- Section 2.6: Future Plans and Decommissioning

### Section 3: Environmental Analysis

- Section 3.1: Geology
- Section 3.2: Soils and Sediments
- Section 3.3: Water Resources
- Section 3.4: Wetlands
- Section 3.5: Terrestrial Vegetation
- Section 3.6: Wildlife
- Section 3.7: Fisheries
- Section 3.8: Threatened and Endangered Species
- Section 3.9: Land Use
- Section 3.10: Socioeconomics
- Section 3.11: Cultural Resources
- Section 3.12: Air Quality and Noise
- Section 3.13: Potential Releases from Project Construction and Operation and Environmental Consequence Analysis
- Section 3.14: Cumulative Impacts
- Section 3.15: Conclusions

### Section 4: Alternatives

- Section 4.1: No Action Alternative
- Section 4.2: System Alternatives
- Section 4.3: Major Route Alternatives and Route Variations
- Section 4.4: Alternative Pipeline Designs
- Section 4.5: Alternative Sites for Aboveground Facilities



# Correspondence Management System

Control Number: AX-11-001-4497

Printing Date: August 29, 2011 05:26:50



## Citizen Information

**Citizen/Originator:** Taylor, David A.

**Organization:** Navajo Nation Department of Justice  
**Address:** P.O. Box 2010, Window Rock, AZ 86515

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-4497  
**Status:** Pending  
**Due Date:** Sep 12, 2011  
**Letter Date:** Aug 26, 2011  
**Addressee:** AD-Administrator  
**Contact Type:** LTR (Letter)  
**Signature:** DX-Direct Reply  
**File Code:** 404-141-02-01\_141\_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.  
**Alternate Number:** N/A  
**Closed Date:** N/A  
**# of Extensions:** 0  
**Received Date:** Aug 29, 2011  
**Addressee Org:** EPA  
**Priority Code:** Normal  
**Signature Date:** N/A  
**Subject:** Daily Reading File- Threat to Native American Drinking Water Supply  
**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  
OEAE - Office of External Affairs and Environmental Education  
OGC - Office of General Counsel -- Immediate Office  
OITA - Office of International and Tribal Affairs  
OSWER - OSWER -- Immediate Office

## Lead Information

**Lead Author:** N/A

### Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	R9	Aug 29, 2011	Sep 12, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

RECEIVED

Message Information

2011 AUG 29 PM 12:32

Date 08/26/2011 02:32 PM

From David Taylor <dtaylor@nndoj.org>

"Dr. Stephen Chu (the.secretary@hq.doe.gov)" <the.secretary@hq.doe.gov>;

Dave Geiser <david.geiser@hq.doe.gov>; LisaP

Jackson/DC/USEPA/US@EPA; "Mike Black (Director, Bureau of Indian Affairs)

(mike.black@bia.gov)" <mike.black@bia.gov>; "Krause, John

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cc

Subject Threat to Native American Drinking Water Supply

Message Body

Group:

The purpose of this e-mail is to alert you to a matter of great importance to the Navajo Nation, and, we believe also to the Hopi Tribe.

As many of you are aware for the past several years the Navajo Nation has been involved in litigation pending in the United States District Court for the District of Columbia relating to what we often refer to as the Tuba City area uranium contaminated sites, of which there are three primary sites: the Tuba City Open Dump located in Tuba City, Arizona and the Hopi Moenkopi Villages; the former Rare Metals Uranium Mill site also sometimes referred to as the Tuba City UMTRCA site located three and a half miles northeast of Tuba City; and, what is commonly referred to as the Highway 160 site.

While we are extremely hopeful that contaminated soil cleanup at the Highway 160 site will be completed by the end of this calendar year, thanks to a 2009 congressional appropriation of \$5 million dollars, we have made very little progress toward addressing the environmental concerns at the other two sites.

We suggest that all parties involved in this matter, with the primary parties being the Hopi Tribe (while the Hopi Tribe is not a party to the litigation it has recently issued an Administrative Order to Comply against the Bureau of Indian Affairs), the Navajo Nation, the United States Department of Energy, El Paso Natural Gas, the United States Environmental Protection Agency, the Bureau of Indian Affairs and the Indian Health Service, should sit down at a table (so to speak) in facilitated mediation with the assistance of former United States Senator and former United Nations Ambassador John Danforth and discuss the following issues, although we recognize that the framing and identification of issues is

something that all parties should work to agree upon:

- 1) Should an interim groundwater remediation system be established as soon as possible for the Tuba City Open Dump?
- 2) Who are the parties responsible for the contamination in question and what share of responsibility should be assigned to each such party?
- 3) Should we forego the pending RI/FS (Remedial Investigation/Feasibility Study) process at the Tuba City Open Dump and go immediately to remedy selection based upon the many thousands of pages of reports and studies already completed? If so, what should that remedy be?
- 4) Given the fact that there is no end in sight for the UMTRCA site remediation plan, should we begin immediate studies of alternative remedies pursuant to an agreed upon timetable?

What makes this request all the more important at this moment, among other things, is the recently completed study (dated August 5, 2011) of the Hopi consultant D.B. Stephens and Associates. As many of you know D.B. Stephens and Associates has worked on the Tuba City Open Dump matter for over fifteen years. At p. 98 of the Recommendations section the Report states that "Groundwater restoration needs to begin immediately to contain and control the continuing contaminant plume migrating down gradient from the TCOD (Tuba City Open Dump)". The environmental experts at the Navajo Nation are in complete agreement with the Hopi experts in the belief that the threat to the drinking water aquifer is immediate.

It is our understanding that the U.S. EPA has been notified of the existence of this report and provided with a copy a few weeks ago. We remain hopeful that U.S. EPA will act on its own. Should that not happen, however, for whatever reason, the question of an interim groundwater remediation system should remain as the first item to be addressed during mediation.

You are being contacted individually and directly today because several weeks ago a request was made to the U.S. Department of Justice attorneys involved in the litigation asking that the United States participate in this mediation. That request was rejected by the litigation attorneys and it is now being made directly to United States Attorney General Eric Holder in accordance with the attached letter.

In the event you are contacted by the U.S. Department of Justice in the near future regarding your position on this mediation we urge you to support the request. If you are a representative of a government agency we ask you to be especially mindful of your trust obligations to native peoples.

Thank you in advance for your consideration of this request.

Dave Taylor

David A. Taylor  
Navajo Nation Department of Justice  
P.O. Box 2010  
Window Rock, AZ 86515





**NAVAJO NATION DEPARTMENT OF JUSTICE**  
**OFFICE OF THE ATTORNEY GENERAL**

HARRISON TSOSIE  
ATTORNEY GENERAL

DANA L. BOBROFF  
DEPUTY ATTORNEY GENERAL

August 24, 2011

Hon. Eric Holder, Attorney General  
United States Department of Justice  
950 Pennsylvania Ave., N.W.  
Washington, D.C. 20530-0001

Dear Attorney General Holder:

Seven months ago my predecessor in office, Attorney General Louis Denetsosie, wrote to you with an important request made on behalf of the Navajo Nation. He asked that you use your authority to allow the Department of Justice to consider the appointment of former Enron prosecutor John Hueston as litigation trustee for the ongoing Tronox bankruptcy litigation. You heard our request. You acted as we requested and now, we believe that if you check with members of your staff involved in that matter you will find that Mr. Hueston's selection as litigation trustee is working out well.

We have a similar request today, albeit involving different circumstances.

Since 2009 the Navajo Nation has been involved in litigation against the United States concerning uranium contamination left over from operation of a former uranium processing facility near Tuba City, Arizona. The litigation is entitled *El Paso Natural Gas and the Navajo Nation v. the United States* and is pending in the United States District Court for the District of Columbia, Case No. 07-905 RJL.

All we are seeking is to have the opportunity to participate in mediation with certain key parties involved including representatives of the following federal agencies; the Department of Energy, the Environmental Protection Agency, the Bureau of Indian Affairs and the Indian Health Service. We have been advised by Eric Hostettler, the primary litigation attorney involved, that the Department of Justice is declining our request. In normal circumstances this would not be at all remarkable in part because of Mr. Hostettler's successes to date in the litigation. However, this case concerns trust land of the Navajo Nation and Hopi Indian Tribe and the actions of the federal agencies threaten a vital drinking water aquifer of the two tribes.

We have been in touch with former United States Senator from Missouri and former United Nations Ambassador John Danforth, who has agreed to serve as mediator provided all interested parties agree to his selection and other administrative matters can be worked out. We are confident that you realize the selection of Senator Danforth as mediator brings a person of international reputation for honesty and integrity to the proceeding, a person who has negotiated disputes between nations and has the unquestioned respect of people on all sides of the political spectrum. Indeed, we believe that interested members of Congress may favor this approach and lend their good offices to facilitate the mediation, if desired.

Letter to Hon. Eric Holder, Attorney General, United States Department of Justice

August 24, 2011


Page 2

Please realize that we are not even requesting that the pending litigation be delayed in any manner. There are no other obligations we request of the federal government than to sit down, in a facilitated manner with us, and discuss the situation, a situation where we believe there to be an imminent and substantial threat to a drinking water aquifer that serves as the sole source of drinking water for thousands of native Navajo and Hopi people.

Your consideration of this request will be greatly appreciated.

Very truly yours,

NAVAJO NATION DEPARTMENT OF JUSTICE



Harrison Tsosie, Attorney General



# Correspondence Management System

Control Number: AX-11-001-4500

Printing Date: August 29, 2011 04:51:15



## Citizen Information

**Citizen/Originator:** Morgan, Mark S.

**Organization:** Petroleum Marketers Association of America  
**Address:** 4200 Wisconsin Avenue, NW, Washington, DC 20016

**Constituent:** N/A

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

## Control Information

**Control Number:** AX-11-001-4500 **Alternate Number:** N/A  
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**Letter Date:** Aug 26, 2011 **Received Date:** Aug 29, 2011  
**Addressee:** AD-Administrator **Addressee Org:** EPA  
**Contact Type:** LTR (Letter) **Priority Code:** Normal  
**Signature:** AA-OAR-Assistant Administrator **Signature Date:** N/A

- OAR

**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- It is estimated that more than 80 million people along the Eastern Seaboard will be impacted by Hurricane Irene. It is essential that the EPA move quickly with sufficient regulatory flexibility to ensure the uninterrupted distribution of petroleum as a result of the storm.

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OAR - Office of Air and Radiation -- Immediate Office  
OEAE - Office of External Affairs and Environmental Education

## Lead Information

**Lead Author:** N/A

### Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
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<b>Instruction:</b> N/A					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History



1901 N. FORT MYER DRIVE • SUITE 500 • ARLINGTON, VA 22209-1604 • 703-351-8000 • FAX 703-351-9160

August 26, 2011

Lisa P. Jackson, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

**RE: HURICANE IRENE - EMERGENCY FUEL WAIVERS**

**VIA FACSIMILE AND EMAIL**

Dear Administrator Jackson:

It is estimated that more than 80 million people along the Eastern Seaboard will be impacted by Hurricane Irene over the next four days. PMAA and its affiliated state association members in the path of the storm are urgently working to develop a coordinated plan to ensure that the supply distribution network for gasoline, diesel fuel, kerosene and heating oil fuel will be maintained before during and after Hurricane Irene passes through the region. PMAA anticipates that numerous federal fuel waivers authorized under the Clean Air Act Section 112(c)(4)(C), will be necessary during this period in order to meet demand, particularly for emergency responders and other vital services such as hospitals and utility crews.

It is essential that the EPA move quickly with sufficient regulatory flexibility to ensure the uninterrupted distribution of petroleum as a result of the storm.

First, the EPA must take proactive measures to ensure that the region is fully prepared for Hurricane Irene. PMAA is urging the agency to issue a fuel waiver today that would allow heating oil to be used in emergency generators and back-up equipment that ordinarily requires 15 ppm diesel fuel.

Information from PMAA state associations in the region indicate that petroleum marketers are being inundated with calls from emergency responders and vital service providers for fuel to power emergency generators and back up equipment due to anticipated prolonged power outages. Marketers across the region are reporting urgent fuel supply requests for emergency equipment from local fire, police and DPW departments, hospitals and nursing homes, water and sewage facilities, public utilities, the National Guard and 911 emergency centers, to name a few.

Fuel for emergency generators and back-up equipment is in high demand because supply tanks are typically left close to empty to prevent fuel spoilage while not in use. The logistical problem of meeting the current unprecedented demand is due to a lack of 15-ppm supply at local bulk storage facilities which are currently filled with heating oil in anticipation of the upcoming winter heating season. Consequently, in order to obtain adequate supply of 15-ppm fuel for emergency equipment, multiple trips back and forth to distant terminal facilities are required. Demand cannot be met in this way because there is simply not enough time, trucks or drivers available to make these multiple, time consuming runs. On the other hand, marketers have ample heating oil on hand at their bulk storage facilities that could easily substitute for 15ppm product and ensure that emergency responders and vital service providers receive the fuel they need prior to the arrival of Hurricane Irene. For this reason a proactive waiver of the 15ppm requirement for emergency generators and equipment is absolutely essential at this time.

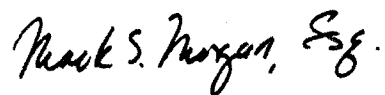


Second, the EPA must move quickly in the aftermath of the storm to ensure that adequate supplies of gasoline, diesel fuel, kerosene and heating oil remains available. PMAA anticipates that Hurricane Irene will knock out power to refineries and terminal facilities and require the shutdown of vital petroleum supply pipelines. If this occurs, the EPA must be ready to waive RVP, RFG, and ULSD fuel requirements across the area affected by Hurricane Irene.

The nation learned in the aftermath of Hurricane Katrina that proactive preparedness is essential to prevent avoidable catastrophic consequences of killer storm. Hurricane Irene is a very dangerous storm headed towards the nation's most populated region. For this reason PMAA and its member associations urge the EPA to move quickly on the requests presented in this letter.

Please contact me if I can provide additional information. I will be available during the weekend at the contact resources listed below. Thank you.

Sincerely,



Mark S. Morgan  
Regulatory Counsel

Petroleum Marketers Association of America

Office: (202) 364-6767

Cell: (202) 487-4536

Email: [mmorgan@pmaa.org](mailto:mmorgan@pmaa.org)

New England Fuel Institute  
North Carolina Petroleum and Convenience Marketers  
Independent Connecticut Petroleum Association  
Maine Energy Marketers Association  
Mid-Atlantic Petroleum Distributors Association  
Independent Oil Marketers of New England  
Fuel Merchants Association of New Jersey  
Empire State Petroleum Association, Inc.  
Pennsylvania Petroleum marketers and Convenience Store Association  
Vermont Fuel Dealers Association  
Independent Oil Marketers Association of New England  
Virginia Petroleum, Convenience and Grocery Association

cc: Cynthia Giles, Assistant Administrator for Enforcement and Compliance Assurance



# Correspondence Management System

Control Number: AX-11-001-2949

Printing Date: August 03, 2011 04:07:46



## Citizen Information

**Citizen/Originator:** Foxx, Alfred

**Organization:** Department of Public Works  
**Address:** 200 North Holiday Street, Baltimore, MD 21202

**Constituent:** N/A

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

## Control Information

**Control Number:** AX-11-001-2949 **Alternate Number:** N/A  
**Status:** For Your Information **Closed Date:** N/A  
**Due Date:** Aug 17, 2011 **# of Extensions:** 0  
**Letter Date:** Jul 11, 2011 **Received Date:** Aug 3, 2011  
**Addressee:** AD-Administrator **Addressee Org:** EPA  
**Contact Type:** LTR (Letter) **Priority Code:** Normal  
**Signature:** DX-Direct Reply **Signature Date:** N/A  
**File Code:** 401\_127\_a General Correspondence Files Record copy  
**Subject:** Daily Reading File-It was a privilege and an honor to have you in Baltimore City recently to announce the Urban Waters Federal Partnership. I can confidently speak for the City's other civil servants when I say that we are excited by the opportunities presented by the Partnership and eager to begin working with EPA and other federal agencies to improve water quality in the Patapsco River and revitalize the communities on its shores.  
**Instructions:** For Your Information -- No action required  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** Noah Dubin - OEX  
OEAE - Office of External Affairs and Environmental Education

## Lead Information

**Lead Author:** N/A

### Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	R3	Aug 3, 2011	Aug 17, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History

## CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



## DEPARTMENT OF PUBLIC WORKS

Alfred H. Foxx, Director  
Abel Wolman Municipal Building, 6th Floor  
200 N. Holliday Street  
Baltimore, Maryland 21202

July 11, 2011

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

**RE: Urban Waters Federal Partnership**

Dear Ms. Jackson:

It was a privilege and an honor to have you in Baltimore City recently to announce the Urban Waters Federal Partnership. I can confidently speak for the City's other civil servants when I say that we are excited by the opportunities presented by the Partnership and eager to begin working with EPA and other federal agencies to improve water quality in the Patapsco River and revitalize the communities on its shores. I was hoping to have a minute to chat with you after the press event, but your feet are faster than mine and I was unable to get to you before your departure.

As the agency responsible for the City's water and wastewater utilities, stormwater system, and solid waste management, the Department of Public Works interacts frequently with the EPA. One of the things I found most encouraging about your remarks was your emphasis on partnership. I view myself and my agency as environmental stewards. We are committed to a safe and healthy environment for Baltimore's citizens and to protect the national treasure that is the Chesapeake Bay. We want to work towards these goals in partnership with EPA, but all too often we find ourselves in adversarial positions.

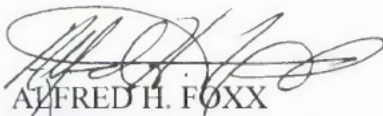
I was also encouraged by the holistic thinking exhibited by the creation of the Urban Waters Federal Partnership and your remarks. We must look at our environmental challenges as they relate to each other in order to properly address them. As we begin to implement green infrastructure in Baltimore City, we are evaluating how this infrastructure integrates with the projects of other local, state, and federal agencies. While we realize green infrastructure's benefits, we must also be aware of its potential negative impacts on other environmental programs and develop strategies to manage that. In addition, we are going beyond our City in our work on our utilities to effectively manage an inter-jurisdictional watershed. Baltimore City is hydraulically connected to the surrounding Baltimore County; five of our eight sewersheds take their flow from the County. Though we are separate jurisdictions, we must be able to address our sewer improvements together in order to achieve effective solutions.

RECEIVED  
2011 AUG -2 PM 12:24  
OFFICE OF THE  
EXECUTIVE SECRETARIAT



Ms. Jackson, thank you again for coming to Baltimore and announcing such a fantastic program here. I look forward to seeing this program implemented in the coming months and years and to working with our federal partners to strive for a healthy urban waterway. I would like to invite you back to Baltimore any time for a demonstration of how we are breaking down silos and putting interagency initiatives into practice here.

Respectfully,



ALFRED H. FOXX  
DIRECTOR

AHF/dmc





# Correspondence Management System

Control Number: AX-11-001-2952

Printing Date: August 03, 2011 04:16:49



## Citizen Information

**Citizen/Originator:** Brady, Keith

Organization: The City of Newnan, Georgia  
Address: Post Office Box 1193, Newnan, GA 30264

**Constituent:** N/A

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

## Control Information

**Control Number:** AX-11-001-2952 **Alternate Number:** N/A  
**Status:** Pending **Closed Date:** N/A  
**Due Date:** Aug 17, 2011 **# of Extensions:** 0  
**Letter Date:** Jul 27, 2011 **Received Date:** Aug 2, 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-On behalf of the City of Newnan, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Issue 2011-Stop Mercury and Air Toxics Now EPA-HQ-OAR-2009-0234  
**Instructions:** DX-Respond directly to this citizen's questions, statements, or concerns  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - 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	Aug 3, 2011	Aug 17, 2011	N/A
	<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns				
Martha Faulkner	OAR	OAR-OAQPS	Aug 3, 2011	Aug 12, 2011	N/A
	<b>Instruction:</b> OAR - Prepare response for the signature of Gina McCarthy, Assistant Administrator for the Office of Air and Radiation (OAR).				
Jean Walker	OAR-OAQPS	OAR-OAQPS-SPPD	Aug 3, 2011	Aug 10, 2011	N/A
	<b>Instruction:</b> AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR				



## DAILY READING FILE

### *The City of Newnan, Georgia* *Office of the Mayor, L. Keith Brady*

July 27, 2011

Hon. Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

2011 AUG -2 PM 12:24  
OFFICE OF THE  
EXECUTIVE SECRETARIAT  
RECEIVED

**Re: Docket ID Nos. EPA-HQ-OAR-2009-0234**

Dear Administrator Jackson:

On behalf of the City of Newnan, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Our community-owned, non-for-profit electric utility serves 7,863 customers. We supply electricity produced in part by coal-fired electric generating units that could be significantly impacted by the proposed EGU MACT rule – even though those coal units are already well-controlled for mercury and for criteria pollutants such as sulfur dioxide and nitrogen oxides.

We have major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Unfunded Mandates Reform Act (UMRA) (Chapters 17 A and 25 of Title 2 of the U.S. Code). We would also request that EPA evaluate the impact of the proposed rules under four presidential executive orders – EO 13563, Improving Regulation and Regulatory Review; EO 13132, Federalism; EO 12866, Regulatory Planning and Review; and EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use. As a not-for-profit electric utility owned and operated by local government, we support these Executive Orders that call for reasonable and cost-effective regulations to achieve reductions in air pollution in a reasonable time-frame.

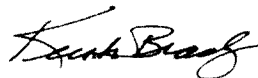
Our concerns include the following:

- The proposed rules create a risk of having to raise electricity rates, that could cause our customers economic hardship, particularly those negatively impacted by the current economic climate, such as the unemployed, the underemployed, and those with limited or fixed incomes.

*P.O. Box 1193 - Newnan, Georgia 30264*  
*(770) 254-2358 - Facsimile (770) 254-2353*

- The proposed rule raises electricity reliability issues in some regions in 2014 when compliance with these rules begins. While EPA estimates that only 9 GW of coal-fired capacity may face retirement nationally because of the rules, other industry analysts and the North American Electric Reliability Corporation (NERC) estimate that at as many as 70 GW of capacity could face retirement.
- EPA's economic and reliability analysis in the proposed rules addresses only impacts from the proposed EGU MACT regulations. The analysis does not address the cumulative impacts from approximately eight major EPA rules affecting air, water, and wastewater from electric utilities in the next five to eight years.
- The proposed EGU MACT rules include many additional requirements beyond those to reduce mercury emissions. Control of other emissions under the EGU MACT rule may not be necessary or required under the Clean Air Act or based EPA's own hazardous air pollutants study. EPA should consider whether to decline to adopt the rules not related to control of mercury emissions.
- The statutorily imposed three-year time frame for compliance with the EGU MACT rules is too short. The electric industry needs at a minimum, an additional two years to avoid reliability issues that could arise when coal fired power plants must shut down for an extended period to retrofit emissions controls needed to comply with the rule . We respectfully encourage EPA to grant the one-year extension it is statutorily allowed to do and urge that a second year of extension is granted via a presidential order.
- EPA's own Regulatory Impact Analysis (RIA) appears to suggest that only 97 municipal utilities will be affected, and will face a compliance cost of only \$666.3 million annually. These costs appear to significantly underestimate the real impact and show no regional additional impacts in states such as Indiana, Ohio, Wisconsin, Michigan, Minnesota, Kentucky, Georgia, Alabama and Texas.

Thank you for your consideration.



Keith Brady, Mayor

Cc: Congressman Lynn A. Westmoreland



# Correspondence Management System

Control Number: AX-11-001-2953

Printing Date: August 03, 2011 12:54:38



## Citizen Information

**Citizen/Originator:** Ebert, S Lewis

Organization: North Carolina Chamber

Address: 701 Corporate Center Drive, Raleigh, NC 27607

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-2953

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Aug 17, 2011

**# of Extensions:** 0

**Letter Date:** Jul 27, 2011

**Received Date:** Aug 3, 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-On behalf of the North Carolina Chamber, I am writing to express our continued concern with the Environmental Protection Agency's (EPA) voluntary reconsideration of the 2008 National Ambient Air Quality Standards (NAAQS) for ground level ozone.

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OEAE - 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	Aug 3, 2011	Aug 17, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

## History



July 27, 2011

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

Dear Administrator Jackson:

On behalf of the North Carolina Chamber, I am writing to express our continued concern with the Environmental Protection Agency's (EPA) voluntary reconsideration of the 2008 National Ambient Air Quality Standards (NAAQS) for ground level ozone. As the nation rebounds from the worst recession in over a generation, North Carolina businesses oppose an unnecessary regulation that may cause additional job loss in our state.

As you are aware, in 2008 the EPA lowered the ozone standard from 84 to 75 parts-per-billion (ppb). Lowering the existing 75 ppb standard to the lower end of the proposed range of 60 ppb would result in nearly every county in North Carolina being in violation of the Clean Air Act (or in "nonattainment").

New nonattainment area designations will hurt both large and small North Carolina businesses and prevent or deter expansion and growth in many urban, suburban, and rural counties. Additionally, State environmental agencies are still struggling to implement the 2008 standard, creating even more undue burden on these agencies at a time when state resources are in short supply.

North Carolina businesses are also confronting an avalanche of additional rules and regulations from the EPA including more stringent emissions limits on industrial boilers, the proposal to regulate coal ash, proposed redefining of solid waste, and the imposition of first-time federal regulations on greenhouse gas emissions. This is clearly not the time to impose a harsh new ozone standard which provides little environmental benefit.

In conclusion, the North Carolina Chamber and its members urge the EPA to merge this discretionary reconsideration of the ozone standard into the ongoing five-year review process set forth in the CAA. Please do not hesitate to contact me if you have additional questions about how the new standard will impact North Carolina businesses.

Sincerely,



S. Lewis Ebert  
President and CEO

cc: Governor Beverly Perdue

OFFICE OF THE  
EXECUTIVE SECRETARIAT

2011 AUG -2 PM 12:24

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# Correspondence Management System

Control Number: AX-11-001-2954

Printing Date: August 03, 2011 11:22:43



## Citizen Information

**Citizen/Originator:** Yearta, William J.

**Organization:** City of Sylvester, Georgia  
**Address:** P.O. Box 370, Sylvester, GA 31791

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-2954  
**Status:** Pending  
**Due Date:** Aug 17, 2011  
**Letter Date:** Aug 3, 2011  
**Addressee:** AD-Administrator  
**Contact Type:** LTR (Letter)  
**Signature:** DX-Direct Reply  
**File Code:** 404-141-02-01\_141\_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.

**Alternate Number:** N/A  
**Closed Date:** N/A  
**# of Extensions:** 0  
**Received Date:** Aug 3, 2011  
**Addressee Org:** EPA  
**Priority Code:** Normal  
**Signature Date:** N/A

**Subject:** Daily Reading File-On behalf of City of Sylvester, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Issue 2011-Stop Mercury and Air Toxics Now EPA-HQ-OAR-2009-0234

**Instructions:** DX-Respond directly to this citizen's questions, statements, or concerns  
**Instruction Note:** N/A  
**General Notes:** N/A  
**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - 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	Aug 3, 2011	Aug 17, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

DAILY READING FILE  
City of Sylvester

2011 AUG -2 PM 12: 24

OFFICE OF THE  
EXECUTIVE SECRETARIAT

101 North Main Street  
P.O. Box 370  
Sylvester, Georgia 31791  
229-776-8505 t  
229-776-8519 f  
www.cityofsylvester.com

July 25, 2011



Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

**Re: Docket ID Nos. EPA-HQ-OAR-2009-0234**

Dear Administrator Jackson:

On behalf of City of Sylvester, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Our community-owned, non-for-profit electric utility serves 2700 customers. We supply electricity produced in part by coal-fired electric generating units that could be significantly impacted by the proposed EGU MACT rule – even though those coal units are already well-controlled for mercury and for criteria pollutants such as sulfur dioxide and nitrogen oxides.


We have major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Unfunded Mandates Reform Act (UMRA) (Chapters 17 A and 25 of Title 2 of the U.S. Code). We would also request that EPA evaluate the impact of the proposed rules under four presidential executive orders – EO 13563, Improving Regulation and Regulatory Review; EO 13132, Federalism; EO 12866, Regulatory Planning and Review; and EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use. As a not-for-profit electric utility owned and operated by local government, we support these Executive Orders that call for reasonable and cost-effective regulations to achieve reductions in air pollution in a reasonable time-frame.

Our concerns include the following:

- The proposed rules create a risk of having to raise electricity rates, that could cause our customers economic hardship, particularly those negatively impacted by the current economic climate, such as the unemployed, the underemployed, and those with limited or fixed incomes.

- The proposed rule raises electricity reliability issues in some regions in 2014 when compliance with these rules begins. While EPA estimates that only 9 GW of coal-fired capacity may face retirement nationally because of the rules, other industry analysts and the North American Electric Reliability Corporation (NERC) estimate that as many as 70 GW of capacity could face retirement.
- EPA's economic and reliability analysis in the proposed rules addresses only impacts from the proposed EGU MACT regulations. The analysis does not address the cumulative impacts from approximately eight major EPA rules affecting air, water, and wastewater from electric utilities in the next five to eight years.
- The proposed EGU MACT rules include many additional requirements beyond those to reduce mercury emissions. Control of other emissions under the EGU MACT rule may not be necessary or required under the Clean Air Act or based EPA's own hazardous air pollutants study. EPA should consider whether to decline to adopt the rules not related to control of mercury emissions.
- The statutorily imposed three-year time frame for compliance with the EGU MACT rules is too short. The electric industry needs at a minimum, an additional two years to avoid reliability issues that could arise when coal fired power plants must shut down for an extended period to retrofit emissions controls needed to comply with the rule. We respectfully encourage EPA to grant the one-year extension it is statutorily allowed to do and urge that a second year of extension is granted via a presidential order.
- EPA's own Regulatory Impact Analysis (RIA) appears to suggest that only 97 municipal utilities will be affected, and will face a compliance cost of only \$666.3 million annually. These costs appear to significantly underestimate the real impact and show no regional additional impacts in states such as Indiana, Ohio, Wisconsin, Michigan, Minnesota, Kentucky, Georgia, Alabama and Texas.

Thank you for your consideration.

  
 William J. Yearta  
 Mayor

Cc: Senator Saxby Chambliss  
 Senator Johnny Isakson  
 Representative Sanford Bishop  
 Senator John Crosby  
 Representative Ed Rynders





# Correspondence Management System

Control Number: AX-11-001-2955

Printing Date: August 03, 2011 04:03:46



## Citizen Information

**Citizen/Originator:** Banks, Peter L.

Organization: City of Barnesville

Address: 109 Forsyth Street, Barnesville, GA 30204

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-2955

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Aug 17, 2011

**# of Extensions:** 0

**Letter Date:** Jul 26, 2011

**Received Date:** Aug 2, 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-On behalf of the City of Barnesville, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Issue 2011-Stop Mercury and Air Toxics Now EPA-HQ-OAR-2009-0234

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - 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	Aug 3, 2011	Aug 17, 2011	N/A
	<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns				
Martha Faulkner	OAR	OAR-OAQPS	Aug 3, 2011	Aug 12, 2011	N/A
	<b>Instruction:</b> OAR - Prepare response for the signature of Gina McCarthy, Assistant Administrator for the Office of Air and Radiation (OAR).				
Jean Walker	OAR-OAQPS	OAR-OAQPS-SPPD	Aug 3, 2011	Aug 11, 2011	N/A
	<b>Instruction:</b> AA-OAR-Prepare draft response for signature by the Assistant Administrator for OAR				



## City of Barnesville

"Buggytown U.S.A."

RECEIVED

109 FORSYTH STREET  
BARNESVILLE, GEORGIA 30204  
PHONE 770-358-0181  
FAX 770-358-0185

2011 AUG -2 PM 12: 24

**CITY MANAGER**  
KENNETH D. ROBERTS

**CITY CLERK**  
CAROLYN S. PARKER

July 26, 2011

OFFICE OF THE  
EXECUTIVE SECRETARIAT

**MAYOR**  
PETER L. BANKS

**COUNCIL MEMBERS**  
ANNE H. CLAXTON  
CHRISTOPHER HIGHTOWER  
SAMMIE D. SHROPSHIRE, JR.  
ROBERT NEAL DEVANE  
MARK R. STONE

Hon. Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

**Re: Docket ID Nos. EPA-HQ-OAR-2009-0234**

Dear Administrator Jackson:

On behalf of the City of Barnesville, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology ("EGU MACT") rules. Our community-owned, non-for-profit electric utility serves 3,500 customers. We supply electricity produced in part by coal-fired electric generating units that could be significantly impacted by the proposed EGU MACT rule – even though those coal units are already well-controlled for mercury and for criteria pollutants such as sulfur dioxide and nitrogen oxides.

We have major concerns regarding several provisions of the proposed rules. We respectfully request that EPA consider these concerns and evaluate the impact to our utility under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and the Unfunded Mandates Reform Act (UMRA) (Chapters 17 A and 25 of Title 2 of the U.S. Code). We would also request that EPA evaluate the impact of the proposed rules under four presidential executive orders – EO 13563, Improving Regulation and Regulatory Review; EO 13132, Federalism; EO 12866, Regulatory Planning and Review; and EO 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use. As a not-for-profit electric utility owned and operated by local government, we support these Executive Orders that call for reasonable and cost-effective regulations to achieve reductions in air pollution in a reasonable time-frame.

Our concerns include the following:

- The proposed rules create a risk of having to raise electricity rates, that could cause our customers economic hardship, particularly those negatively impacted by the current economic climate, such as the unemployed, the underemployed, and those with limited or fixed incomes.
- The proposed rule raises electricity reliability issues in some regions in 2014 when compliance with these rules begins. While EPA estimates that only 9 GW of coal-fired capacity may face retirement nationally because of the rules, other industry analysts and the North American Electric Reliability Corporation (NERC) estimate that at as many as 70 GW of capacity could face retirement.

- EPA's economic and reliability analysis in the proposed rules addresses only impacts from the proposed EGU MACT regulations. The analysis does not address the cumulative impacts from approximately eight major EPA rules affecting air, water, and wastewater from electric utilities in the next five to eight years.
- The proposed EGU MACT rules include many additional requirements beyond those to reduce mercury emissions. Control of other emissions under the EGU MACT rule may not be necessary or required under the Clean Air Act or based EPA's own hazardous air pollutants study. EPA should consider whether to decline to adopt the rules not related to control of mercury emissions.
- The statutorily imposed three-year time frame for compliance with the EGU MACT rules is too short. The electric industry needs at a minimum, an additional two years to avoid reliability issues that could arise when coal fired power plants must shut down for an extended period to retrofit emissions controls needed to comply with the rule. We respectfully encourage EPA to grant the one-year extension it is statutorily allowed to do and urge that a second year of extension is granted via a presidential order.
- EPA's own Regulatory Impact Analysis (RIA) appears to suggest that only 97 municipal utilities will be affected, and will face a compliance cost of only \$666.3 million annually. These costs appear to significantly underestimate the real impact and show no regional additional impacts in states such as Indiana, Ohio, Wisconsin, Michigan, Minnesota, Kentucky, Georgia, Alabama and Texas.

Thank you for your consideration.



Peter L. Banks

Mayor

Cc: Senator Johnny Isakson  
Senator Saxby Chambliss  
Representative Lynn Westmoreland





# Correspondence Management System

Control Number: AX-11-001-2956

Printing Date: August 03, 2011 11:26:03



## Citizen Information

**Citizen/Originator:** Kincheloe, Duncan

**Organization:** Missouri Association of Municipal Utilities

**Address:** 1808 I-70 Drive, Columbia, MO 65203

**Constituent:** N/A

**Committee:** N/A

**Sub-Committee:** N/A

## Control Information

**Control Number:** AX-11-001-2956

**Alternate Number:** N/A

**Status:** Pending

**Closed Date:** N/A

**Due Date:** Aug 17, 2011

**# of Extensions:** 0

**Letter Date:** Jul 27, 2011

**Received Date:** Aug 3, 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-On behalf of the 110 members of the Missouri Association of Municipal Utilities, I am writing regarding the Environmental Protection Agency's (EPA) proposed electric generating unit maximum achievable control technology rules ("EGU MACT"). Issue 2011-Stop Mercury and Air Toxics Now EPA-HQ-OAR-2009-0234

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

**Instruction Note:** N/A

**General Notes:** N/A

**CC:** OCIR - Office of Congressional and Intergovernmental Relations  
OEAE - Office of External Affairs and Environmental Education  
OP - Office of Policy  
R7 - Region 7 -- 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	Aug 3, 2011	Aug 17, 2011	N/A
<b>Instruction:</b> DX-Respond directly to this citizen's questions, statements, or concerns					

## Supporting Information

**Supporting Author:** N/A

### Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			