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Protecting Southwest Florida's unique natural environment and quality of life **2012 JAN 18 PM 8:52**

January 11, 2012

OFFICE OF THE
EXECUTIVE SECRETARIAT

Dear Administrator Jackson:

Such a pleasure to meet you at the Everglades Coalition conference! We spoke briefly after your speech, when I conveyed that numerous environmental organizations in Florida including my own were urging EPA not approve the Florida Department of Environmental Protection's proposed numeric nutrient standards. I regretfully did not have a business card on hand when you requested, but am enclosing it now along with additional information regarding this issue per our conversation.

Florida is setting Faux Numeric Nutrient Standards

While the state's standards may look similar to EPA's, they are in reality nothing like them and will create the opposite effect: worsening nutrient pollution problems throughout our state. This is because:

- The vast majority of waterbodies will never have numeric nutrient criteria under the state's proposal - since it does not propose, nor provide any pathway for future numeric criteria for altered and artificial waterbodies (which most of the flowing waters in our state fit this definition), intermittent flowing waters, tidally influenced waters, springs outside the spring vents, etc.
- The few proposed state "thresholds" that do apply can routinely exceeded without any further actions to reduce pollution. So, while the state is proposing to use the same numbers that EPA had used, the state rule makes those numbers essentially meaningless.
- Instead, a waterbody has to routinely exceed the thresholds and then fail biological tests - becoming imbalanced in being covered with algae or dead fish - before site-specific numeric nutrient criteria could potentially be developed for them. This is like having to wait until someone is pronounced dead before being allowed to call an ambulance. It is exactly the opposite of the EPA proposal, which sets true criteria that act as limits to proactively prevent such imbalances (the narrative nutrient standard in Florida).

We understand that this is a politically difficult time to reject a state proposal. However, the state's proposed standards are so detrimental that they truly put public health and safety at great risk. Therefore, we are imploring you to not approve Florida's proposed numeric nutrient proposal. We would be glad to bring a team of scientific, technical and legal experts to provide additional information in person and are enclosing comments from other various groups as well. Thank you so much for your tremendous leadership, and for your time and consideration in this very important matter.

With deepest respect,

Jennifer Hecker

Director of Natural Resource Policy



Correspondence Management System

Control Number: AX-12-000-0776

Printing Date: January 19, 2012 02:01:02



Citizen Information

Citizen/Originator: Vincent-Collawn, Patricia

Organization: PNM Resources

Address: Albuquerque Square, Albuquerque, NM 87158-2824

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-000-0776

Alternate Number: N/A

Status: For Your Information

Closed Date: N/A

Due Date: N/A

of Extensions: 0

Letter Date: Dec 27, 2011

Received Date: Jan 18, 2012

Addressee: DA-Deputy 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 meeting to discuss the U.S. Environmental Protection Agency's regulation of the San Juan Generating Station

Instructions: For Your Information -- No action required

Instruction Note: N/A

General Notes: N/A

CC: OAR - Office of Air and Radiation -- Immediate Office
R6 - Region 6 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

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

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	AO-IO-DA	Jan 19, 2012

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to AO-IO-DA	Jan 19, 2012

Comments

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Patricia Vincent-Collawn
President and CEO

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2012 JAN 18 AM 8:52



December 27, 2011

The Hon. Robert Perciasepe
Deputy Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Washington, DC 20004

Dear Deputy Administrator Perciasepe:

On behalf of PNM Resources, I wish to thank you for meeting with me to discuss the U.S. Environmental Protection Agency's regulation of the San Juan Generating Station under the Regional Haze section of the Clean Air Act.

I particularly appreciate your interest in the technical aspects and cost estimates associated with the Federal Implementation Plan that would require selective catalytic reduction (SCR) technology on all four units of the plant.

PNM Resources has a longstanding history of supporting key national environmental objectives associated with coal-fired power plants. We are also sensitive to costs borne by consumers, especially in New Mexico where the poverty rate is the second highest in the nation.

Currently, the cost estimates relied upon by EPA for SCRs for the SJGS are \$345 million, compared to the estimate of at least \$750 million provided by engineering firms with significant experience in installing SCRs on coal fired units. As we discussed, this disparity is of great interest both to EPA and my company.

We deeply appreciate EPA's interest in engaging in an open dialogue on the cost issues. As a follow up to our meeting with you, we met with Janet McCabe and others to discuss how to proceed. We developed a better understanding of how to engage with EPA on the cost issue, together with other stakeholders in an open and transparent manner through the public process to review the New Mexico State Implementation Plan.

Thank you for your time and attention. If you or your staff have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia Vincent-Collawn".

Patricia Vincent-Collawn



Correspondence Management System

Control Number: AX-12-000-0835

Printing Date: January 19, 2012 10:02:08



Citizen Information

Citizen/Originator: Halladay, Alycia

Organization: Rutgers University
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Wells, Ellen M.

Organization: Case Western Reserve University
Address: 10900 Euclid Avenue, Cleveland, OH 44106

Warrick, Cynthia

Organization: Howard University School of Pharmacy
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Katz, Susan

Organization: Oregon Physicians for Social Responsibility
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Ramos, Diana

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Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-12-000-0835	Alternate Number:	N/A
Status:	Pending	Closed Date:	N/A
Due Date:	Feb 3, 2012	# of Extensions:	0
Letter Date:	Jan 9, 2012	Received Date:	Jan 19, 2012
Addressee:	AD-Administrator	Addressee Org:	EPA
Contact Type:	MEM (Memo)	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 - Extend EPA's environmental justice policy protections to include reproductive and developmental health		
Instructions:	DX-Respond directly to this citizen's questions, statements, or concerns		
Instruction Note:	N/A		
General Notes:	N/A		
CC:	OCHP - Office of Children's Health Protection OCSPP - OCSPP - Immediate Office OEAE - Office of External Affairs and Environmental Education OP - Office of Policy		

Lead Information

Lead Author: N/A

Extend EPA's environmental justice policy protections to include reproductive and developmental health

To: Lisa P. Jackson,
Administrator, United States Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

From: Alycia Halladay, PhD; Rutgers University
Tiffany Skogstrom; Boston Public Health Commission
Ellen M. Wells, PhD; Case Western Reserve University
Cynthia Warrick, PhD, RPH; Howard University School of Pharmacy
Susan Katz, MD; Oregon Physicians for Social Responsibility
Diana Ramos, MD; University of Southern California, Keck School of Medicine

Subject: **Extend EPA's environmental justice policy protections to include reproductive and developmental health**

Date: January 9, 2012

Cc: Kelly Maguire, Office of Policy, US EPA
Lisa Garcia, Office of Environmental Justice, US EPA
Heather Case, Office of Environmental Justice, US EPA
Jim Jones, Office of Chemical Safety and Pollution Prevention, US EPA
Peter Grevatt, Office of Children's Health Protection, US EPA

Enclosures: Specific recommendations for the *Interim Guidance Document on Considering Environmental Justice during the Development of an Action*
Annotated Bibliography

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2012 JAN 18 PM 1:01

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Dear Administrator Jackson:

The United States Environmental Protection Agency (EPA) has a strong history of incorporating environmental justice into environmental health policy and activities and demonstrates a willingness to continue seeking environmental justice.¹ These actions have resulted in substantial success towards the goal to protect everyone against environmental hazards regardless of race or income.² However, more can be achieved. As environmentalists, children's health advocates, researchers and physicians, we understand the substantial impact environmental hazards can have on reproductive and developmental health.³

Accordingly, we urge EPA to expand the scope of environmental justice concerns to include reproductive and developmental health outcomes within EPA's environmental justice policy.

¹ Nweke OC et al. *Am J Public Health* 2011;101(Supp 1):S19-S26.

² Brulle RJ and Pellow DN. *Ann Rev Pub Health* 2006. 27:103-24.

³ Woodruff TJ et al. *Fertil Steril* 2008. 89:281-300.

We propose three mechanisms by which EPA should act:

- 1. Recognize reproductive-aged women and developing offspring as vulnerable populations.** EPA should explicitly recognize reproductive aged and pregnant women, as well as their developing offspring, as vulnerable populations within the EPA's *Action Development Process ' Interim Guidance Document on Considering Environmental Justice during the Development of an Action*.
- 2. Support incorporation of reproductive and developmental health in EPA activities.** EPA should encourage Federal Advisory Committees (such as the National Environmental Justice Advisory Council, Children's Health Protection Advisory Council, etc.) to collaborate and incorporate reproductive and developmental health outcomes into their individual activities and common goals.
- 3. Cooperate with a public/private partnership to promote reproductive and developmental health.** EPA should collaborate with a developing coalition of stakeholders, community groups, advocacy organizations and the public. This group would help EPA implement strategies related to reproductive and developmental health, and environmental justice issues.

As noted above, exposure to environmental contaminants is recognized to harm reproductive and developmental health. In addition to direct impacts to fertility and reproduction, children are particularly vulnerable to the effects of chemicals for several reasons. To begin with, children have greater exposure to environmental chemicals per pound of body weight in comparison with adults, and in many cases they are less capable of breaking down toxic chemicals because their metabolic pathways are still immature. Furthermore, children's hand-to-mouth behavior, as well as their proximity to the floor, results in more environmental exposures. As children are undergoing rapid development, environmental insults may disrupt this process with potentially lifelong impacts.⁴

Many environmental contaminants linked with reproductive and developmental health outcomes are also recognized as components of environmental justice concerns, including exposures to air pollution, lead, and pesticides.⁵ This means that in addition to the concerns above, there is cause for concern due to the likelihood of disproportionate exposure of these environmental hazards among reproductive-aged women within low-income and minority populations. The accumulation of increased environmental exposures in addition to other health determinants, such as stress, can lead to substantially increased reproductive and developmental health risk for these populations.⁶ For these reasons, the EPA must include reproductive and developmental health in the agency's environmental justice policy in a clear and explicit manner.

EPA has already established programs and policy around environmental justice. Our suggestions will bolster these programs and policies as well as promote reproductive and developmental health, thereby supporting some of our most vulnerable populations. These suggestions are discussed in more detail on the next page.

⁴ Landrigan PJ and Goldman LR. *Health Aff* 2011. 30:842-850.

⁵ For example: Landrigan PJ et al. *Mt Sinai J Med* 2010 77:178-187 and Payne-Sturges D and Gee CG. *Environ Res* 2006. 102:154-171. Also see the bibliography submitted with this document.

⁶ Morello-Frosch R and Shenassa ED. *Environ Health Perspect* 2006. 114: 1150-1153.

1. Recognize reproductive-aged women and developing offspring as vulnerable populations

The document "*EPA's Action Development Process: Interim Guidance Document on Considering Environmental Justice During the Development of an Action*"⁷ is currently in preparation. EPA should specifically include language to name reproductive aged and pregnant women, as well as their developing offspring, as vulnerable populations. Specific language is suggested in an attached document.

2. Support incorporation of reproductive and developmental health in EPA activities

EPA established various advisory councils after the passage of the Federal Advisory Council Act (FACA) in 1972. We appreciate the fact that the National Environmental Justice Advisory Council (NEJAC) advises the Office of Environmental Justice and the Children's Health Protection Advisory Committee (CHPAC) advises the Office of Children's Health Protection, giving independent advice and recommendations from many stakeholders involved in the environmental justice dialogue and the children's health protection community.

Both NEJAC and CHPAC, as well as other relevant groups within EPA, should develop activities to incorporate reproductive and developmental health into environmental justice. For example, NEJAC could develop a workgroup on reproductive and developmental health issues within environmental justice, or take steps to explicitly include these issues within their current work on cumulative risks. CHPAC's prenatal work group recently made recommendations for incorporating research on social determinants of prenatal and early developmental health disparities into environmental justice programs and policies. We ask the EPA to request dialogue between those two advisory councils in coordination with this recent letter. This could include incorporation of prenatal and developmental health into the NEJAC's current work on cumulative risks and vulnerable populations as well as including reproductive aged and pregnant women in specifically in their work on healthy sustainable communities.

3. Cooperate with a public/private partnership to support reproductive and developmental health

We ask that the EPA actively cooperate with activities of an independent coalition of advocacy and scientific groups that can advance EPA's policies and projects through various mechanisms such as scientific initiatives and agendas which may intersect with EPA's goals.

In order to help EPA implement these strategies, we believe an independent coalition of stakeholders, community groups, advocacy organizations, and public members should be developed and sustained as a public/private partnership. Planning and exploration of the short term and long-term goals and objectives of such a group is currently being perused. Over a dozen independent organizations or individuals have expressed interest in coming together to work collaboratively with each other and the EPA to advance common scientific agendas. Such a group could be called "Friends of EPA" and work similarly to existing group such as "Friends of CDC", "Friends of NICHD" and "Friends of NIEHS". The name and structure are yet to be determined but would be open to the public for membership.

These coalitions are dedicated to supporting the mission of the agency, advocating on behalf of the agency, disseminating scientific findings and programmatic initiatives, and promoting activities through briefings and meetings, and providing information about policies. Member organizations of the coalition are comprised of scientists, physicians, health care providers, patients, and parents concerned with the health and welfare of women, children, families, and people with disabilities. Coalitions have the capacity to provide an active, broad reaching membership base that can disseminate an active and effective communication strategy through

⁷ <http://www.epa.gov/compliance/ej/resources/policy/considering-ej-in-rulemaking-guide-07-2010.pdf>

electronic and written means as well as community outreach. Currently, there is no outside coalition supporting EPA which collectively represents stakeholder citizens, advocacy organizations, and public interest groups. Of importance, this representative private/partner coalition would represent a wide array of interests, and would act as an independent liaison to specific offices and projects. Therefore, the specific interests of the EPA may also be addressed through subgroups of this coalition, whose focus is to promote the activities of each EPA office. The coalition would act independently and without EPA involvement in issues relating to advocacy, legislation, and budgeting requests.

Potential partner organizations could include the Collaborative on Children's Health and the Environment, the Endocrine Society, Autism Speaks, the American Pregnancy Association, DES Action USA, Physicians for Social Responsibility, and the American Academy of Pediatrics. We would be interested in helping EPA implement strategies related to reproductive health outcomes through organization of such an outside coalition. EPA could lend its collective expertise to the activities of this coalition by providing scientific and programmatic updates on upcoming policy changes, funding opportunities, and research discoveries, allowing for the coalition members to work more collaboratively with EPA staff on science based initiatives. Such a partnership was recently endorsed by the Children's Health Protection Advisory Committee.

A bibliography reviewing recent scientific literature on this topic has been submitted with this memo for your review. Based on the arguments presented, we strongly urge EPA to consider these recommendations to close gaps in reproductive and developmental health outcomes as part of environmental justice policy.

Thank you for your time and consideration of this important matter.

Respectfully submitted,⁸

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⁸ Affiliations are provided for reference only. The content and views of this work are those of the authors and do not necessarily represent those of the authors' affiliations.

TEXAS DEPARTMENT OF AGRICULTURE

TODD STAPLES
COMMISSIONER

January 12, 2012

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

OFFICE OF THE
EXECUTIVE SECRETARIAL

2012 JAN 18 PM 1:09

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Dear Administrator Jackson:

Thank you for the opportunity to comment on the proposed National Pollutant Discharge Elimination System (NPDES) concentrated animal feeding operations (CAFO) reporting rule, which would unnecessarily extend EPA's regulatory power at the expense of our nation's domestic food producers.

First, the proposed rules and the rulemaking process are fundamentally flawed. The Clean Water Act (CWA) rightfully provides EPA the authority to regulate harmful and controllable pollution discharges to protect our nation's waterways. In the proposed rule, EPA is clearly extending its regulatory authority beyond the intent of the CWA, instituting a structure that focuses on regulating facilities because they may meet a broad administrative definition, not because they operate in a manner that poses a danger to human health or the environment.

Section 308(a) of the CWA states "the Administrator shall require the owner or operator of any *point source* to" provide information to EPA. Section 308 *does not* call for reporting by sources that do not discharge into waterways. Being defined as a CAFO does not automatically mean an operation is a source of pollution, and the federal courts have repeatedly and consistently ruled that EPA does not have authority over facilities that do not actually discharge into waters of the United States. Furthermore, your agency's current rules already require that an owner or operator of a CAFO that actually discharges into streams, lakes and other waters must apply for a NPDES permit under the CWA.

As recently as March 2011, the United States Court of Appeals for the Fifth Circuit affirmed in *National Pork Producers Council, et al v. EPA* that the agency does not have authority over CAFOs where no discharge occurs. Additionally, over the past few years, members of Congress have proposed extending regulatory authority to EPA; however, these efforts have failed, further proving the lack of desire or need to extend this regulatory power to EPA.



The Honorable Lisa Jackson
January 12, 2012
Page 2

Even if EPA were acting within its legal authority by regulating non-polluting CAFOs, the two proposed reporting options under which the operations would be required to submit information to the agency are unnecessarily burdensome. Under the first option, individual CAFOs would be required to report to EPA, unless states with authorized NPDES programs choose to provide the information. Where a state provides all the information to EPA, individual CAFOs would not be required to submit information. The Texas Commission on Environmental Quality (TCEQ) has delegated NPDES authority and may make the information available to EPA. TDA recommends EPA, when acting within its authority, gather necessary reports through state regulatory agencies rather than burdening individual entities with unnecessary costs and duplicative reporting rules.

Under the second reporting option, only CAFOs in EPA designated focus watersheds that have water quality concerns associated with feeding operations would be required to report the requested information to EPA. Proposed EPA criteria for identifying focus watersheds include "high priority watersheds, patterns of vulnerable soils, high densities of animals, and other relevant information such as proximity to environmental justice communities."

My concern with this option is that it enables EPA to make a unilateral decision in classifying focus watersheds. The agency would not have to consult with either state NPDES regulatory officials, river authorities or affected stakeholders prior to designation. Again, the fundamental issue that EPA does not have the regulatory authority to require non-discharging CAFOs to report additional information is clear and compounded by this second option, which could be used to eliminate external and stakeholder input.

I appreciate the opportunity to share my concerns about this rule with you. It is imperative EPA curb efforts to unilaterally expand its regulatory authority. To continue this rulemaking would demonstrate a clear disregard for sound science, the public's will and established law; it will lead to costly regulation and, at best, obscure benefits.

Sincerely yours,



Todd Staples

TS/RE/re



Correspondence Management System

Control Number: AX-12-000-0852

Printing Date: January 19, 2012 09:27:28



Citizen Information

Citizen/Originator: Johnson, Jerry N.

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Constituent: N/A

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

Control Information

Control Number: AX-12-000-0852 Alternate Number: N/A
Status: For Your Information Closed Date: N/A
Due Date: N/A # of Extensions: 0
Letter Date: Jan 6, 2012 Received Date: Jan 18, 2012
Addressee: DA-Deputy 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 spending time meeting my staff and colleagues from NACWA on December 20, 2011.
Instructions: For Your Information -- No action required
Instruction Note: N/A
General Notes: N/A
CC: OEAE - Office of External Affairs and Environmental Education
R3 - Region 3 - Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

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

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OW	Jan 19, 2012

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OW	Jan 19, 2012

Comments



Washington Suburban Sanitary Commission

14501 Sweitzer Lane • Laurel, Maryland 20707-5901

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GENERAL MANAGER

Jerry N. Johnson

OFFICE OF THE
EXECUTIVE SECRETARY

JAN 18 PM 1:08

January 6, 2012

Mr. Robert Perciasepe
Deputy Administrator
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Ave., NW
Mail Code 1101A
Washington, DC 20460

Dear Deputy Administrator Perciasepe:

On behalf of the Washington Suburban Sanitary Commission (WSSC) and the 1.8 million residents we serve in Prince George's and Montgomery Counties in Maryland, I am writing to thank you for spending your valuable time meeting with my staff and their colleagues from NACWA on December 20, 2011. I had hoped to attend the meeting myself but had a family engagement out of town that could not be avoided. The Sewage Sludge Incineration (SSI) Rule published earlier this year is of great importance to the WSSC and I hope the information provided at the meeting was helpful to you. I would like to provide you with additional information from the WSSC to consider as you review the SSI final rule. WSSC and EPA are partners in providing essential water and wastewater services to the public and we take our role very seriously.

WSSC, like many of our colleagues throughout the nation, cannot consider SSI or any other challenge we face in isolation. Incineration is part of an overall biosolids management program that considers many factors including environmental impact, costs, budgetary constraints, and regulatory burdens. During a period of time when municipalities are facing enormous economic challenges in an ever-expanding regulatory landscape, it is critical for EPA to ensure its policies are environmentally and economically sound, and ensure those policies allow utilities to manage their limited resources wisely and engage in practices that can maximize their resources while limiting their carbon footprint. The 2011 EPA SSI Rule does not, in our opinion, strike that balance. As a not-for-profit combined water/wastewater utility facing billions of dollars in infrastructure investments with no identified revenue stream beyond the shoulders of our ratepayers that includes the federal government, every

Mr. Robert Perciasepe
January 12, 2012
Page 2

regulatory decision that costs additional dollars must be weighed and scrutinized along with our other burgeoning priorities.

The WSSC generates over 250,000 wet tons of sewage sludge annually. Approximately 165,000 tons are produced at the Blue Plains WWTP in Washington, DC. The remainder is produced at WSSC facilities located within Prince George's and Montgomery Counties in Maryland. At the present time the vast majority of this sludge is treated with lime, creating biosolids for land application. The one exception is the approximately 25,000 wet tons annually produced at the Western Branch WWTP where disposal occurs mainly through incineration using two multiple hearth incinerators. These incinerators were constructed in 1977 using Clean Water Act Construction Grant Funds and are wholly integrated into the solids handling and treatment processes at the POTW.

The ability to dispose of biosolids within Maryland is diminishing with fewer allowable sites for land application. The Maryland General Assembly continues to debate further restrictions on the land application of biosolids, which can be both costly and problematic to wastewater utilities providing a critical public service. Currently about 85% of WSSC biosolids are transported over one hundred miles into the Commonwealth of Virginia. Should Maryland succeed pushing land application options further and further from the generating plants, utilities will face enormous investment costs to deal with the necessary storage and trucking requirements over long distances. Coupled with the new EPA SSI Rule utilities utilizing incineration as part of their overall biosolids management program could be forced to abandon incineration as early as 2016. Loss of incineration as a viable management option will have major economic consequences, eliminate a major green energy source, and result in a transfer of emissions from SSIs to the tens of thousands of trucks that will be needed to haul the nation's sludge to landfills or other disposal sites across the county. This could expose the public to increasing risks, potential adverse environmental impacts and rising costs as the transportation mileage increases.

WSSC is serious about our environmental stewardship responsibilities and recently spent \$6.5 million on a project to lessen emissions from our two incinerators and reduce natural gas consumption by 75%. Preliminary estimates indicate that compliance with the new SSI rule will cost WSSC ratepayers approximately \$12 million in capital costs and an additional \$100,000 annually in added operational and maintenance costs. These costs will adversely affect the investment recently made and make it more difficult to justify continuance of this option in the face of any present-day negative economic argument. I cannot imagine a bleaker point in time when EPA could impose additional costs on local communities already faced with substantial Consent Decree investments,

Mr. Robert Perciasepe
January 12, 2012
Page 3

infrastructure renewal programs, and escalating operational expenses to simply maintain the services we currently provide. In the last nine years including the proposed budget for our next fiscal year, WSSC ratepayers have experienced a cumulative 73% rate increase. Our proposed annual operating budget is \$1.2 billion with an associated six-year capital budget of \$3.2 billion. While the numbers associated with our incinerators may seem small in comparison, every \$5 million represents an approximately 1% rate increase to our ratepayers also facing foreclosure, unemployment, and other fiscal constraints. With little to no federal funding assistance available to assist ratepayers in shouldering these unfunded mandates, the pile on effect is bearing down upon our everyday citizens.

The WSSC believes that utilities must have environmentally and economically sound biosolids management programs with decisions made at the local level to set priorities. We are committed to working with our federal partners including the EPA to ensure we are protecting the public we serve in the most fiscally responsible manner possible.

Again, we encourage you and your staff to call upon us if we can provide any additional information to you. We also invite you to visit our facilities to "kick the tires" yourself to better understand the real world impacts of the decisions made in Washington.

Thank you for your dedication and attention to water quality and our industry as a whole. I know that you have long ties to Maryland and the WSSC. Please know that we always stand ready to serve as a resource to our federal partners on this or any other issue. If you need any additional information in the meantime, please feel free to contact me at 301-206-8777 or my e-mail at GMCEO@wsscwater.com.

Sincerely,



Jerry N. Johnson
General Manager/CEO



Correspondence Management System

Control Number: AX-12-000-0942

Printing Date: January 19, 2012 01:43:52



Citizen Information

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Sapiro, Miriam

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Chopra, Aneesh

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Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-12-000-0942	Alternate Number:	N/A
Status:	For Your Information	Closed Date:	N/A
Due Date:	N/A	# of Extensions:	0
Letter Date:	Jan 17, 2012	Received Date:	Jan 19, 2012
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:	Daily Reading File - Principles for Federal Engagement in Standards Activities to Address National Priorities		
Instructions:	For Your Information -- No action required		
Instruction Note:	N/A		
General Notes:	N/A		
CC:	OARM - OARM -- Immediate Office OCFO - OCFO -- Immediate Office OEAE - Office of External Affairs and Environmental Education OEI - Office of Environmental Information - Immediate Office OITA - Office of International and Tribal Affairs ORD - Office of Research and Development -- Immediate Office		

Lead Information

Lead Author: N/A

Lead Assignments:

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



Executive Office of the President
Office of Management and Budget



Executive Office of the President
United States Trade Representative



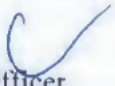
Executive Office of the President
Office of Science and Technology Policy


January 17, 2012


M-12-08

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM:

Aneesh Chopra 
U.S. Chief Technology Officer
Office of Science and Technology Policy

Miriam Sapiro 
Deputy
United States Trade Representative

Cass R. Sunstein 
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget

SUBJECT:

Principles for Federal Engagement in Standards Activities to Address
National Priorities

On February 4, 2011, the President released "*A Strategy for American Innovation: Securing Our Economic Growth and Prosperity*"¹ and directed Federal agencies to increase their efforts to catalyze technology breakthroughs to advance national priorities. Pursuant to the *Strategy for American Innovation*, the Office of Science and Technology Policy (OSTP), the Office of Management and Budget (OMB), and the Office of the United States Trade Representative (USTR) are issuing this Memorandum to clarify principles guiding Federal Government engagement in standards activities² that can help address national priorities.

The vibrancy and effectiveness of the U.S. standards system in enabling innovation depend on continued private sector leadership and engagement. Most standards developed and used in U.S. markets are created with little or no government involvement. This approach – reliance on private sector leadership, supplemented by Federal Government contributions to discrete standardization processes as outlined in OMB Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities"³ – remains the primary strategy for government

¹ <http://www.whitehouse.gov/innovation-strategy>.

² http://www.whitehouse.gov/omb/circulars_a119/.

³ http://www.whitehouse.gov/omb/circulars_a119/.

engagement in standards development. Consistent with the Administration's commitment to openness, transparency, and multi-stakeholder engagement, all standards activities should involve the private sector.

In limited policy areas, however, where a national priority has been identified in statute, regulation, or Administration policy, active engagement or a convening role by the Federal Government may be needed to accelerate standards development and implementation to help spur technological advances and broaden technology adoption. In these instances, the Federal Government can help catalyze advances, promote market-based innovation, and encourage more competitive market outcomes. The Federal Government should clearly define its role, and then work with private sector standardization organizations in the exercise of that role.

For example, the *Strategy for American Innovation* describes national priorities with respect to achieving breakthroughs in health care technology and promoting clean energy. In both of these areas, the Federal Government is making substantial technology investments – electronic health record systems and smart grid technologies – to produce productivity gains and improve outcomes. And in both of these technology markets, interoperability standards are needed to decrease the risk that sizable public and private investments will become obsolete prematurely. To accomplish these objectives, the Federal Government, as directed by Congress, is taking a convening role to accelerate standards development, by working closely with domestic and international private sector standards organizations.

The principles and related directions to agencies outlined in this Memorandum are intended to be followed in those limited instances in which the Federal Government engages in a convening or active engagement role together with private sector standardization organizations to address a national priority. Such engagement should be undertaken pursuant to existing legal and policy obligations and the principles identified in the Appendix.

Federal Government Objectives for Standards Engagement to Address National Priorities

Once a national priority has been identified, it is important for the Federal Government to engage private sector stakeholders early in the process of identifying technology, regulatory, and/or procurement objectives. The Federal Government's engagement should be broad-based, and it should rely on open and transparent processes. Broad-based engagement provides public officials with the opportunity to obtain information that often is widely dispersed across the economy.⁴

At the outset of engagement, the Federal Government should:

- Clearly identify the standards-based challenges it is encountering in addressing a national priority;
- Define its goals as precisely as possible;
- Provide a reasoned analysis of what has led to the perceived standards gap and what needs to be done to close it (including any relevant and appropriate science-based data); and,

⁴ http://www.whitehouse.gov/the_press_office/TransparencyandOpenGovernment/.

- Commit, to the extent feasible and appropriate, to support the technical work necessary to achieve the defined goals.

Federal Government engagement in standards activities should be guided by five fundamental strategic objectives:

- Produce timely, effective standards and efficient conformity assessment schemes that are essential to addressing an identified need;
- Achieve cost-efficient, timely, and effective solutions to legitimate regulatory, procurement, and policy objectives;
- Promote standards and standardization systems that promote and sustain innovation and foster competition;
- Enhance U.S. growth and competitiveness and ensure non-discrimination, consistent with international obligations; and
- Facilitate international trade and avoid the creation of unnecessary obstacles to trade.

To realize these objectives, the Federal Government works with the private sector to address common standards-related needs, taking on a convening and/or active-engagement role where necessary to ensure a rapid, coherent response to national challenges. In undertaking such work, the Federal Government may play various roles in the standardization system – user, specifier, participant, facilitator, advocate, technical advisor/leader, convener, or source of funding – to assure that key public policy goals are achieved in a timely and effective manner. Successful achievement of these goals also requires an active effort to promote information sharing and coordination across the Federal Government.

When addressing national priorities, standardization activities should recognize the global nature of many markets. In the context of communications technologies, for example, both users and vendors realize enormous economies of scale when standards are globally developed and deployed. Users benefit from lower prices offered by vendors able to realize the economies of scale of a globally sized market. When diverse national standards are imposed, however, products must conform to diverse requirements for each national market, raising costs for government and private sector users, limiting the flexibility needed for efficiency and innovation, and reducing profitability.

Agency Responsibilities

Agencies considering a convening or active engagement role in private sector standards developing organizations in order to address a national priority area should state their reasons plainly (including why private sector leadership alone is insufficient). Further, agencies should accept and act on feedback on their rationales before assuming this convening or active-engagement role in a private sector standards developing organization. In all cases, agencies should ensure effective intra- and inter-agency coordination of engagement in standards development activities. When an agency commits to a cooperative standards development effort with industry, that commitment should be maintained, as resources permit, and the resulting standards should be used where feasible.

Agencies should use existing processes and, where necessary, establish new processes for open, transparent, and effective two-way communication with private sector interests, ensuring that concerns from private sector entities are given thorough and objective consideration. To the extent feasible and appropriate, agencies should also provide continuous support for their technical experts' participation and leadership activities in mission-critical standards-setting activities and standards organizations, including standards organization-specific training and mentoring. Agencies should periodically review their standards activities to identify gaps in representation for mission-critical areas as part of their long-range planning and adopt policies that value and reward participation in standardization activities.

Agencies should explicitly include consideration of conformity assessment approaches that take account of elements from international systems, to encourage private sector support and minimize duplicative testing. Agencies should evaluate whether their objectives necessitate creating government-unique conformity assessment schemes, which may be expensive to develop and maintain, may impose additional costs on the private sector, and may not be recognized beyond national boundaries. In doing so, agencies should use existing best practices and leverage available resources in the private sector as well as within the Federal Government. Such expertise is available at the National Institute of Standards and Technology (NIST), which has statutory authority to coordinate conformity assessment activities of Federal, State and local governments, and the private sector.⁵

Both in national priority areas and more generally, agencies should take into account the impact of their standards-related choices on innovation and the global competitiveness of U.S. enterprises,⁶ including the impact of intellectual property incorporated in standards, consistent with international obligations. On these matters, agencies should consult with USTR, which has statutory authority on international trade issues arising from standards and conformity assessment procedures.

OSTP, OMB, and USTR look forward to working cooperatively with you and your staff to promote engagement in standards activities that support national priorities.

⁵ http://standards.gov/standards_gov/ntaa.cfm.

⁶ Agencies should review OMB Circular A-119, section 6(f) for considerations regarding the use of a standard.



Correspondence Management System

Control Number: AX-12-000-1203

Printing Date: January 25, 2012 12:36:58



Citizen Information

Citizen/Originator: Hogan, Tim

Organization: National Petrochemical & Refiners Association
Address: 1667 K Street N.W., Washington, DC 20006

Greco, III, Robert L.

Organization: American Petroleum Institute
Address: 1220 L Street, NW, Washington, DC 20005-4070

Drevna, Charles T.

Organization: National Petrochemical and Refiners Association (NPRA)
Address: 1667 K Street, N.W., Washington, DC 20006

Reheis-Boyd, Catherine H

Organization: Western States Petroleum Association
Address: 1415 L Street, Sacramento, CA 95814

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-12-000-1203	Alternate Number:	N/A
Status:	Pending	Closed Date:	N/A
Due Date:	Feb 8, 2012	# of Extensions:	0
Letter Date:	Jan 20, 2012	Received Date:	Jan 23, 2012
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_a(1) Controlled and Major Corr. Record copy of of the offices of the EPA Administrator & other senior officials - Nonelectronic		
Subject:	Daily Reading File-Petition for Waiver of 2011 Cellulosic Biofuel Volumetric Requirements		
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		

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OAR	Jan 25, 2012	Feb 8, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A



January 20, 2012

VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

Administrator Lisa Jackson
U.S. Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Mail Code: 1101A
Washington, D.C. 20460

Subject: Petition for Waiver of 2011 Cellulosic Biofuel Volumetric Requirements

Dear Administrator Jackson:

Pursuant to Section 211(o)(7)(A)(ii) of the Clean Air Act (CAA or Act), American Petroleum Institute (API), the National Petrochemical and Refiners Association (NPRA), and the Western States Petroleum Association (WSPA) submit this petition requesting the Environmental Protection Agency (EPA) to waive the volumes of cellulosic biofuels required for the 2011 compliance year under the Renewable Fuel Standard (RFS) due to an inadequate domestic supply of such fuel (hereinafter the Petition).

We represent high-tech American manufacturers, fueling and building America's future. Our members produce virtually all the refined petroleum products and petrochemicals manufactured in the United States. These manufacturers provide jobs directly and indirectly for two million Americans, economic and national security, and thousands of vital products to families and businesses throughout the United States. Our members are obligated parties under EPA's RFS and as such are adversely impacted by shortages of renewable fuels that preclude their ability to comply with the RFS.

In 2010, EPA promulgated the applicable volumetric requirements for various renewable fuels under the RFS.¹ This rulemaking established the regulatory volume of cellulosic biofuel for 2011 at 6.0 million ethanol-equivalent gallons. Biofuel manufacturers failed to produce cellulosic biofuels and the 6 million gallon cellulosic biofuel target was not attained.

Congress foresaw the possibility that the aggressive renewable fuel targets might not be achievable and established several waiver provisions in the CAA. On January 9, 2012, EPA published the 2012 RFS Volumes Final Rule.² In that rule, EPA responded to obligated party comments requesting that in any year in which actual production of cellulosic biofuel falls below the applicable volume used to set the annual standard, EPA use its waiver authority to reduce the required volume of cellulosic biofuel by an amount equal to the shortfall in February of the following year and that this waiver occur prior to the February 28 deadline for submission of compliance demonstration reports by obligated parties. In response to these comments, EPA indicated that the appropriate mechanism for addressing RFS shortfalls is through the waiver process.

These comments deal with EPA's general waiver authority under CAA section 211(o)(7)(A), and thus are not directly related to the annual standard setting process or the waiver authority that is specific to cellulosic biofuel under section 211(o)(7)(D). At this time EPA has received no petitions for a waiver of the 2011 cellulosic biofuel volume under section 211(o)(7)(A) due to inadequate domestic supply, and thus we are not considering at this time whether and how any portion of the 2011 cellulosic biofuel applicable volume should be waived.³

Under section 211(o)(7)(A) of the CAA, a waiver petition may be submitted by any person subject to the requirements of the RFS. Thus, API, NPRA, and WSPA, on behalf of their U.S. refining members, are submitting this petition pursuant to section 211(o)(7)(A) of the Act and requesting a waiver of the 2011 cellulosic biofuel volume in its entirety on the grounds that there is "an inadequate domestic supply" of cellulosic biofuel.⁴

EPA provided some general guidance regarding section 211(o)(7)(A) waiver requests in its 2008 denial of a request by the Governor of the State of Texas.⁵ We reference and respond to the relevant portions of the guidance below:

¹ See 75 *Federal Register* 76790 (December 9, 2010).

² See 77 *Federal Register* 1320 (January 9, 2012).

³ *Id.* at 1330.

⁴ See 42 U.S.C. §7545(o)(7)(A)(ii).

⁵ 73 *Federal Register* 47168, 47183 (August 13, 2008). Note most of EPA's guidance is directed to a waiver request based on severe harm to the economy of a State, a region, or the United States [211(o)(7)(A)(i)]; and therefore, is inapplicable to a waiver request based on inadequate domestic supply [211(o)(7)(A)(ii)].

1. Petitions that clearly do not contain information and analysis of a type and quality sufficient to support a grant of a waiver may not justify public consideration prior to issuance of a denial by EPA.⁶

To support this Petition, per EPA's guidance, API, NPRA, and WSPA reference the cellulosic biofuel RINs and volumes depicted in EPA's Moderated Transaction System (EMTS).⁷ EPA's monthly summary shows zero volumes for July 2010 through October 2011 for cellulosic biofuel. Clearly, this is far short of 6 million gallons and supports the petition for EPA to issue a waiver equivalent to 6 million ethanol-equivalent gallons for 2011 RFS compliance period.⁸

2. EPA expects that applicants would state the requested start date and duration of the waiver, with waiver applications received generally at least six months before the requested start date, and to the extent that applications cannot be submitted in such timeframe an application should include an explanation why such expectation could not be met.⁹

API and NPRA have sought this relief for almost a full year. In February 2011, API and NPRA petitioned EPA to reconsider the RFS volumes for 2011. Last summer the Agency proposed to deny this request.¹⁰ On August 11, 2011, NPRA and API individually submitted comments on EPA's proposed rulemaking to establish the applicable RFS volumes for 2012 and urged EPA to reduce the regulatory volume for cellulosic biofuel for 2011.¹¹ EPA did not respond to this aspect of NPRA's or API's comments in the final rule establishing the RFS volumes for 2012.¹² We did not know, until EPA issued the 2012 RFS Volumes Final Rule, that EPA interpreted section 211(o)(7)(A) as the only appropriate mechanism under which to seek a waiver of the 2011 cellulosic biofuel requirement. Upon learning that, NPRA and API have submitted this waiver request as quickly as possible -- within two weeks.

While the Clean Air Act requires EPA to act on this petition within 90 days, we respectfully request a more expeditious decision based on our prior requests for EPA to adjust the cellulosic biofuel targets and the fact that the 2011 compliance period for obligated parties concludes on February 28, 2012, just five weeks away.

EPA should take prompt action on this petition. Cellulosic biofuel waiver credits for 2011 are to be purchased in January and February 2012. Given the requirement for public comment, the Agency should defer the requirement to purchase cellulosic biofuel

⁶ *Id.* at 47183.

⁷ See <http://www.epa.gov/otaq/fuels/rfsdata/2010emts.htm> and <http://www.epa.gov/otaq/fuels/rfsdata/2011emts.htm>.

⁸ While EPA has not disclosed the amount of cellulosic fuel produced for the last two months of 2011, we are not aware of any cellulosic RINs available for purchase.

⁹ 73 *Federal Register* at 47184.

¹⁰ See 76 *Federal Register* 38844 (July 1, 2010).

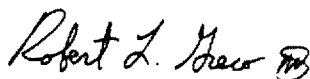
¹¹ See NPRA and API Comments in Docket No. EPA-HQ-OAR-2010-0133 (August 11, 2011)

¹² 77 *Federal Register* 1320 (January 9, 2012).

waiver credits for 2011 by the end of February 2012 until EPA can formally act on this Petition. Given the clear shortfall in cellulosic biofuels produced in 2011, it is not reasonable to require the purchase of cellulosic credits while EPA solicits public comment and consults with the Departments of Agriculture and Energy.

If you have any questions concerning the issues raised in this Petition, please contact Tim Hogan/NPRA at (202) 552-8462, Patrick Kelly/API at (202) 682 8192, Catherine Reheis-Boyd/WSPA at (916) 498-7752 or Gina Grey/WSPA at (480) 595-7121.

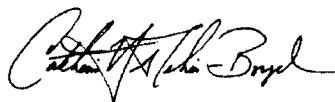
Respectfully submitted,



Robert L. Greco, III
Group Director, Downstream & Industry Operations
API



Charles T. Drevna
President
NPRA



Catherine Reheis-Boyd
President
Western States Petroleum Association

cc: Secretary Steven Chu, U.S. Department of Energy
Secretary Tom Vilsack, U.S. Department of Agriculture



Correspondence Management System

Control Number: AX-12-000-1285

Printing Date: January 25, 2012 06:35:33



Citizen Information

Citizen/Originator: Beinecke, Frances

Organization: Natural Resources Defense Council
Address: 40 West 20th Street, New York, NY 10011

Bugnon, Willa J.

Organization: NRDC
Address: 40 West 20th Street, New York, NY 10011

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-12-000-1285	Alternate Number:	N/A
Status:	Pending	Closed Date:	N/A
Due Date:	Feb 7, 2012	# of Extensions:	0
Letter Date:	Jan 23, 2012	Received Date:	Jan 24, 2012
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_a(1) Controlled and Major Corr. Record copy of of the offices of the EPA Administrator & other senior officials - Nonelectronic		
Subject:	Daily Reading File-Thank-you letter from the NRDC for the EPA's assessment of the Keystone XL pipeline		
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		

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OECA	Jan 24, 2012	Feb 7, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					
Lorraine Clinton	OECA	OECA-OFA	Jan 24, 2012	Feb 3, 2012	N/A
Instruction: N/A					

Supporting Information

Supporting Author: N/A



NATURAL RESOURCES DEFENSE COUNCIL

January 23, 2012

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

Dear Administrator Jackson,

On behalf of the 1.3 million members and activists of the Natural Resources Defense Council, and as an individual, I want to thank you for EPA's rigor and thoroughness in assessing the potential harm to American people, waters, lands, air and climate from the proposed Keystone XL tar sands pipeline.

EPA and you personally put the health, safety and environment of the American people first as you held the environmental impact assessment process for the proposed Keystone XL tar sands pipeline to the high standard that the American public deserves.

The Keystone XL tar sands pipeline was never in America's national interest. It would have endangered our people, our air, our water, and our lands for the benefit of oil companies.

Your vigilance shows real leadership on moving into a cleaner energy future -- one in which we save our last wild places, stabilize our climate and sustain our planet.

We stand ready to continue working with EPA protecting the health and safety of the American people, including through building clean energy and fighting climate change.

Sincerely,

Frances Beinecke
President, NRDC



Correspondence Management System

Control Number: AX-12-000-1291

Printing Date: January 25, 2012 04:04:20



Citizen Information

Citizen/Originator: Nally, Scott J.

Organization: Ohio/Environmental Protection Agency

Address: 50 West Town Street, Post Office Box 1049, Columbus, OH 43216-1049

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-000-1291

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Feb 8, 2012

of Extensions: 0

Letter Date: Jan 13, 2012

Received Date: Jan 24, 2012

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: AAA-Acting Assistant

Signature Date: N/A

Administrator-OW

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-Letter from Ohio EPA regarding ways to expedite the commitment of federal funds for Ohio's SRF programs

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

Instruction Note: N/A

General Notes: N/A

CC: OCFO - OCFO -- Immediate Office
OEAE - Office of External Affairs and Environmental Education
OW - Office of Water -- Immediate Office
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	Jan 25, 2012	Feb 8, 2012	N/A
	Instruction: N/A				
Diane Jones-Coleman	OW	OW-OWM	Jan 25, 2012	Feb 6, 2012	N/A
	Instruction: AA-OW-Prepare draft response for signature by the Assistant Administrator for OW				
Rebecca Christopher	OW-OWM	OW-OWM-MSD	Jan 25, 2012	Feb 2, 2012	N/A
	Instruction: N/A				

Supporting Information



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

RECEIVED

2012 JAN 24 PM 12: 25

OFFICE OF THE
EXECUTIVE SECRETARIAT

January 13, 2012

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

Dear Ms. Jackson:

Governor Kasich asked that I reply to your recent letter regarding ways to expedite the commitment of federal funds for Ohio's SRF programs.

In anticipation of next year's federal budget, I want to assure you that we will maintain our accelerated use of federal grants for our state revolving funds and the Ohio special appropriation projects. During FFY 11, both Ohio SRFs received all available capitalization grant awards and took payment of those funds towards obligated award commitments. The binding commitments for projects to use those funds are already more than 60% complete, with the anticipation of 100% completion upon the final closure of the multiple awarded projects. We will be submitting capitalization grant applications for FFY 12 awards within the next few months, and expect to commit those funds on similar schedules.

This acceleration has been especially demanding considering the project and program requirements that have been added to the SRFs in the wake of the Recovery Act. Not only have they increased the level of effort and complexity that our borrowers and our SRF staff must contend with, they have reduced our time for administrative and technical support of our communities who most need that help.

Going forward, I ask that that you and your water program representatives continue to advise Congress against rescission of SRF funds that benefit the environment and our economy. Further, we would greatly appreciate your support in urging Congress to reduce the burden of the numerous requirements applied to these state programs.

In closing, please allow me to compliment your SRF staff in Headquarters and Region 5 for their recognition and support of the role of states in our administration of the revolving funds. We appreciate their dedication to the purposes of our programs.

Sincerely,

Scott J. Nally
Director



Correspondence Management System

Control Number: AX-12-000-1311

Printing Date: January 25, 2012 01:08:43



Citizen Information

Citizen/Originator: Swackhamer, Deborah L.

Organization: University of Minnesota Water Resources Center
Address: 173 McNeal Hall 1985 Buford Avenue, St. Paul, MN 55108

Constituent: N/A

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

Control Information

Control Number: AX-12-000-1311 Alternate Number: N/A
Status: For Your Information Closed Date: N/A
Due Date: N/A # of Extensions: 0
Letter Date: Jan 23, 2012 Received Date: Jan 24, 2012
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 letter from Deborah L. Swackhamer
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	SAB	Jan 25, 2012

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OEAE	Jan 25, 2012
(b) (6) Personal Privacy	OEX	Control Taken Over	Jan 25, 2012
(b) (6) Personal Privacy	OEX	Forward control to SAB	Jan 25, 2012

Comments

UNIVERSITY OF MINNESOTA

Twin Cities Campus

Hubert H. Humphrey Institute of Public Affairs

*130 Humphrey Center
301-19th Avenue South
Minneapolis, MN 55455
612-626-8910
Fax: 612-625-3513
<http://www.hhh.umn.edu>*


January 23, 2012

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

Dear Administrator Jackson,

I cannot thank you enough for giving us some extra time from your extremely busy schedule last Tuesday. Close to 400 people heard you in person, and another 100 were watching the live stream of our discussion. I have had dozens of complimentary emails about the event, and many more requests to see the video (now posted). You are an inspiration to our students!

With warm regards,



Deborah L. Swackhamer, Ph.D.
Professor and Charles M. Denny, Jr, Chair of Science, Technology, and Public Policy
Professor, Environmental Health Sciences
Co-director, Water Resources Center



Correspondence Management System

Control Number: AX-12-000-1337

Printing Date: January 26, 2012 04:12:39



Citizen Information

Citizen/Originator: Thorp, Lynn

Organization: Clean Water Action
Address: 1010 Vermont Avenue NW, Washington, DC 20005

White, Deanna

Organization: Minnesota Clean Water Action
Address: 308 East Hennepin Avenue, Minneapolis, MN 55414

Arnowitz, Myron

Organization: Clean Water Action (PA)
Address: 115 Pine Street, Harrisburg, PA 17101

Luppi, Cindy

Organization: Clean Water Action
Address: 262 Washington Street, Boston, MA 02108

Roper, Cyndi

Organization: Michigan Clean Water Action
Address: 1200 Michigan Avenue, East Lansing, MI 48823

Goldsmith, Amy

Organization: New Jersey Environmental Federation
Address: 1002 Ocean Avenue, Belmar, NJ 07719

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-12-000-1337	Alternate Number:	N/A
Status:	Pending	Closed Date:	N/A
Due Date:	Feb 9, 2012	# of Extensions:	0
Letter Date:	Jan 23, 2012	Received Date:	Jan 25, 2012
Addressee:	AD-Administrator	Addressee Org:	N/A
Contact Type:	EML (E-Mail)	Priority Code:	Normal
Signature:	DX-Direct Reply	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-Letter Urging EPA to finalize the non-cancer Dioxin IRIS Reassessment and expeditiously release by the end of January		
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 Lawrence Elworth - AO-IO Michelle Crews - OSWER OCSPP - OCSPP - Immediate Office OEAE - Office of External Affairs and Environmental Education OSWER - OSWER -- Immediate Office R1 - Region 1 -- Immediate Office		



Correspondence Management System

Control Number: AX-12-000-1337

Printing Date: January 26, 2012 04:12:39



R2 - Region 2 -- Immediate Office

R3 - Region 3 - Immediate Office

R5 - Region 5 -- Immediate Office

Lead Information

Lead Author: Elizabeth Corona
Office: ORD-NCEA
Due Date: Feb 7, 2012
Assigned Date: Jan 26, 2012
Complete Date: N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	ORD	Jan 26, 2012	Feb 9, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					
Kim Bynem	ORD	ORD-NCEA	Jan 26, 2012	Feb 7, 2012	N/A
Instruction: N/A					

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	Control Created	Jan 26, 2012
(b) (6) Personal Privacy	OEX	Assign ORD as lead office	Jan 26, 2012
Kim Bynem	ORD	Accepted the group assignment	Jan 26, 2012
Kim Bynem	ORD	Assign ORD-NCEA as lead office	Jan 26, 2012
Elizabeth Corona	ORD-NCEA	Accepted the group assignment	Jan 26, 2012
Elizabeth Corona	ORD-NCEA	Take task	Jan 26, 2012

Comments

Commentator	Comment	Date
No Record Found.		



January 23, 2012

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

Dear Administrator Jackson,

We represent the state leadership and chemical policy experts on Clean Water Action's nationwide staff. Clean Water Action has followed the Dioxin Reassessment for several decades, and we applaud your efforts to bring this long delayed process to closure. We are writing to urge you to finalize the non-cancer dioxin IRIS assessment by the end of January, and to expeditiously release the cancer dioxin IRIS assessment as you have pledged to do.

Clean Water Action is a national organization with 1 million members. Clean Water Action has been concerned with dioxin contamination at every stage - from the community to the federal regulatory process. For example, Clean Water Action has been involved with controversies over siting municipal and medical waste incinerators all over the country. We also have a strong interest in chemical policies that prevent pollution at the source and which drive reduction of exposure to chemicals linked to cancer, reproductive problems, neurological and immunological effects and other health epidemics plaguing our population.

As you are well aware, the reassessment of the toxicity of dioxin has been underway for almost 3 decades. The prolonged process goes far beyond what reasonable debate and robust science require. Clean Water Action supports moving forward with this important piece of work

We are concerned that the American Chemistry Council (ACC) and other industry trade associations are once again pressuring the Environmental Protection Agency (EPA) to further delay the release of this important document. We believe the American public has a right to know about the health consequences of exposure to dioxin. As these delaying tactics persist, people in communities across the country continue to be exposed to this highly toxic chemical.

Finalization of the Dioxin Reassessment will result in protection of public health, in improved quality of life across the country and in innovation. It is good public policy and it is long

- more -

overdue. We urge you to meet your schedule of finalizing the non-cancer portion of the dioxin re-analysis by the end of this January and to finalize the cancer portion as quickly as possible thereafter.

Thank you for your attention to this matter, and for your commitment to protecting America's health and environment.

Sincerely,

Lynn Thorp, National Campaigns Director
Clean Water Action
Washington DC

Deanna White, State Director
Minnesota Clean Water Action
Minneapolis MN

Myron Arnowitt, State Director
Pennsylvania Clean Water Action
Pittsburgh PA

Cindy Luppi, New England Director
Clean Water Action
Boston MA

Cyndi Roper, State Director
Michigan Clean Water Action
East Lansing MI

Amy Goldsmith, Director
New Jersey Environmental Federation
Belmar NJ

cc: Cass Sunstein, Administrator, Office of Information and Regulatory Affairs

Nancy Sutley, Chair, White House Council on Environmental Quality (CEQ)

Paul Anastas, Assistant Administrator, Office of Research and Development, EPA

Rebecca Clark, Acting Director, National Center for Environmental Assessment



Correspondence Management System

Control Number: AX-12-000-1360

Printing Date: January 25, 2012 03:50:54



Citizen Information

Citizen/Originator: Gustafson, Anders

Organization: Renewable Resources Foundation

Address: 605 West 2nd Avenue, Anchorage, AK 99501

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-000-1360

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Feb 9, 2012

of Extensions: 0

Letter Date: Dec 14, 2011

Received Date: Jan 25, 2012

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 - Urge EPA to close two regulatory loopholes in the Clean Water Act that allow large mines to discharge their tailings and other wastes directly into the nation's rivers, lakes, and wetlands

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
R10 - Region 10 -- 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	Jan 25, 2012	Feb 9, 2012	N/A
Instruction: 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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RENEWABLE RESOURCES
FOUNDATION

Renewable Resources Foundation
605 West 2nd Avenue
Anchorage, AK 99501
(907) 743-1900 Phone
(907) 272-9319 Fax

December 14, 2011

The Honorable Nancy Sutley, Chair
White House Council on Environmental Quality
722 Jackson Place
Washington, DC 20503

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

The Honorable Jo-Ellen Darcy
Assistant Secretary of the Army (Civil Works)
United States Army Corps of Engineers
108 Army Pentagon
Room 3E446
Washington, DC 20310

OFFICE OF THE
EXECUTIVE SECRETARIAT

2012 JAN 25 PM 12:43

RECEIVED

Dear Ms. Sutley, Ms. Jackson, and Ms. Darcy:

I am writing on behalf of the Renewable Resources Foundation (RRF) to urge you to close two regulatory loopholes in the Clean Water Act (CWA) that allow large mines to discharge their tailings and other wastes directly into the nation's rivers, lakes, and wetlands. RRF is dedicated to the protection of Alaska's commercial, sport, and subsistence fisheries and to maintaining our renowned hunting and sporting heritage. Currently we represent over eight thousand members from Alaska and the Lower 48. Our goal is to preserve for future generations an Alaska that remains wild and pristine.

Hard rock mining, one of the nation's most destructive and polluting industries, is threatening the environmental and sporting legacy of our children. Record metal prices and new technologies are allowing the industry to develop mines in places—and at a scale—almost unthinkable a few years ago. In Alaska, this means that some of the world's most pristine and remote ecosystems are now the target of mineral exploration and development.

The most notorious threat is posed by the proposed Pebble mine, which provides a graphic example of how staggeringly destructive modern hard rock mines have become. The roads and

Renewable Resources Foundation
605 West 2nd Avenue
Anchorage, AK 99501
(907) 743-1900 Phone
(907) 272-9319 Fax

industrial facilities required by the mine would have an imprint of over 50 square miles and the pit would be approximately two miles wide and 1,700 feet deep. Pebble anticipates discharging millions of tons of tailings into two or more enormous reservoirs built directly on top of streams, ponds, and wetlands. The largest of the reservoirs would involve building three dams, each taller than the world's largest concrete dam, China's Three Gorges dam. The impoundments would create vast lakes of toxic slurry hundreds of feet deep.

Unfortunately, the Pebble mine and its landscape-altering approach to hard rock mining may be just the tip of the iceberg. Mining companies, buoyed by the same high commodity prices and technologies that fuel the Pebble development, have blanketed the Bristol Bay headwaters with claims. Northeast of Bristol Bay, the Donlin mine, a large proposed gold mine with a relatively low public profile, is already in the advanced exploration stage. The bottom line is that Alaska *will* see a new generation of extraordinarily destructive hard rock mines.

While there is no single solution to the threat posed by hard rock mining, one obvious step is to stop mines from dumping their toxic wastes into our lakes, rivers, and wetlands. In theory, the Clean Water Act should already outlaw this practice since the purpose of the act was to prohibit the use of the nation's waters as dump sites. Unfortunately, loopholes in the CWA regulations are currently allowing many large hard rock mines to treat the nearest river valley or lake as a waste dump for tailings and other waste. Hard rock mines produce millions, even billions, of tons of industrial waste, frequently containing toxic chemicals such as arsenic, cadmium, and lead. The mines that have exploited these loopholes have had devastating impacts on local communities, fish, and wildlife populations—effects often felt for decades.

The first loophole allowing mining companies to circumvent the Clean Water Act is found in Environmental Protection Agency (EPA) and Army Corps of Engineers (Corps) regulations that state that “waste treatment systems” are not waters of the United States. Mines, relying upon the waste treatment system exclusion, have obtained Section 404 permits authorizing them to build dams across the mouths of valleys. The mining company is then allowed to dump its wastes into the rivers, lakes, and wetlands behind the dam because they are considered part of a “waste treatment system” rather than “waters of the United States.”

The fiction that waters impounded by mine developers are no longer waters has resulted in the wholesale destruction of these ecosystems and harmed the people, fish, and wildlife that depend upon them. It also defeats the purpose of the CWA. EPA recognized as much when it expressly limited the exclusion to manmade bodies of water in 1980. RRF urges you to close this loophole by revising EPA and Corps regulations to clarify, once again, that the waste treatment system exclusion applies only to manmade waters.

Renewable Resources Foundation
605 West 2nd Avenue
Anchorage, AK 99501
(907) 743-1900 Phone
(907) 272-9319 Fax

The second loophole is the result of the 2002 revision of the CWA regulations defining "fill." Under the current definition, EPA and the Corps treat the discharge of tailings from hard rock mines as fill material subject to Section 404, a program originally created primarily to govern dredging and construction-related activities that place dredged or fill materials in wetlands and other waters, rather than to regulate the disposal of industrial wastes. The practical implication of this change is that toxic mining wastes discharged into waters are no longer governed by the CWA program designed to regulate these discharges and are not subject to the strict pollution standards adopted by EPA decades ago. RRF requests that you end these practices by revising the EPA and Corps regulatory definitions of fill to exclude waste disposal.

We know that the Administration shares our concern with the discharge of mining wastes into America's waters and we appreciate your leadership on this critical issue. Please close the two mining loopholes so that the nation's waters cannot be used as dump sites for industrial mining wastes.

Thank you for your consideration.

Sincerely yours,

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

Anders Gustafson, Executive Director
Renewable Resources Foundation



Correspondence Management System

Control Number: AX-12-000-1361

Printing Date: January 26, 2012 09:33:26



Citizen Information

Citizen/Originator: Gregg, Ben

Organization: South Carolina Wildlife Federation
Address: 215 Pickens street, Columbia, SC 29205

Timberlake, Ann

Organization: Conservation Voters of South Carolina
Address: 701 Whaley Street, Columbia, SC 20201

Beach, Dana

Organization: Coastal Conservation League
Address: 101 Washington Street, Columbia, SC 29201

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-12-000-1361	Alternate Number:	N/A
Status:	Pending	Closed Date:	N/A
Due Date:	Feb 9, 2012	# of Extensions:	0
Letter Date:	Dec 15, 2011	Received Date:	Jan 25, 2012
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_a(1) Controlled and Major Corr. Record copy of of the offices of the EPA Administrator & other senior officials - Nonelectronic		
Subject:	Daily Reading File-Close two regulatory loopholes in the Clean Water Act		
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 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	Jan 26, 2012	Feb 9, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A



South Carolina Wildlife Federation
 215 Pickens Street
 Columbia, SC 29205
 P. (803) 256-0670



V S C

Conservation Voters of South Carolina
 701 Whaley Street Suite 207
 Columbia, SC 29201
 P. (803) 799-0716



Coastal Conservation League
 1001 Washington Street, Suite 300
 Columbia, SC 29201
 P. (803) 774-7102

December 15th, 2011

The Honorable Nancy Sutley, Chair
 White House Council on Environmental Quality
 722 Jackson Place
 Washington, DC 20503

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

The Honorable Jo-Ellen Darcy
 Assistant Secretary of the Army (Civil Works)
 United States Army Corps of Engineers
 108 Army Pentagon
 Room 3E446
 Washington, DC 20310

Dear Ms. Sutley, Ms. Jackson, and Ms. Darcy:

We are writing to urge you to close two regulatory loopholes in the Clean Water Act (CWA) that allow large mines to discharge their tailings and other wastes directly into the nation's rivers, lakes, and wetlands.

We are concerned about this issue because we are studying a request by the Haile Gold Mine to open a large gold mine in Lancaster County which proposes to use these loopholes. We believe that this has the potential to seriously degrade the headwaters of the Little Lynces River. Because of the phenomenal price of gold we expect to see more requests for mines in our state, and in neighboring states, with significant impacts to our rivers and streams.

The Haile Gold Mine plans to excavate and fill 162 acres of jurisdictional, freshwater wetlands and 38,775 feet of streams. As part of their project they intend to construct a 600 acre tailings storage facility by damming a stream and using the headwaters and wetlands area for the storage. This use of wetlands and streams appears to reflect the obsolete thinking that wetlands are of no value and can be filled and abused at will. Obviously we all know better now and this practice should simply not be allowed.

While there is no single solution to the threat posed by hard rock mining, one obvious step is to stop mines from dumping their toxic wastes into our lakes, rivers, and wetlands. In theory, the Clean Water Act should already outlaw this practice since the purpose of the act

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 2012 JAN 25 PM 12:43
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 EXECUTIVE SECRETARIAT

was to prohibit the use of the nation's waters as dump sites. Unfortunately, loopholes in the CWA regulations are currently allowing many large hard rock mines to treat the nearest river valley or lake as a waste dump for tailings and other waste. Hard rock mines produce millions, even billions, of tons of industrial waste, frequently containing toxic chemicals such as arsenic, cadmium, and lead. The mines that have exploited these loopholes have had devastating impacts on local communities, fish, and wildlife populations—effects often felt for decades.

The first loophole allowing mining companies to circumvent the Clean Water Act is found in Environmental Protection Agency (EPA) and Army Corps of Engineers (Corps) regulations that state that “waste treatment systems” are not waters of the United States. Mines, relying upon the waste treatment system exclusion, have obtained Section 404 permits authorizing them to build dams across the mouths of valleys. The mining company is then allowed to dump its wastes into the rivers, lakes, and wetlands behind the dam because they are considered part of a “waste treatment system” rather than “waters of the United States.”

The fiction that waters impounded by mine developers are no longer waters has resulted in the wholesale destruction of these ecosystems and harmed the people, fish, and wildlife that depend upon them. It also defeats the purpose of the CWA. EPA recognized as much when it expressly limited the exclusion to manmade bodies of water in 1980. We urge you to close this loophole by revising EPA and Corps regulations to clarify, once again, that the waste treatment system exclusion applies only to manmade waters.

The second loophole is the result of the 2002 revision of the CWA regulations defining “fill.” Under the current definition, EPA and the Corps treat the discharge of tailings from hard rock mines as fill material subject to Section 404, a program originally created primarily to govern dredging and construction-related activities that place dredged or fill materials in wetlands and other waters, rather than to regulate the disposal of industrial wastes. The practical implication of this change is that toxic mining wastes discharged into waters are no longer governed by the CWA program designed to regulate these discharges and are not subject to the strict pollution standards adopted by EPA decades ago. We request that you end these practices by revising the EPA and Corps regulatory definitions of fill to exclude waste disposal.

We know that the Administration shares our concern with the discharge of mining wastes into America's waters and we appreciate your leadership on this critical issue. Please close the two mining loopholes so that the nation's waters cannot be used as dump sites for industrial mining wastes.

Thank you for your consideration.

Sincerely yours,

South Carolina Wildlife Federation – Ben Gregg, Executive Director
Conservation Voters of South Carolina - Ann Timberlake, Executive Director
Coastal Conservation League – Dana Beach, Executive Director



Correspondence Management System

Control Number: AX-12-000-1368

Printing Date: January 26, 2012 03:36:12



Citizen Information

Citizen/Originator: Gordon, Michael

Organization: Bradford White Water Heaters
Address: 200 Lafayette Street, Middleville, MI 49333

Constituent: N/A

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

Control Information

Control Number: AX-12-000-1368 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A
Due Date: Feb 9, 2012 **# of Extensions:** 0
Letter Date: Jan 12, 2012 **Received Date:** Jan 25, 2012
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_a(1) Controlled and Major Corr. Record copy of of the offices of the EPA Administrator & other senior officials - Nonelectronic
Subject: Daily Reading File-Include small commercial gas storage water heaters in Energy Star Version 2.0
Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
Instruction Note: N/A
General Notes: Client is asking why the largest water heaters are included in the Energy Star Program and the smaller ones could be excluded until a later date. Bradford White Water Heaters (BWC) is one of the larger companies seems to think that the 2.0 version should be included as well.
CC: OEAE - Office of External Affairs and Environmental Education
R3 - Region 3 - Immediate Office
R5 - Region 5 -- Immediate Office

Lead Information

Lead Author: Gwendolyn Garnes
Office: OAR-OAP-CPPD
Due Date: Feb 7, 2012
Assigned Date: Jan 26, 2012
Complete Date: N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OAR	Jan 26, 2012	Feb 9, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					
Gloria Hammond	OAR	OAR-OAP	Jan 26, 2012	Feb 7, 2012	N/A
Instruction: DX - DIRECT REPLY - - PREPARE RESPONSE FOR THE SIGNATURE OF THE DIVISION DIRECTOR.					



January 12, 2012

The Honorable Lisa P. Jackson
 Administrator
 United States Environmental Protection Agency
 USEPA Headquarters
 Ariel Rios Building
 1200 Pennsylvania Avenue, N. W.
 Mail Code: 1101A
 Washington, DC 20460

OFFICE OF THE
 EXECUTIVE SECRETARIAL

2012 JAN 25 PM 12:42

RECEIVED

Subject: ENERGY STAR Version 2.0 for Water Heaters

Dear Administrator Jackson:

Bradford White Corporation (BWC) urges the Environmental Protection Agency (EPA) to include small commercial gas storage water heaters in its revised water heater criteria in the ENERGY STAR® program.

With a long and successful history dating back to 1881, BWC today is one of the most technologically advanced manufacturers of water heating, space heating, combination heating and water storage products in the world. With headquarters in suburban Philadelphia and an 800,000 sq. ft. water heater manufacturing operation in Middleville, Michigan, our company proudly builds water heaters in the United States for distribution throughout the world. BWC manufactures products for residential, commercial and industrial applications, for installation by plumbing and heating professionals.

Gas water heaters are classified as either "residential" or "commercial" under federal regulations and through nationally recognized safety standards. Classification is determined based on the water heater storage volume capacity and energy input. Storage gas water heaters with a storage volume capacity greater than 100 gallons or with energy input of greater than 75,000 Btu/hr are commercial water heaters per the regulations and standards. Gas tankless water heaters on the other hand are considered residential, provided gas input is below 200,000 Btu/hr.

Residential water heater efficiency is governed by the National Appliance Energy Conservation Act (NAECA). Residential water heaters *must* use energy factor (EF) rating as the sole energy descriptor. Commercial water heater efficiency is regulated under the Energy Policy Act (EPACT). Commercial water heaters *must* be rated using thermal efficiency (TE), and are therefore excluded from using an EF rating.

The current ENERGY STAR program limits participation to only those water heaters that have an EF rating. Highly efficient (90%+ TE) storage-type commercial water heaters are thus excluded.

Built to be the Best™



However, foreign made gas tankless water heaters with identical gas input, similar hot water delivery ratings, and the same or lower efficiency are welcomed to the Energy Star program.

As you know, EPA has recently determined commercial gas storage water heaters should indeed be covered by ENERGY STAR. EPA has stated their intention to initiate a program to develop coverage criteria in 2012. BWC fully supports this activity and applauds the EPA for beginning this process. However, the multiyear schedule for program implementation is concerning and, we believe, results in unnecessary delays in coverage for a product class with large energy consumption.

Rather than waiting for finalization of the commercial water heater program, BWC believes a better opportunity exists with the impending Energy Star Version 2.0. BWC strongly urges EPA to include small commercial storage water heaters with 90% or greater TE and inputs below 200,000 Btu/hr input. Larger commercial water heaters with energy input of 200,000 Btu/hr or more would then be covered upon the eventual release of the commercial water heater Energy Star criteria.

Adopting the above criteria will expand Energy Star to include over 75% of commercial gas storage water heater unit sales, with near immediate effect. Very large energy savings can be accomplished by quickly removing older, less efficient commercial water heaters and installing new, highly-efficient Energy Star commercial water heaters.

Regrettably, EPA has advised it will exclude small commercial water heaters in the Energy Star Version 2.0 criteria; instead deferring until the eventual implementation of the commercial program. BWC believes excluding high efficiency commercial gas storage water heaters is counter to the ENERGY STAR program intent to promote adoption of highly efficient appliances. This exclusion not only goes against the program purpose, but does a great disservice to US manufacturers by promoting foreign-made tankless water heaters while excluding US manufactured commercial gas storage water heaters.

We earnestly request EPA reconsider their position on this matter and include small commercial gas storage water heaters in Energy Star Version 2.0.

Respectfully Submitted,

Bradford White Corporation

A handwritten signature in blue ink that reads "Michael W. Gordon".

Michael W. Gordon
Senior Vice President, Engineering

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DAILY READING FILE

January 11, 2011

The Honorable Matt Mead
Governor of Wyoming
State Capitol Building
Cheyenne, WY 82002

RECEIVED

2012 JAN 26 AM 8:22

OFFICE OF THE
EXECUTIVE SECRETARIAT

Dear Governor Mead,

Thank you for coming to Pavillion and seeing firsthand the impacts from oil and gas development our community is experiencing. Please extend our appreciation to Mrs. Mead and Mr. Rieman.

There has been considerable discussion among the Wyoming State Agencies, industry, and the press about the Environmental Protection Agency (EPA) Pavillion Groundwater Contamination Investigation and draft report, but until your visit we have not weighed in. Those of us who are directly impacted and living with the development and contamination felt it was important to have a direct discussion with you before we made our opinions public.

We're sure you recall the three questions which Pavillion Area Concerned Citizens (PACC) asked you after our initial introductions. Our organization feels your position on each will be extremely influential as the investigation moves forward and as we explained last Thursday, we believe you have an opportunity to protect Wyoming citizens and their health. We have listed the questions below and look forward to receiving your written response.

1. Are you nominating or recommending nomination of one or more people to the EPA Groundwater Investigation Draft Report peer review panel, and if so, who are your recommendations?
2. Can we depend on you to fully support the EPA CERCLA investigation and draft report findings?
3. Will you write a letter to the Wyoming Congressional Delegation asking them to support the EPA CERCLA investigation, draft report findings and support full funding of the EPA investigation as it moves forward?

Again, thank you for visiting our community and we look forward to the next meeting you have proposed which we understand will begin to address how clean safe water will be supplied to the Pavillion area.

Sincerely,

John Fenton, Chair, PACC



Correspondence Management System

Control Number: AX-12-000-1429

Printing Date: January 26, 2012 03:40:32



Citizen Information

Citizen/Originator: Shubat, Pamela

Organization: Children's Health Protection Advisory Committee

Address: 625 N. Robert Street, St. Paul, MN 55155-2538

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-000-1429

Alternate Number: 867547490779

Status: Pending

Closed Date: N/A

Due Date: Feb 10, 2012

of Extensions: 0

Letter Date: Nov 17, 2011

Received Date: Jan 26, 2012

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 - Indoor Environments and Children's Health Protection

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

Instruction Note: N/A

General Notes: N/A

CC: Linda Huffman - OECA
OAR - Office of Air and Radiation -- Immediate Office
OCSPP - OCSPP - Immediate Office
OEAE - Office of External Affairs and Environmental Education
OECA - OECA -- Immediate Office
OFACMO - Office of Federal Advisory

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	OCHP	Jan 26, 2012	Feb 10, 2012	N/A
Instruction: 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

Children's Health Protection Advisory Committee

November 17, 2011

Committee Members:

Pamela Shubat, Ph.D., Chair
Environmental Health Division
Minnesota Department of Health
625 N. Robert Street
St. Paul, MN 55155-2538
Ph: 651/201-4925
pamela.shubat@health.state.mn.us

Robert Amler, M.D.
Laura Anderko, R.N., Ph.D.
Tyra Bryant-Stephens, M.D.
Gail Cynthia Christopher, D.N.
Nancy Clark, M.A., C.I.H., C.S.P.
Rochelle Davis
Janice Dhonau
Maida Galvez, M.D., M.P.H.
Janvier Gasana, M.D., Ph.D.
Peggy Nilsson Geimer, M.D.
David Jacobs, Ph.D., C.I.H.
Richard W. Janssen, Jr.
Lynda Knobeloch, Ph.D.
Amy D. Kyle, Ph.D., M.P.H.
Elise Miller, M.Ed.
Marie Lynn Miranda, Ph.D.
Curtis Munoz
Nsedu Obot-Witherspoon, M.P.H.
Jerome Paulson, M.D., F.A.A.P.
Jennifer D. Roberts, Dr.P.H., M.P.H.
Martha S. Sandy, Ph.D., M.P.H.
Sheela Sathyanarayana, M.D., M.P.H.
Barbara Sattler, R.N., Dr.P.H., F.A.A.N.
Anne Turner-Henson, R.N., D.S.N.

Lisa P. Jackson, Administrator
United States Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

RE: Indoor Environments and Children's Health Protection

Dear Administrator Jackson:

The Children's Health Protection Advisory Committee (CHPAC) is writing this letter to urge renewed attention to address indoor environmental exposures from the prenatal period throughout childhood and adolescence in living and learning environments. There are many exposures in these environments which are or may be potentially harmful to children including allergens, endotoxins, other biological substances, pesticides, combustion byproducts, heavy metals, radon and volatile organic compounds. There are gaps in our knowledge regarding the exposure limits for children as well as the health impacts of these exposures. Additionally substandard housing, inadequate school buildings, overcrowding, and deteriorating conditions in indoor environments disproportionately impact the lives of disadvantaged children daily in living (home, shelters) and learning (schools, child care, Head Start) environments.

We applaud EPA and other federal agencies for promoting initiatives to address children's health. EPA's leadership role in the National Prevention Strategy Plan, promoting a cohesive federal response to prevention and working to align the EPA mission and assets with other federal agencies, is to be commended. Strategic directions, such as 'Healthy and Safe Community Environments' will promote affordable and secure housing as well as sustainable and economically vital neighborhoods. We also recognize that the subcommittees of the President's Interagency Task Force on Environmental Health Threats and Safety Threats to Children is considering exposures in the living environment, yet since children spend much of their time in schools and child care facilities, the learning environment deserves as much attention. Young children in child care environments and Head Starts/Early Head Starts may be affected at a critical time in their development which can result in long-term impacts on health, life and welfare. Additionally, little has been done to establish exposure limits for the younger years which may be different than older children. In this letter, we recommend specific actions that EPA can take, both within the agency and with other key federal stakeholders, to advance the effort to reduce exposures to potential harmful indoor pollutants in living and learning environments.

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Attached to this letter is detailed information (Indoor Environment Report) that provides the context for these recommendations.

Intra-Agency Recommendations

Standards

- CHPAC recommends that EPA develop standardized housing and school inspection protocols that objectively measure the full range of potential indoor pollutant exposures, based on the most recent scientific methods. These protocols should include consideration of previous use of residential or school facilities.
- CHPAC recommends that EPA establish indoor exposure limits for pollutants that have the potential to cause adverse health effects or interfere with the normal growth and development of children. Given the potential number of exposures, we recommend that EPA prioritize those contaminants for which we have evidence of direct impact on children's health and development.
- CHPAC recommends that EPA identify, through current scientific knowledge and future research, indoor pollutant exposures based on location and type of housing (e.g. tribal, inner-city, rural, suburban, multifamily, single family, manufactured homes) and develops a unified approach to prevent and remediate indoor pollutants that affect children's health and development based on these findings.
- CHPAC recommends that EPA consider utilizing the consumer products Volatile Organic Compounds (VOCs) emissions standards, such as those set by the California Air Resource Board, to minimize children's exposure to VOCs in the indoor environment.
- CHPAC recommends that EPA leverage private sector construction development by working with United States Green Building Council's Leadership in Energy and Environmental Design (LEED) and Enterprise Green Community Standards to add healthy homes and schools criteria to certification standards insuring that existing standards protect children. (For example link green building interests to healthy home interests.)

Education and Outreach

- CHPAC recommends that EPA identify opportunities to work locally with state and tribal agencies, school districts, Head Start programs and child care facilities and utilize regional EPA staff to educate and to implement standardized environmental assessments and effective interventions.
 - EPA should assist in disseminating a standardized educational program (such as the EPA-sponsored Eco-Healthy Child Care® program) for childcare providers around indoor pollutant exposures in the childcare environment and schools.
 - EPA should continue to work with states, tribal communities and localities through the Clean, Green and Healthy Schools Initiatives and complete the State School Environmental Health Program Guidelines.

- CHPAC recommends that EPA partner with school-based health centers to incorporate protocols which help students and their families identify environmental conditions in their home, school or other settings that have the potential to impact students' health as well as encourage health center staff to work with schools to promote a healthy environment.
- CHPAC recognizes the work by EPA to define and establish an integrated pest management protocol for living and learning environments. As the Agency re-focuses its efforts on children's health and the indoor environment, CHPAC recommends expanded outreach to childcare centers and parents through local and regional children's services. For example, community health workers and Parent-Teacher organizations may be partners in the dissemination of information and implementation of initiatives.
- CHPAC acknowledges the work by EPA and its fellow federal agencies to address the critical children's health risk of radon exposure. CHPAC recommends that the EPA utilize all resources available and partner with private and public organizations to educate, advocate and provide remediation for radon in the learning environment as well as the living environments.
- CHPAC recommends that EPA promote reduction in use of potentially hazardous substances in products in indoor environments and promote adoption of consumer and building products and other materials demonstrated to be safe for children.
- CHPAC recommends that EPA continue to promote and disseminate best practices and information for individual, public, professional and government audiences using effective communication strategies for control of indoor environmental exposures through:
 - Promoting and funding model programs that have been shown to be effective in learning and living environments.
 - Developing messages that highlight the link between childhood exposures and academic achievement.
 - Developing effective messages that link the economic benefits to promoting public health prevention in living and learning environments.
 - Minimizing exposures to pesticides (bombs and sprays) using integrated pest management strategies.
 - Developing communication strategies to disseminate current knowledge about green products in order to enable customers to make informed choices in selecting green cleaning products for the living and learning environments.

Further Research

- CHPAC recommends that EPA support further research documenting and updating the extent of home contamination with toxic workplace substances, routes of exposure including indoor air, populations at greatest risk of take-home exposures, adverse health effects, previously unrecognized toxic exposures, and the effectiveness of take-home exposure prevention and remediation methods.
- CHPAC recommends that EPA continue to explore the impact of climate change on the indoor environment. We recognize that EPA solicited a recent report from the Institute of Medicine which identifies many gaps in knowledge of how climate change will impact the level of indoor pollutants and health outcomes. EPA should work with other

environmental health scientists to study these effects and to establish preventive and remediation measures, particularly for vulnerable populations.

- CHPAC recommends that further research be undertaken by EPA to develop standardized testing methods and exposure limits for both pre-market and existing building materials that may cause disease or interfere with normal child development and academic achievement such as emissions of volatile organic compounds (e.g. formaldehyde) and other harmful agents. CHPAC further recommends that the Administrator's efforts to reform the Toxic Substances Control Act (TSCA) include provisions that would enable EPA to test and regulate building materials and products to ensure that use of such products in children's living and learning environments do not pose environmental risks to their health. For example, EPA's existing authority to address lead-based paint hazards in housing is through Title X of the 1992 Housing and Community Development Act, which amended TSCA. CHPAC believes that testing building materials before they are used in construction and buildings is a far better way to protect health than our current system, which can allow hazardous materials and products to be used and then take action only after exposure and harm has occurred.
- CHPAC recommends that EPA identify and research the efficacy of state, local and national environmental health champions to promote, educate and disseminate information on indoor air pollutants and health impacts. We further recommend that EPA use this information to identify best practices and strengthen EPA's outreach and education efforts.

Inter-Agency Recommendations

Standards

- CHPAC recommends that EPA collaborate with other federal agencies and programs, such as the Department of Education (ED), the Department of Health and Human Services (HHS) including Administration for Children and Families (ACF) and its Administration for Native Americans and Office of Head Start (OHS), to develop national indoor environment standards for healthier learning and living environments. After these national standards are created:
 - EPA should collaborate with ED and OHS to establish incentive programs for compliance with national standards and best practices for child care facilities.
 - EPA should engage accrediting organizations in requiring compliance with national standards in child care facilities and schools.
- CHPAC recommends that EPA work with other federal agencies such as HHS, specifically Maternal and Child Health Bureau (MCHB), and Department of Housing and Urban Development (HUD) to standardize certification of community health workers and utilize them to implement evidence-based reduction strategies for harmful indoor exposures as well as educate residents at the community level.
 - CHPAC recommends that EPA fund, along with other agencies, community health workers to provide education in the home to teach residents regarding reduction of exposures to harmful indoor pollutants in at risk communities.
 - EPA should establish credentialing standards for community health workers (e.g. online certification).

- EPA should revise current EPA tools to make them more useful for community health workers
 - EPA should partner with existing federal programs, such as MCHB home visiting program and Healthy Child Care America to train individuals, such as community health workers who are already in homes or child care facilities, to incorporate environmental assessment into their visits.
 - EPA should partner with existing federal programs to integrate environmental risk reduction messages into existing anticipatory guidance educational messaging in clinical and home settings (for example, Text4Baby and Bright Futures).
- CHPAC recommends that EPA address vulnerable populations who are disproportionately exposed to indoor pollutants and, using Healthy Homes as a model, engage HUD to establish intermediate and long-term remediation strategies to reduce these disparities including establishing ventilation standards.

Partnerships

- CHPAC recommends that the EPA actively participate in the Affordable Care Act implementation to promote the inclusion of activities that reduce environmental exposures and improve the management of chronic conditions related to poor indoor air quality.
 - EPA should work with HHS and Community Health Centers to test innovative models of care, explore nontraditional providers (community health workers), and integrate systems to promote healthy living and learning environments.
 - EPA should work with HHS to make sure that environmental assessment and remediation is part of the prevention standards and reimbursable by payers (such as managed care organizations).
- CHPAC recommends that EPA partner with the HUD to require public and other federally assisted housing to be “smoke-free”.
 - EPA should promote “smoke-free” policies in homes and cars for all children.
 - EPA should support the availability of environmentally safe federally assisted housing for children with asthma (e.g., Seattle’s “Breathe Easy Homes”).
- CHPAC recommends that EPA work with the ED, ACF, and OHS to implement policies that support professional development programs which provide school personnel (including school boards, principals, teachers, school nurses, building engineers, maintenance staff, food service managers, and coaches) with the knowledge and resources needed to maintain and promote healthy indoor school environments.

Surveillance

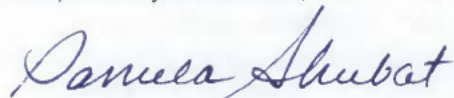
- CHPAC recommends that EPA establish linkages with surveillance systems and health systems to track and link health and environmental outcomes. The establishment of electronic health records may permit greater opportunities for looking at population level trends.
- CHPAC recommends that EPA work with the Centers for Disease Control and Prevention (CDC) to promote surveillance of diseases resulting from indoor pollutants

such as asthma, developmental delays, intellectual disabilities, birth defects and cancer, in order to target environmental interventions to children and communities at greatest risk.

- CHPAC recommends that EPA work with local leaders in the tribal communities as well as other federal stakeholders to identify indoor environmental pollutants specific to these communities.
 - EPA should collect data and establish a database for indoor pollutant exposures in tribal communities.
 - EPA should, in partnership with HUD, Indian Health Services, ACF, and CDC, work with tribal governments to reduce exposure to harmful indoor pollutants.
 - EPA should engage tribal governments to reduce exposure to molds, wood smoke, formaldehyde and other indoor pollutants related to the use of mobile homes on reservations.

CHPAC strongly urges EPA to consider these recommendations in order to close gaps in our knowledge regarding harmful indoor environmental exposures to children and to take the lead in convening leaders and stakeholders in order to reduce these exposures in the learning and living environments. In conclusion, CHPAC recommends that EPA should advocate for a public health approach to identifying and reducing harmful indoor environmental exposures to children, crossing agency boundaries and collaborating with other key stakeholders in this effort.

Respectfully submitted,



Pamela Shubat, Ph.D.

Chair

Children's Health Protection Advisory Committee

attachment: Indoor Environment Report

cc:

Peter Grevatt, Director, Office of Children's Health Protection

Mike Flynn, Director, Office of Radiation and Indoor Air

Gina McCarthy, Assistant Administrator, Office of Air and Radiation

Cynthia Giles, Assistant Administrator, Office of Enforcement and Compliance Assurance

Lisa Garcia, Associate Assistant Administrator for Environmental Justice, Office of Enforcement and Compliance Assurance

Jim Jones, Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention

Louise P. Wise, Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention

Steven Bradbury, Office of Pesticide Programs Director, Office of Chemical Safety and Pollution Prevention

Keith Matthews, Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, Office of Chemical Safety and Pollution Prevention

Wendy Cleland-Hamnett, Office of Pollution Prevention and Toxics Director, Office of Chemical Safety and Pollution Prevention

Tala Henry, Acting Director, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Office of Chemical Safety and Pollution Prevention



Dan O. Dinges
Chairman, President and Chief Executive Officer

January 26, 2012

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

Dear Administrator Jackson:

We understand that the US Environmental Protection Agency (EPA) intends to test water wells in the area of Dimock, Pennsylvania. As developers in the area, we have been working closely with the Dimock community and with state and local regulators on concerns in the area. We are concerned that EPA's actions can be easily misinterpreted and can undermine regulatory certainty necessary for development of oil and natural gas.

President Obama in his State of the Union address strongly highlighted the importance of shale gas development as a key aspect of this country's national energy policy and economic recovery. EPA's actions in Dimock appear to undercut the President's stated commitment to this important resource, even in light of EPA's regulatory mission.

We are disappointed that EPA has undertaken a course regarding water sampling that seems inconsistent with what is known about Dimock and what was recommended by state regulators. EPA's approach has caused confusion that undermines important policy goals of the United States to ensure safe, reliable, secure and clean energy sources from domestic natural gas. Specifically:

1. EPA has presented no credible evidence to suggest that its new sampling initiative is a wise use of resources given the collection and analysis of over 2000 water wells that has already occurred in the area. Over ten thousand pages of this data has been provided to the EPA.
2. EPA's concerns are inconsistent with the findings of state regulators who have concluded after extensive investigation that Dimock drinking water meets regulatory standards. State regulators are closest to the facts, and most familiar with ground water and geological formations in the area.
3. EPA's initiative marks a change in position for the Agency, unsupported by any new facts. As recently as December 2011, EPA told Dimock residents that their drinking water did not present a health threat.

The President made a strong call to all Americans last night to take advantage of the new opportunities in shale gas development. To prevent uncertainty and further advance these opportunities, in our view, what is needed is an objective approach by EPA to dealing with community concerns - something missing in recent EPA actions. EPA's changing posture on sampling in Dimock is indicative of a broader problem of inconsistency with scientific process and a lack of cooperation with state and private sector parties. Cabot hopes that we can work with EPA to further review existing data and to establish a firmer basis for Agency decision making.

We would be happy to meet with you or your staff to discuss the Dimock situation. Please let us know if we can provide you with further information or ask additional questions.

Sincerely,

A handwritten signature in blue ink that reads "Dan O. Dinges". The signature is written in a cursive style with a large initial "D".

Dan O. Dinges
Chairman, President and Chief Executive Officer



Correspondence Management System

Control Number: AX-12-000-1449

Printing Date: January 26, 2012 03:53:22



Citizen Information

Citizen/Originator: Esty, Daniel C.

Organization: Department of Energy and Environmental Protection
Address: 79 Elm Street, Hartford, CT 06106-5127

Summers, Robert M

Organization: Maryland Department of the Environment
Address: 1800 Washington Boulevard, Baltimore, MD 21230

Tulou, Christophe A.

Organization: Government of the District of Columbia Office of the Director District
Department of the Environment
Address: 1200 First Street, NE 5th Floor, Washington, DC 20002

Kimmell, Kenneth L.

Organization: Department of Environmental Protection
Address: One Winter Street, Boston, MA 02108

Martens, Joseph J.

Organization: State of New York Department of Environmental Conservation
Address: 625 Broadway, Albany, NY 12233-1010

Coit, Janet

Organization: Rhode Island Department of Environmental Management
Address: 235 Promenade Street, Providence, RI 02908-5767

Mears, David K.

Organization: Department of Environmental Conservation
Address: 103 South Main Street, 1 South, Waterbury, VT 05671-0401

Marin, Arthur N.

Organization: NESCAUM
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Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-12-000-1449	Alternate Number:	N/A
Status:	Pending	Closed Date:	N/A
Due Date:	Feb 9, 2012	# of Extensions:	0
Letter Date:	Jan 25, 2012	Received Date:	Jan 26, 2012
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_a(1) Controlled and Major Corr. Record copy of of the offices of the EPA Administrator & other senior officials - Nonelectronic		
Subject:	Daily Reading File-Expediently Propose and Finalize the Tier 3 Motor Vehicle and Low Sulfur Gasoline Rule in 2012		
Instructions:	DX-Respond directly to this citizen's questions, statements, or concerns		
Instruction Note:	N/A		
General Notes:	N/A		

January 25, 2012

Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
Mail Code: 6102T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: *Tier 3 Motor Vehicle Standards / Low Sulfur Gasoline Rule*

Dear Administrator Jackson:

We, the undersigned state environmental leaders, write to urge you to expeditiously propose the Tier 3 motor vehicle and low sulfur gasoline standards and to finalize that rule in 2012. Despite a significant and sustained joint state and federal effort spanning more than 40 years, air pollution remains a serious public health threat in our region and across the United States.

EPA first committed to proposing Tier 3 standards in 2008 to help states meet the National Ambient Air Quality Standard (NAAQS) for ozone and is late in delivering the much needed reductions from the light-duty vehicle sector. This sector remains a significant source of ozone-forming pollutants across the country. EPA's own modeling analysis shows that the Cross-State Air Pollution Rule (if implemented) will not result in attaining the new ozone NAAQS in many of the most populous areas in our region. Clearly, Tier 3 and low sulfur gasoline is needed to better protect public health.

Emissions from cars and light and medium-duty trucks also contribute to fine particle pollution and are key sources of hazardous air pollutants such as benzene, formaldehyde, acetaldehyde and 1,3-butadiene. These pollutants disproportionately affect people living and working in our urban communities, where vehicle congestion and population density are highest. Further, nitrogen oxides (NOx) and other vehicle-related pollutants contribute to a number of environmental problems such as acid rain, coastal marine eutrophication, and regional haze that affect cherished and economically valuable resources in the Northeast and Mid-Atlantic region.

Light-duty vehicles are by far the largest source of NOx emissions in the Ozone Transport Region (OTR), emitting over 700,000 tons of NOx per year. Lowering the sulfur content of gasoline to 10 parts per million (ppm), as EPA is considering, would immediately reduce NOx from this sector by more than 25 percent. Over time, the vehicle standards will dramatically reduce harmful pollutants as the Tier 3 vehicles replace older cars and trucks in the fleet.

A recent analysis indicates that the Tier 3/low sulfur gasoline program would reduce NOx emissions in the OTR by over 50,000 tons per year in 2017, which is more than three times the benefits projected for the Cross-State Air Pollution Rule in the region.¹ Further, as a national strategy, the Tier 3 low sulfur gasoline provision alone would reduce NOx emissions by over 175,000 tons per year, or 500 tons per day, by 2017 across the eastern United States. These reductions will benefit air quality by lowering the “ozone reservoir” and accompanying NOx precursor pollution generated in the eastern United States and transported into the OTR under the prevailing summertime winds.

These reductions would translate to between \$235 million and \$1.2 billion in direct public health benefits annually in our region. The 10 ppm sulfur gasoline provisions would likely reduce NOx at a cost of less than \$4,000 per ton, which is comparable to or less than the costs associated with federal Tier 2 and heavy-duty engine/low sulfur diesel rules and many stationary source controls, including industrial, commercial, and institutional (ICI) boilers and combustion turbines.

Given the stringency of existing emission controls already in place in our states, federal constraints on state regulation of motor vehicle fuels, and the fact that our states are significantly affected by pollution transport from sources outside the region, national emission control measures for light-duty vehicles are critical to achieving further improvements in air quality. Without Tier 3 and other federal measures, more costly emission reductions will have to be accomplished by controlling local sources in our states beyond what otherwise would be needed, in order to compensate for the foregone national measures.

We respectfully request that EPA expeditiously issue a notice of proposed rulemaking and finalize the Tier 3/low sulfur gasoline rule in 2012.

Sincerely,



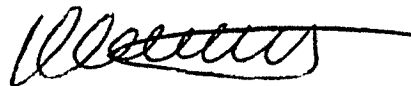
Daniel C. Esty, Commissioner
CT Department of Energy & Environmental Protection



Christophe A. G. Tulou, Director
DC Department of the Environment



Robert M. Summers, Secretary
MD Department of the Environment



Kenneth L. Kimmell, Commissioner
MA Department of Environmental Protection

¹ *Assessment of Clean Gasoline in the Northeast and Mid-Atlantic States*, Northeast States for Coordinated Air Use Management, Boston, MA (November 2011).



Correspondence Management System

Control Number: AX-11-002-1555

Printing Date: December 30, 2011 11:25:39



Citizen Information

Citizen/Originator: Warner, Lori

Organization: Beatrice Area Chamber of Commerce
Address: 205 N. 4th Street, Beatrice, NE 68310

Constituent: N/A

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

Control Information

Control Number: AX-11-002-1555 Alternate Number: N/A
 Status: Pending Closed Date: N/A
 Due Date: Jan 16, 2012 # of Extensions: 0
 Letter Date: Dec 20, 2011 Received Date: Dec 30, 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 - Proposed Electric Generating Unit Maximum Achievable Control Technology Rules
 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
 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	Dec 30, 2011	Jan 16, 2012	N/A
Instruction: 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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Beatrice Area Chamber GAGE COUNTY TOURISM

www.beatricechamber.com
www.visitbeatrice.com



205 N. 4th Street * Beatrice, NE 68310

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2012 Board of Directors

Deb Meyer
MembersOwn Credit Union
223-4204

Rick Schwartz
Black Hills Energy
239-9111

John Zarybnicky
Homestead Land Co
228-2090

Teresa Faxon
First National Bank
228-4241

Carolyn Coordsen
Penner Insurance
223-4018

Jim Ristow
Beatrice Daily Sun
223-5233

Jeff Westphal
Beatrice Greenhouse
223-3338

Joe Blackburn
Blackburn Technologies
228-8822

Greg Weaver
City Motor Supply
228-3488

Linda D'Andrea
D'Andrea Real Estate
806-3808

Rich Hovendick
Griffiths-Hovendick Chapel
223-3521

Beth Schuster
Homestead House
223-3287

Nancy S. Gerdes
Nancy S. Gerdes, CPA, P.C.
223-3720

Pat Ratigan
Ratigan-Schottler Manufacturing
223-3220

Carla Schuster
Schusters Outdoor & R.V., Inc
228-3222

Toni Landenberger
Southeast Community College
228-8286

Jim Freeman
Wal-Mart Super Center
228-1244

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

Re: Proposed Electric Generating Unit Maximum Achievable Control Technology Rules

Dear Honorable Jackson;

The Beatrice Area Chamber of Commerce Board of Directors and Chamber Membership which represents over 5,000 constituents would like to express our opposition to the proposed Utility MACT rule, due to be issued by the Environmental Protection Agency (EPA). We come from a small community that believes affordable and reliable electricity is critical to our economic growth and job creation. This new rule that EPA wants to implement would cause significant electricity reliability constraints that could have a ripple effect through a very fragile economy, hurting all businesses in our community and the surrounding area.

We are aware that reasonable regulation and regulation is essential for businesses to grow and prosper. By contrast, regulatory uncertainty is a deterrent to putting Americans back to work, particularly for small businesses. The potential costs of the Utility MACT rule could have a major impact on job creation and consumer demand for our products and services.

It is clear that some utilities will need additional time to comply with this rule beyond the three or four years allowed under the Clean Air Act. Utilities must replace power plants, install compliance equipment and build new natural gas pipelines and transmission lines. This is going to cost tens of billions of dollars and require a reasonable number of years for a smooth transition to a cleaner generating fleet. If the final rule fails to recognize these realities, our entire economy will suffer.

We would like to encourage you to provide additional time as needed to those facilities that are making good-faith efforts to achieve compliance. We believe the goals of protecting public health and the environment while maintaining a reliable electric system can both be met through an orderly and realistic transition period. We urge you to listen to the communities that have addressed this issue and to "lead by example" to achieve compliance.

Respectfully,

Lori Warner
President/CEO
Beatrice Area Chamber of Commerce



Correspondence Management System

Control Number: AX-12-000-0014

Printing Date: January 03, 2012 03:50:25



Citizen Information

Citizen/Originator: Shubat, Pamela

Organization: Children's Health Protection Advisory Committee

Address: 625 N. Robert Street, St. Paul, MN 55155-2538

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-000-0014 Alternate Number: 867547490780
 Status: Pending Closed Date: N/A
 Due Date: Jan 17, 2012 # of Extensions: 0
 Letter Date: Dec 20, 2011 Received Date: Jan 3, 2012
 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_a(2) Copy of Controlled and Major Correspondence Record of the EPA Administrator and other senior officials - Electronic.

Subject: Daily Reading File-Old Research Strategies Supporting Sustainability
 Instructions: DX-Respond directly to this citizen's questions, statements, or concerns
 Instruction Note: N/A
 General Notes: N/A
 CC: OCHP - Office of Children's Health Protection
 OFACMO - Office of Federal Advisory

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	ORD	Jan 3, 2012	Jan 17, 2012	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					
Harita Rao	ORD	ORD-NPD	Jan 3, 2012	Jan 17, 2012	N/A
Instruction: N/A					

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
No Record Found.			

History

Children's Health Protection Advisory Committee

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2012 JAN -3 AM 6:52
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December 20, 2011

Committee Members:

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Minnesota Department of Health
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St. Paul, MN 55155-2538
Ph: 651/201-4925
pamela_shubat@health.state.mn.us

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Laura Anderko, R.N., Ph.D.
Tyra Bryant-Stephens, M.D.
Gail Cynthia Christopher, D.N.
Nancy Clark, M.A., C.I.H., C.S.P.
Rochelle Davis
Janice Dhonau
Maida Galvez, M.D., M.P.H.
Janvier Gasana, M.D., Ph.D.
Peggy Nilsson Geimer, M.D.
David Jacobs, Ph.D., C.I.H.
Richard W. Janssen, Jr.
Lynda Knobeloch, Ph.D.
Amy D. Kyle, Ph.D., M.P.H.
Elise Miller, M.Ed.
Marie Lynn Miranda, Ph.D.
Curtis Munoz
Nsedu Obot-Witherspoon, M.P.H.
Jerome Paulson, M.D., F.A.A.P.
Jennifer D. Roberts, Dr.P.H., M.P.H.
Martha S. Sandy, Ph.D., M.P.H.
Sheela Sathyanarayana, M.D., M.P.H.
Barbara Sattler, R.N., Dr.P.H., F.A.A.N.
Anne Turner-Henson, R.N., D.S.N.

Lisa P. Jackson, Administrator
United States Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

RE: ORD Research Strategies Supporting Sustainability

Dear Administrator Jackson:

The Children's Health Protection Advisory Committee (CHPAC) has been following the planning that the US Environmental Protection Agency (EPA) Office of Research and Development (ORD) has undertaken to restructure thirteen ORD research programs into six major program areas. This letter summarizes CHPAC comments and questions concerning the new research framework and includes specific requests for more information from ORD staff in the coming year.

ORD personnel presented new ORD research strategies to the CHPAC on July 20, 2011. At the July meeting, CHPAC learned that ORD is incorporating the theme of sustainability into new research strategies and research plans for these new program areas. CHPAC members reviewed the strategies that ORD has publically shared¹. In addition, at the November 16, 2011, CHPAC meeting, members heard a presentation on the 2011 National Academy of Sciences report "Sustainability and the US EPA"² from Dr. Bernard Goldstein; and learned about another advisory committee's (EPA National Advisory Council for Environmental Policy and Technology) focus on sustainability.

CHPAC recognizes the importance of the new research strategies as they are intended to guide research and research funding decisions into the future. CHPAC was pleased to hear from ORD staff that children's environmental health is one of two cross cutting, fundamental strategies of interest to ORD (the other being environmental justice).

It was clear from the July presentation that ORD does not intend to depart from the values encompassed in the 2000 ORD strategy report that described a program of children's environmental health research³. The 'take home' messages CHPAC heard from ORD echoed longstanding

¹ Request to EPA Science Advisory Board and EPA ORD Board of Scientific Counselors
<http://yosemite.epa.gov/sab/sabproduct.nsf/MeetingCal/794564E427071DFA8525780F00656E32?OpenDocument>
and ORD research frameworks

² National Research Council Committee on Incorporating Sustainability in the U.S. Environmental Protection Agency. (2011). *Sustainability and the U.S. EPA*. Washington, DC : National Academies Press. <http://www.nap.edu/>

³ <http://www.epa.gov/ncea/pdfs/strat4resrch.pdf>

concerns expressed in CHPAC letters and recommendations to the agency. That is, that protection from environmental hazards early in life is fundamental to children's health and that health protection must be based on knowledge of the exposures and sensitivities that are unique to early life stages. The ORD spokesperson described many laudable ORD program achievements of which CHPAC has been very supportive. For example, CHPAC has advocated for the Children's Environmental Health Centers research program⁴ and the National Children's Study as ways to develop the data and tools necessary to guide health protection.

The ORD presenter inferred that children's health protection will be fully incorporated into all of EPA's activities across each of the strategic goals of the Agency. With that in mind, interested CHPAC members spent time outside of the July meeting to examine the research strategy frameworks for Sustainable and Healthy Communities, Chemical Safety and Sustainability, and Human Health Risk Assessment in order to understand how children's environmental health (e.g., early life exposure research) would be addressed in the new strategies. The following comments are a reaction to how ORD has addressed children's environmental health in the new research strategies.

Overall:

CHPAC members note that there could not be any more powerful statement of sustainability than the recognition that what we do today must protect and nurture future generations. Sustainability can be defined by society's ability to preserve and improve the health and welfare of communities over generations. This definition applies to ecosystems and communities, and encompasses economic, societal, and environmental wellbeing. Protecting health during early life stages is fundamental to the concept of sustainability. Given that infants and children are often more sensitive and exposed to toxic substances than adults, a research focus on children's health is essential to EPA's emphasis on sustainability.

EPA's goal of sustainability is laudable and CHPAC is supportive of the new research strategy that is intended to integrate research areas that perhaps had previously been studied in isolation. CHPAC is also supportive of the seemingly convergent communication strategy of the ORD on the goal of reorganizing research around sustainability. Prior presentations to CHPAC have focused on individual ORD offices or individual media. The messages delivered at the July meeting were much more unified, coordinated, and cohesive. This trend of unification and coordination needs to be incorporated into all aspects of EPA communications and outreach. All of EPA should, as ORD has done, utilize the concepts of sustainability in EPA actions and communications.

CHPAC members noted that EPA has sponsored or developed excellent scientific research on children's environmental health in the past. However, findings from this research have not always been shared outside of a narrow scientific community. CHPAC members encourage EPA scientists and grantees to publish their work in scientific journals, government reports, and government newsletters⁵. ORD should develop outreach strategies to make research findings freely accessible to scientists, health care professionals, and community-based organizations, including school communities, with the understanding that each target audience requires different communication methods to assure that critical findings are shared in a timely manner.

⁴ [http://yosemite.epa.gov/ochp/ochpweb.nsf/content/7252007.htm/\\$file/7252007.pdf](http://yosemite.epa.gov/ochp/ochpweb.nsf/content/7252007.htm/$file/7252007.pdf)

⁵ For example, the EHS Bulletin (Environment, Health and Society research methods Bulletin) published by NCEER (National Center for Environmental Research) http://www.epa.gov/ncer/ehs/ehsfall2011/ehs_bulletin_sept2011.pdf

Evaluation of the success of the new strategies will need to be clearly described. The metrics for sustainability are not obvious, and criteria for measuring the success of meeting the goals for sustainability are needed (perhaps in research plans that are developed from the research frameworks).

CHPAC would like to hear more from ORD on specific areas of the framework and strategies. Areas of special interest to CHPAC follow.

A. Chemical Safety for Sustainability

At the July meeting, an ORD spokesperson for the Chemical Safety for Sustainability Research Program (CSS) described program realignments that result in new research topic areas, such as inherency, systems modeling, and life cycle considerations. The CSS framework⁶ contains much more detail on strategies for sustainability, and the CSS research action plan⁷ provides information useful to CHPAC members interested in knowing how children's environmental health research will be advanced through the realignment.

By focusing on the populations and life stages most susceptible to harm, the health of the general population may be protected and promoted. This may mean putting a high priority on determining, for any particular chemical, whether hazards to early life stages have been appropriately and adequately evaluated. While great strides have been made over the past twenty years to ensure that life stage appropriate studies are conducted, most toxicological studies that are being used to develop regulatory standards and assess chemical safety were conducted using mature animals. While these historical data are valuable, new studies must be designed to assess potential effects on prenatal and early life stages.

High throughput testing, which has been promoted as a method to rapidly build a new data base related to inherent chemical properties and cellular and molecular changes in response to a chemical, falls within the scope of the CSS research action plan. This new method of toxicity testing is expected to generate a large amount of data on early cellular and molecular changes that are predictive of adverse effects on human health and development. Several CHPAC members have expressed concerns that the potential for *in vitro* testing to predict chemical effects on embryogenesis, neurodevelopment, endocrine and immune function during early childhood is poorly understood at this time.

Members present at the July meeting raised the following points related to this research strategy:

1. ToxCast seems to be intended as a predictive model as opposed to being part of a tiered system of testing. There is a concern that if ToxCast rules out chemicals for further testing, biological effects relevant to early life stages could be missed.
2. Assurance that adverse effects relevant to early life are captured by testing systems such as ToxCast (or at least not dismissed) is needed. This was expressed as a need to validate the high throughput testing related to biological endpoints relevant to prenatal development and children's health.

⁶[http://yosemite.epa.gov/sab/sabproduct.nsf/7807842B9AD880F7852578B00040D27E/\\$File/CSS+Framework+1+June+2011.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/7807842B9AD880F7852578B00040D27E/$File/CSS+Framework+1+June+2011.pdf)

⁷[http://yosemite.epa.gov/sab/sabproduct.nsf/23A995E7EDE63D26852578B20009D90B/\\$File/CSS+Draft+Research+Action+Plan+v1.pdf](http://yosemite.epa.gov/sab/sabproduct.nsf/23A995E7EDE63D26852578B20009D90B/$File/CSS+Draft+Research+Action+Plan+v1.pdf)

3. The similarities between high throughput screening for toxicity and testing that result in screening out pharmaceutical chemicals was described. However, there is a fundamental difference in the result of a pharmaceutical company's rejection of a chemical for further development and developing a full understanding of what is "safe" for human exposure. Many, many tiers of additional pharmaceutical testing and use trials are necessary to demonstrate both efficacy and a lack of toxicity, while the current vision for Tox21 is additional tiers of testing to demonstrate toxicity rather than safety.
4. Some CHPAC members expressed concern that ToxCast is reductionist. While the conceptual approach for mixtures and multiple chemicals is understandable and laudable, there is a basic concern that focusing on what might be relatively few changes in protein expression or genomic change may not capture the potential range of interactions in the human body.
5. EPA seems to have assumed the burden of proof of sustainability and safety in the CSS research strategy. The contribution of industry is not apparent.

CHPAC members received an acknowledgement from ORD that EPA sees the issue of capturing and validating early life endpoints in high throughput testing as a concern. ORD described the new high-throughput assays as one guide to decision-making and explained that the current focus is on developing priorities for further testing. CHPAC members are pleased that Office of Children's Health Protection (OCHP) staff are providing input to EPA programs conducting computational toxicology work (for example, the virtual embryo project⁸) so that early life stages and developmental windows of vulnerability are comprehensively considered in the research.

CHPAC would like to hear more explicitly what health effects related to early life stage exposure and development (including prenatal and preconception exposure and development) will be incorporated into high throughput screening (e.g., assay selection for neurodevelopmental toxicity) and if specific health endpoint correlates are not included, what additional testing would be required before screening out a chemical for further research.

ORD suggested that with the possibility of conducting 8,000 simultaneous assays EPA anticipates a more comprehensive understanding of mixtures will emerge. CHPAC would like to hear explicitly how a systematic study of the cumulative effect of mixtures will be conducted in ways that can be correlated with whole animal studies. In addition, CHPAC would like to hear about both plans and outcomes for incorporating metabolic activation into high throughput research.

ORD is working on validation for testing that considers correlations, confounders, and dependent and independent variables for specific types of studies and assays. CHPAC will be a much more enthusiastic advocate of ToxCast and Tox21 testing once the potential for the new testing strategies to predict effects on growth, development, and function have been proven. CHPAC would like to see validation studies such as the recently published EPA computational toxicity research project on prenatal developmental toxicity⁹. CHPAC would like to hear more about plans for validating the relationship between *in vitro* and *in vivo* toxicity endpoints and see the results of this validation work.

⁸ <http://www.epa.gov/ncct/v-Embryo/> focuses on early eye, vascular and limb developments and conducts experiments using stem cells and zebrafish to generate data

⁹ Sipes, N.S. et al., 2011. Predictive Models of Prenatal Developmental Toxicity from ToxCast High-Throughput Screening Data. *Toxicological Sciences* 124(1), 109–127

CHPAC is concerned about translating this research, specifically in 1) explaining the complexity of this work to scientists, medical professionals, and community members; and 2) using this work to protect children by developing appropriate interventions based on this work and measuring the success of such interventions. CHPAC would like to hear ORD plans for sharing and using the results of the CSS work.

B. Sustainable and Healthy Communities

An ORD spokesperson discussed how the Sustainable and Healthy Communities Research Program (SHC) integrates multiple programs throughout ORD to work toward sustainable and healthy communities. This new strategy comprises aspects of the human health research program, land program (Superfund), and the ecosystems services program. Major SHC themes that relate to children's health research are related to tools and data collection, partner needs, and communities (such as children's settings and built environment factors). ORD described the SHC Children's Health Project, which has three tasks: 1) children's exposure factors (including a study of determinants of exposure to chemicals in the environment for early life stages); 2) health effects from early life exposures (and the latent or chronic effects resulting from early life exposures); and 3) systems approach to community-based children's health¹⁰.

Members at the July meeting and subsequent discussions raised the following points related to this research strategy:

1. CHPAC members suggest that the social determinants of health model is a useful way to address multiple critical factors (such as economic disparities and environmental justice).
2. CHPAC did not hear a strong theme of addressing or acknowledging issues surrounding environmental justice.
3. CHPAC expressed concern that EPA may not have sufficient staff with the appropriate training and expertise (such as social scientists) for working with communities and their needs.
4. Members encouraged EPA to partner with groups that focus on learning environments across the childhood and adolescence trajectory, including child care and schools, and suggested that EPA determine the types of community capacity building that are successful and build on that knowledgebase.
5. It was not clear to members that EPA consistently includes preconception and prenatal lifestages in strategies aimed at children's health.
6. Members commented that it is important for EPA to sustain capacity building programs and that EPA should identify resources to sustain community efforts to improve environmental health.
7. CHPAC members noted that it is important to ensure that the community groups asked to participate in research programs and projects are actually part of the community, and suggested that existing community organizations provide excellent communication linkages to the community.
8. Members also suggest that Children's Environmental Health Centers integrate community participatory research methodology into all research and involve more

¹⁰ Systems approach to community-based children's health: A research construct that interactions of factors, stressors, and exposures may result in children's health disparities; with the result that interventions may need to be just as complex and rooted in community environments.

representatives from the residents of the community they serve in their decision-making around research.

9. Members expressed some reservations about the concept of empowering communities to conduct risk assessments, as experience has shown that communities do not have the resources or expertise to conduct risk assessments, but expect state and federal agencies to provide guidelines and regulations that will ensure the public's safety.

CHPAC is interested in how social determinants of health can be explicitly, and in a measured way, incorporated into a systems approach to community-based children's health. CHPAC is interested in EPA's plans to transfer or translate the science to community action. A concern was expressed about the extent to which community and school based interventions have been proven effective (i.e., are proposed interventions grounded in science?).

Measures of success are needed in order to determine whether SHC work results in healthier and safer communities. CHPAC would like to hear ORD plans for measuring the progress of the SHC work.

C. Human Health Risk Assessment

Human Health Risk Assessment (HHRA) topics described in the ORD power point presentation included themes of dose response assessments (the Integrated Risk Information System); Integrated Science Assessments for criteria air pollutants; community and technical support for exposure and health assessments; and methods, models, and approaches to modernize risk assessment for the 21st century.

Members raised the following questions and points related to this research strategy:

1. What are the major research goals, timelines, and outcome measures? What childhood illnesses and developmental problems are being targeted and how are those associated with environmental exposures? What exposures are targeted and what is known about how those affect children's health? How will EPA measure its success or failure? Has past research been successful in reducing illness rates? How do current asthma rates compare with rates 10 and 20 years ago? Blood lead levels are lower, but attention deficit disorders and other learning problems seem to be more common and college entrance test scores are lower. Can the new research program explain these contradictory trends?
2. Environmental health research is most likely to produce a useful outcome when it targets a specific problem. CHPAC would prefer that EPA focus on improving children's health by identifying and reducing exposure to harmful substances instead of studying the effects of unabated exposures that are known or suspected to be hazardous.
3. CHPAC members have asked if additional children's exposure factors and risk information should be developed. There is concern among CHPAC that allergens and asthma triggers have not been assessed as rigorously as the approach used for chemicals. The Integrated Risk Information System is used for chemicals, not biologicals or pathogens, and work should be conducted to characterize risks from cockroach antigens, molds, harmful algae, and complex mixtures.
4. The EPA-funded Near Roadways Exposure to Urban Air Pollutants Study (NEXUS), a project of the University of Michigan, demonstrates that near roadway air pollution is a very important metric for exposures to urban pollutants. The relationship between the stage of pregnancy and level of exposure to pollutants is an important aspect of such research.

Questions were raised, as with other research areas, about measuring the result of HHRA utilizing a new research strategy. It was noted that approaches to human health risk assessment will continue to be used (that is, be sustainable) only if found useful. The question was asked how EPA will know that the result of the new strategy is improvements in children's health.

In addition to the three research strategies described above, CHPAC members discussed issues related to Safe and Sustainable Water Resources. Current requirements for tests done on drinking water and air are limited to a relatively small number of chemicals. When an unregulated contaminant is found in a drinking water supply at a level that exceeds EPA's one-day child health advisory, no action is required to be taken under the Safe Drinking Water Act. A question was raised about whether the Safe and Sustainable Water Resources Research Program will study children's exposure to unregulated contaminants of public drinking water, and if so, members asked what contaminants will be assessed, how many children are exposed, and what is the potential for an adverse health effect?

D. Research partners

In addition to discussing the individual strategies, CHPAC members expressed interest in the theme of overlapping research communities. Members encouraged EPA to partner with other agencies on research.

1. CHPAC members wondered if the CSS research will be limited to currently regulated chemicals and products. An emerging issue of interest to some members is the growing use of nanosilver and other nanomaterials. CHPAC is interested in knowing how EPA will work with other agencies to ensure the safety of these materials. Another group of chemicals of interest are pesticide residues in foods, water, and the indoor environment, which also may require collaboration with offices outside of ORD.
2. It was noted that more research is needed on endocrine disruption, childhood obesity, Type I and Type II diabetes, and developmental disorders including attention deficit and hyperactivity disorders. EPA and Centers for Disease Control and Prevention (CDC) could partner to identify the most prevalent childhood illnesses/disorders that seem to have an environmental component and work together to study causes and design interventions. CDC's Environmental Health Tracking Program and the National Institutes of Health (NIH)/EPA funded Children's Health Study have shared goals of reducing childhood illness and infant mortality and could work closely together.
3. CHPAC encourages ORD to compare research priorities among federal agencies (NIH, CDC, Department of Defense, Department of Education) and identify potential overlapping research and areas for collaboration.

In summary, CHPAC supports EPA's goal of sustainability and the integration and reorganization of research around this goal. The research frameworks provide a starting point for detailed research strategies, programs, and evaluation to achieve goals that include protecting children from environmental hazards.

CHPAC has many questions related to how implementation of the new research strategies will further our understanding of children's environmental health. The most pressing questions that CHPAC would like to discuss further with ORD are:

1. How social determinants of health can be explicitly and quantitatively incorporated into children's environmental health research;

December 20, 2011

2. How health effects related to early life stage (including preconception and prenatal periods) exposure and development will be addressed/incorporated into high throughput screening; and
3. How the research that results from the new research strategies and ORD reorganization be implemented into intervention strategies and evaluated (i.e., what metrics should be used) to assess whether children's environmental health has improved as a result of ORD's new research direction.

CHPAC will work with the Office of Children's Health Protection to request additional information and updates on ORD research plans.

Thank you for your consideration of our interest in continuing to discuss with ORD how sustainability and children's environmental health will be incorporated into the research of the newly organized ORD program areas.

Sincerely,



Pamela Shubat, Ph.D.

Chair

Children's Health Protection Advisory Committee

cc: Paul T. Anastas, Assistant Administrator, Office of Research and Development
Kevin Teichman, Deputy Assistant Administrator for Science, Office of Research and Development
Ramona Travato, Associate Assistant Administrator, Office of Research and Development
Robert Kavlock, Director of the National Center for Computational Toxicology & Interim Lead for Chemical Safety for Sustainability Program
Rick Linthurst, Interim Lead for Sustainable and Healthy Communities Program
Sally Darney, Associate interim National Program Director, Sustainable and Healthy Communities Program
Stanley Barone, Jr., Assistant Center Director for Health, National Center for Environmental Assessment, Office of Research and Development
Peter Grevatt, Director, Office of Children's Health Protection
Brenda Foos, Office of Children's Health Protection
Michael Firestone, Office of Children's Health Protection
Martha Berger, Office of Children's Health Protection

December 19, 2011

✓ Lisa Jackson
EPA Administrator
Ariel Rios Building
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460

Karl Brooks
Region 7 Administrator
901 N. Fifth St.
Kansas City, KS 66101

Re: Greening America's Capitals

Dear Administrators Jackson and Brooks:

I want to thank you for selecting the City of Lincoln as one of five cities chosen to be part of the "Greening America's Capitals" program, an initiative of your Partnership for Sustainable Communities. Earlier this month the three-day design charrette was held, led by a design team comprised of Community ReDesigned and BNIM, a team of architects and planners, with staff support from the EPA, local experts, and City staff.

"Greening Lincoln-Greening Everett" workshops drew approximately 100 people culminating with the design team presenting its preliminary recommendations for the Everett Neighborhood. These design recommendations were based on the ideas and feedback from area neighborhood residents, small businesses, property owners, and organizations, including the Everett Neighborhood Association.

When we were given this technical assistance award earlier this year, it was difficult for people to picture the sustainable ideas and principles that can make the Everett neighborhood even more livable. The preliminary designs now give everyone a real feel for, and understanding of, both the beauty and practical impact of using sustainable design principles. The 'greening' of Everett will be seen and shared with others. These designs will also serve as models for other City of Lincoln streetscape improvements.

Greening America's Capitals is a valuable program and I offer my sincerest appreciation to EPA staff who have guided the project and assisted the City of Lincoln. Your staff provided invaluable assistance: their efforts were clearly intended to provide advice and support while respecting Lincoln/s needs and priorities. The results are design recommendations that are sustainable and practical and we intend to implement them beginning in 2012. Thank you again for providing this valuable assistance.

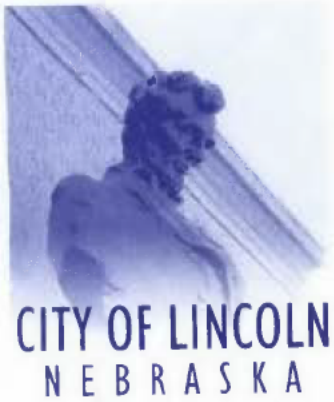
Sincerely,



Chris Beutler
Mayor of Lincoln

Cc: Abby Hall, David Doyle

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2012 JAN -3 AM 11:28
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EXECUTIVE SECRETARY



CITY OF LINCOLN
NEBRASKA

MAYOR CHRIS BEUTLER
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City of Alamogordo

OFFICE OF THE MAYOR

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December 20, 2011

Mrs. Lisa P. Jackson
EPA Administrator
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

2012 JAN -3 AM 11:28
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Re: San Juan Generating Station, Farmington, New Mexico

Dear Mrs. Jackson:

As Mayor of the City of Alamogordo, New Mexico, with the concurrence of the City Commission, I write to you urging that the Environmental Protection Agency reevaluate the recently finalized EPA requirements for the reduction of haze-causing pollutants at the San Juan Generating Station near Farmington, New Mexico. While the City of Alamogordo supports the long term goals of the Clean Air Act to improve the visibility in national parks and wilderness areas it does not support the EPA's expensive and burdensome requirements for the San Juan Generating Station.

The EPA requirements are estimated to cost \$750,000,000 the majority of which will most certainly be passed on to the consumers in New Mexico – including the City of Alamogordo. New Mexico has prepared a plan for curbing haze-causing pollution at the San Juan Generating Station that will produce similar results to the EPA's plan, which it is estimated to cost only \$77,000,000 – or about one-tenth of the EPA plan. It would seem, especially in these tough economic times that if similar results can be obtained at one-tenth the cost that the EPA would seriously consider such an option.

Therefore, I urge the EPA to thoroughly review and adopt the plan approved by the New Mexico Environment Department in lieu of the EPA requirements. The New Mexico plan addresses federal Clean Air Act standards at a substantially reduced cost - a win/win situation for the citizens of New Mexico and the EPA.

Respectfully submitted,

Ron Griggs
Mayor



Correspondence Management System

Control Number: AX-12-000-0479

Printing Date: January 30, 2012 04:12:32



Citizen Information

Citizen/Originator: Karns, Nathaniel W.

Organization: Berkshire Regional Planning Commission

Address: 1 Fenn Street, Pittsfield, MA 01201

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-12-000-0479

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Feb 10, 2012

of Extensions: 0

Letter Date: Jan 6, 2012

Received Date: Jan 11, 2012

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: RA-R1-Regional Administrator - Region 1

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- BRPC provides opinion concerning cleaning up Housatonic River PCB contamination

Instructions: RA-R1-Prepare draft response for signature by the Regional Administrator for Region 1

Instruction Note: N/A

General Notes: N/A

CC: Brigid Lowery - OSWER-CPA
Kecia Thornton - OSWER
Michelle Crews - OSWER
OCSPP - OCSPP - Immediate Office
OEAE - Office of External Affairs and Environmental Education
OSWER - OSWER -- Immediate Office
R1 - Region 1 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

Assigner	Office	Assignee	Assigned Date	Due Date	Complete Date
(b) (6) Personal Privacy	OEX	R1	Jan 27, 2012	Feb 10, 2012	N/A
Instruction: N/A					
Carol Krasauskis	R1	R1-OSRR	Jan 30, 2012	Feb 10, 2012	N/A
Instruction: OSRR: Prepare response for Regional Administrator's signature. Email response to Ivette Mojica.					

Supporting Information

DAILY READING FILE

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Executive Director

January 6, 2012

Ms. Lisa P. Jackson, Administrator
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Washington, DC 20460

Mr. Richard K. Sullivan, Jr., Secretary
Executive Office of Energy & Environmental Affairs
Commonwealth of Massachusetts
100 Cambridge Street, Suite 900
Boston, MA 02114

2012 JAN 11 PM 12:35
OFFICE OF THE
EXECUTIVE SECRETARIAT

RE: Housatonic River "Rest of River" Clean-up

Dear Administrator Jackson and Secretary Sullivan:

As U.S. EPA and the Commonwealth of Massachusetts continue their discussions regarding the appropriate approach to cleaning up the PCB contamination in the Housatonic River, the Berkshire Regional Planning Commission (BRPC) appreciates the opportunity to provide our opinion concerning this very complex and critical issue. BRPC represents the 32 cities and towns in Berkshire County, including the five towns and one city directly impacted by the contamination and by the resulting clean-up decisions. We believe that the collective viewpoints which we represent are possibly the most important ones for your agencies to consider during your deliberations as this is our region and the river is in our communities and backyards. Included in BRPC's mission statement is the following: "We commit to promote a balance between economic development and resource preservation" and we believe that our stance on the appropriate level of clean-up and community impact fully respects that balance.

Facts about the Geomorphology and Ecology of the Housatonic in Berkshire County

We base many of our recommendations on what we understand of the science of how the river has historically, currently, and will in the future function both from a geomorphology and ecologic perspective. As all parties know, these two aspects are inextricably intertwined in the case of this river. They also reflect our understanding that the particular variety of PCBs in the Housatonic from the GE plant will not deteriorate for many decades.

One hundred years ago, almost all of the river floodplain was in active agricultural use and the river had been significantly channelized in the stretch between Pittsfield and Woods Pond in Lenox. It is quite probable that the very significant ecologically rich areas which exist today were almost non-existent in that setting and thus have established themselves over the intervening decades as the river has naturally reclaimed much of its floodplain. The fact that these habitats have managed to become established as well

as they have, despite the level of contamination, is a testament to natural ecological resiliency which we believe that the clean-up program should fully respect.

From the very in-depth survey work which has been done over the biology of the Housatonic River in this area, it appears that while the amount and variety of important habitat is astounding, this is despite the level of contamination found in the Pittsfield to Lenox stretch. As we understand it, about half of the benthic organisms which should be found in the river are present and the leading culprit for the other half's absence is the level of PCB contamination. It is apparent that animals higher up the food chain which should be present are not here. The fact that they may not be particularly rare is meaningless in this context – the fact that they are not present is evidence that the ecosystem is actually much less diverse than it can be. We can only wonder how much even richer the ecology in this area would be if the PCB's were much, much reduced. As we understand the continued monitoring which has been done on the first two miles of river which were dramatically cleaned-up, that monitoring indicates that the full range of benthic organisms which should be present have started to appear in just the past 2-3 years since that clean-up was completed. This leads us to believe that it is most beneficial, in the longer-term, to the ecology of the Housatonic to see that the PCB's are removed to the maximum extent practicable.

We believe that the known impacts of climate change only reinforce our comments regarding the geomorphology and ecology of the river and the need for extensive PCB removal. Just this past September (2011), Secretary Sullivan released the Massachusetts Climate Change Adaptation Report. That report clearly indicates that we can expect much increased precipitation and much "flashier" rainfall due to climate change. This will lead to more rapid geomorphologic changes in the river than we have experienced over the past one hundred years over the course of the next 50-100 years. Based on the past year, many of us in the region would think we are already experiencing this. This leads us to believe that all PCB's remaining in the floodplain will ultimately be reintroduced into the river system, even if they are currently in areas which are not being currently eroded or are in relatively low concentrations. If the past is any predictor, they will tend to re-accumulate in concentrations in the same types of areas which now have concentrations (behind dams, new cut-off oxbows, etc.). Thus, short-term decisions to leave PCB's in place and not to remove them to the maximum extent practicable will lead to a many decades long process of continued monitoring, ecological damage, and need to re-clean-up.

We also believe that the science of climate change, and the findings in the Massachusetts Climate Change Adaptation Report show that much of the rich ecology currently in place in the Housatonic watershed will be impacted by climate change. Striving for maximum protection of the current ecology by not cleaning up the PCBs in this scenario is something of a losing proposition when viewed through a longer-term lens of 50-100 years. We should be taking as many steps towards trying to achieve long-term resiliency and adaptability as possible rather than a very short-term protection of current species which may not survive climate change impacts. Lessening of the stresses on this ecology caused by PCBs will increase the ecology's ability to adapt to the stress of climate change.

In summary, we believe that the clean-up should be viewed through the lens of long-term sustainability and not short-term lenses of the lowest financial cost or cost certainty, immediate habitat loss, or very short-term disruption behind homes during discrete segments of work. While these considerations should not be ignored, they should not be given preference over longer term community and environmental sustainability.

BRPC's Recommendations Concerning the Rest of River Clean-up

After careful consideration on the Commission's part, we do not support the extremes of expecting that every ounce of PCB's should be removed nor that the PCB's can simply remain and that they either do not cause environmental or health harm or will somehow naturally dissipate or become less toxic. Thus neither

the "do-nothing" nor immediately remove all traces of PCB's, wherever found, approaches are appropriate. We doubt that the Commonwealth or EPA probably feel that these are appropriate either.

We think that the appropriate approach should respect that the Housatonic River will continue to change, both from a geomorphology and ecology standpoint, over the coming decades and that this process is exactly what has made it an ecologically rich system. This automatically eliminates hardening or bank stabilization of the river or approaches such as capping of contaminated areas from consideration.

We believe that the significant concentrations of PCBs in the various impoundments down the river should be removed, not capped, as long as removal does not cause uncontrolled down-stream transport of the contaminants. Removal behind these impoundments needs to occur in the very near term. The impoundments will then require ongoing monitoring and a commitment to further removal if concentrations reappear, regardless of the decisions about how best to go about the rest of the clean-up. We know that the PCB's behind the Columbia Mill dam in Lee have been an impediment to marketing this recently vacated mill building, causing not only environmental but economic harm in this economically distressed environmental justice community. The concentrations in Woods Pond in Lenox and Rising Pond in Great Barrington also need to be removed. These are the ones we are aware of and presume that the other dams and impoundments have somewhat similar issues. If there are not methods to protect from down-stream transport of contamination, this topic will need to be more fully discussed.

To-date, almost all of the public discussion and debate and General Electric's proposed actions have involved only the stretch of river from the confluence in Pittsfield to the Woods Pond dam. We believe that it is appropriate to come up with a clean-up plan for the entire river system. Our comments concerning the dams and impoundments are just a subset of this. There are other areas which warrant close analysis and a determination of the need to remove the PCBs from them. A prime example is the oxbows cut off by the railroad north of the Columbia Mill dam in Lee. We believe that all areas with PCB's above some relatively small level should be addressed in the clean-up plan, even if they are well down-river and may be isolated pockets of modest contamination. This concern is derived from our belief that all the PCBs left in the system will ultimately be moved through natural processes and will re-concentrate in some instances, causing future environmental damage and health risks.

For a variety of reasons, we do not believe that contaminated material landfills should be established in the County for the materials removed during clean-up. Possible sites within proximity of the river only add environmental insult to the environmental damage already done. As is well documented, the area along the river is a very rich natural mosaic and it is not suitable for siting of a landfill of any description. Even sites which have been previously disturbed, in some cases dramatically so, are in such close proximity to the river that they are inappropriate for use as a contaminated materials landfill. The site which has been most frequently mentioned is the Lane Construction site in Lee. The Town's Master Plan and economic development plans designate this site for business use as a potential site for a new business park and utilization of it as a landfill would presumably preclude that use. Lee is a very economically distressed and a designated environmental justice community. Placing a landfill in an environmental justice community is contrary to all current federal and state environmental justice policy.

We believe that it would probably be preferable to remove the contaminated materials to a licensed landfill by rail given the ongoing problems in our community centers (downtown Lee and Pittsfield in particular) caused by existing truck traffic. However, we also understand that this warrants much closer analysis as any removal scenario involves truck traffic, even if it is from a removal site to a dewatering, staging or rail loading facility, and thus this topic needs much closer consideration before we take a firm position on it. In any case, damage from truck traffic must be carefully monitored and repairs required as part of the remediation.

We believe that while institutional controls, such as posting fish advisories, are necessary, they do not substitute for actually systematically removing or neutralizing the reasons for the advisories. There is nothing restorative about an advisory; it is simply a mechanism to try to protect the public health from immediate, known threats. If anything, continual, frequent advisories continue to harm this region and its people economically as it creates a very visible message that we are polluted and you need to stay away. That stigma has a very high economic cost to the individual property owners, the towns and City, and the region as a whole. The Berkshire's struggle economically as it is and does not need the contamination stigma to burden its economic recovery further.

We believe that a very aggressive active adaptive management approach should be taken to the clean-up of the Housatonic River with the goal that ultimately every concentration of PCB's is dealt with and removed or neutralized through innovative remediation. GE has indicated that none of the innovative technologies have been proven in the field at a scale that show they can work on this project. It is appropriate to use this clean-up project to conduct those necessary real-world assessments, perhaps starting at a small scale, and moving up to modest or even greater scales if an innovative approach seems to be working with less disruption to the ecology or community than more standard approaches. While dredging or soil removal may be necessary for removing hotspots, it is the preference of our communities that less disruptive techniques be used for the majority of the river if they can be found to work.

In taking an active adaptive management approach, we believe that the clean-up plans should be developed at a very fine grain, perhaps involving a few hundred square feet at a time in some instances or one technology in one small area and a very different one in another. We do not believe that wholesale excavation of many, many acres at one time is generally an appropriate way to approach this clean up. We recognize that an active adaptive management approach at a fine grain as we are proposing is a long-term project and that neither costs nor impacts can be firmly established at the outset.

We recognize there is a down-side to drawing the clean-up out over many years but we believe that it has the following benefits:

- The disruption caused by clean-up at a given time would be very localized and shorter-term, causing less harm to the neighbors, the broader community and to the environment.
- The natural communities would have a chance to re-colonize a cleansed area from an adjoining area, much as they must have done as the landscape changed from very managed agriculture to what it is today but on an accelerated basis as the land forms can be created to encourage reestablishment and desired native species can be deliberately part of the restoration plans.
- There can be opportunities to test various approaches. While there may not be a "silver-bullet" in-situ technology that has been field tested at this scale now, there are some interesting possibilities that have been suggested. Time will undoubtedly allow the introduction of even newer and better possibilities.
- Taking a methodical deliberative fine-grained approach significantly reduces the risk of major failure using only one approach extensively. As an example, a vernal pool might be cleansed of PCB's using one technique and an approach taken to restore it as a health vernal pool. If that does not work, only one vernal pool has been lost, not a significant number of them.

In short, we are less concerned about achieving quick clean-up which is either incomplete or extremely disruptive to the natural and human communities along the river than in achieving longer-term sustainable benefit to the ecosystem and communities. It took forty years for the PCBs to be introduced into the Housatonic, they have been in it without clean-up for another forty years, and if it takes another forty years to reach some level of finality, that may be appropriate. If General Electric needs an absolute amount of

liability to put into its financial reports, then perhaps it should provide some billions of dollars for a trust fund which is controlled and managed by EPA, the States, and the communities to use for clean-up and restoration of the environment and the communities.

Concern for the Human Communities and the Region

While we understand that neither EPA nor EOEEA has as its primary mission the social and economic health of human communities and regions, those are part of BRPC's mission as the Berkshire's regional planning commission and part of our charge is to advocate on their behalf. We continue to believe that this region and its communities have suffered economically due to the presence of the PCB contamination created by General Electric. This contamination has created a stigma which affects economic development and tourism efforts in the region. Since it was determined that PCB's were probable carcinogens and their use was banned in the very early 1970's, with the residual pollution in the Housatonic River being very well known, the region's population has declined each and every decade, unique amongst Massachusetts counties. Our income levels have declined from being significantly above the national average to being below it during the course of the same period. While it is probably impossible to be able to determine how much of this decline can be specifically and uniquely attributed to the pollution left in our midst, it is probable that the contamination has been a contributing factor.

A more measurable economic impact can be directly attributed to the presence of the pollution over the past forty years and for whatever time into the future significant amounts of it remain. Various opportunities for economic development and jobs along the river have been lost or left in limbo due to actual contamination. Prime examples are the Eagle Mill complex in Lee and the contamination behind its dam. The site is a vacant paper mill which its owner, Schweitzer-Maudit, cannot even market due to the contamination. In another case, General Electric has bought the Rising Pond dam from its former owner. The dam has a FERC hydroelectric license which is sitting idle as GE apparently has no interest in productively using this dam but purchased it simply in hopes of not having to deal with the contamination in the pond. Other properties along the river in Pittsfield and Lenox have also been bought by GE, presumably for the same reason, and sit idle as opportunities lost. The economic impact in these cases is very real and measurable in terms of jobs and income lost to the region and individuals and tax income to the local communities (and the Commonwealth of Massachusetts).

At the individual level, there is also a very direct, measurable economic impact of the past and continued presence of contamination. Many properties along the river are owned by small businesses and individuals. The presence of contamination in the floodplain presumably has a negative impact on the marketability and value of those properties. Thus those property owners bear a disproportionate share of the economic cost of the contamination and deserve compensation. Their disproportionate impacts from clean-up also need to be factored into the equation and they will deserve compensation for those. The municipalities also deserve compensation for the loss of tax revenues due to depressed property values due to contamination and clean-up.

We believe that any final restoration plan must acknowledge, respect and compensate for the economic damage the contamination has caused the six communities and individual property owners. In some cases, there may be forms of compensation which are somewhat indirect, such as working with the communities to plan for recreation/bike paths as part of the clean-up planning and then installing such paths as part of the restoration, to upgrade the railroad infrastructure along the river so that it can serve this region for the next century, including for passenger rail service, and to reactivate the hydro-electric facility at the Rising Pond Dam (and perhaps others) to produce inexpensive, renewable power and provide it to the affected municipalities at no or low cost. However, we believe that as has been done for the first two miles of river in Pittsfield, there should also be endowment of an economic development fund to

Ms. Lisa P. Jackson, Administrator
Mr. Richard K. Sullivan, Jr., Secretary
Page 6
January 6, 2012

compensate for lost tax revenues and jobs in these communities due to the PCB contamination. It must be recognized that the contamination continues to cause economic hardship in these communities and the clean-up efforts will exacerbate this negative impact.

We do request that both the Environmental Protection Agency and the Executive Office of Energy and Environmental Affairs consult closely with the municipal officials in all of the directly impacted communities throughout this process of determining a final clean-up plan. While you have important mandates you must meet, it is our communities which are the front line of the impacts of past contamination and the clean-up effort and which will benefit or suffer from the ultimate clean-up outcome.

We look forward to a continued dialogue as this difficult and complicated process moves forward.

Sincerely,



Nathaniel W. Karns, AICP
Executive Director

Cc: The Honorable John Kerry, U.S. Senator
The Honorable Scott Brown, U.S. Senator
The Honorable John Olver, U.S. Representative
The Honorable Deval Patrick, Governor
The Honorable Benjamin Downing, State Senator
The Honorable Smitty Pignatelli, State Representative
The Honorable Tricia Farley-Bouvier, State Representative
Mr. Curt Spalding, Director, EPA New England
Mr. Kenneth Kimmell, Director, Massachusetts Department of Environmental Protection
Ms. Mary Griffin, Director, Massachusetts Department of Fisheries & Wildlife
Mr. Michael Gorski, Western Regional Director, Mass DEP
The Honorable Daniel Bianchi, Mayor, City of Pittsfield
Select Boards, Towns of Lenox, Lee, Stockbridge, Great Barrington, and Sheffield



Correspondence Management System

Control Number: AX-12-000-1605

Printing Date: January 30, 2012 01:15:51



Citizen Information

Citizen/Originator: Sass, Jennifer

Organization: National Resource Defense Council
Address: 1200 New York Avenue, N.W., Washington, DC 20005

Constituent: N/A

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

Control Information

Control Number: AX-12-000-1605 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A
Due Date: Feb 14, 2012 **# of Extensions:** 0
Letter Date: Jan 27, 2012 **Received Date:** Jan 30, 2012
Addressee: AD-Administrator **Addressee Org:** EPA
Contact Type: EML (E-Mail) **Priority Code:** Normal
Signature: DX-Direct Reply **Signature Date:** N/A
File Code: 404-141-02-01_141_b Controlled and Major Corr. Record copy of the offices of Division Directors and other personnel.
Subject: Daily Reading File - Dioxin Reassessment
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
OCSPP - OCSPP - Immediate Office
OEAE - Office of External Affairs and Environmental Education
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	ORD	Jan 30, 2012	Feb 14, 2012	N/A
Instruction: 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



NATURAL RESOURCES DEFENSE COUNCIL
THE EARTH'S BEST DEFENSE

January 27, 2012

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

Dear EPA Administrator Jackson:

We write to you on behalf of our 1.3 million members and online activists at the Natural Resources Defense Council (NRDC). Thank you for your attention to dioxin. The Dioxin Reassessment document is extremely important to the health of the American people and we applaud your efforts to bring this long delayed process to closure. We urge you to stay on the timeline you established in the August 29, 2011 EPA media release, completing the non-cancer assessment of dioxin by the end of this month, and the cancer assessment "as expeditiously as possible after the non-cancer assessment is posted to the IRIS database".¹

As you know, the term "dioxin" refers to a family of chemicals that contain one or more chlorine atoms attached to a double ring of carbon atoms. The most toxic and potent of the dioxins is 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD). High levels can cause liver damage and a host of other problems, most visibly including a skin condition called chloracne. However, animal and human studies show that even very low levels of 2,3,7,8-TCDD -- levels many people contain in their bodies today -- can cause a variety of health problems, including immunologic impairments, and hormonal alterations. The hormone alterations and immune dysfunction increase risks of reduced fertility, birth defects, and cancer. For example, animal studies have found that the chemical can reduce sperm production, alter sex hormone levels, and increase miscarriage rates.

2,3,7,8-TCDD can also cause birth defects such as skeletal deformities, kidney defects, and learning and behavioral problems. More recent studies have found a potential link to increased diabetes risk. In 1997, the International Agency for Research on Cancer (IARC) determined that 2,3,7,8-TCDD was carcinogenic to humans (Group 1), a scientific determination that is even stronger now based on new data since that time.^{2,3} 2,3,7,8-TCDD has been on the federal National Toxicology Program list of chemicals "known to be a human carcinogen" since 2001.⁴

Food is a significant source of dioxin exposure. Because dioxins accumulate in fat, the foods that contain the highest amounts are meat, dairy products, and fish. All people have some level of dioxin stored in their body fat, according to a representative sampling of people in the U.S. conducted by the U.S. Centers for Disease Control and Prevention (CDC). It takes at least 7 years to excrete half of the 2,3,7,8-

TCDD load, so clearing the body of the chemical takes a long time and most of us are being continually re-exposed through our diets.

Since 1985, efforts by EPA to assess the risks of dioxin have been delayed time and time again despite overwhelming scientific evidence supporting EPA's assessment, and approval in 2010 by EPA's independent Scientific Advisory Board.⁵ On August 29, 2011, EPA announced its final plan for completing the Dioxin Reassessment. EPA committed to completing the non-cancer portion of the reanalysis and posting it to the IRIS database by the end of January 2012 and to then complete the cancer portion of the reanalysis "as quickly as possible." EPA stated that once the Agency completes both the non-cancer and cancer portions of the Reanalysis, the Dioxin Reassessment would be considered final.

The chemical and food industry arguments against finalizing the non-cancer assessment are hypocritical and transparent attempts to further delay the day of reckoning it has always dreaded, when the public will be told the truth about the health dangers posed by exposure to dioxin. For example:

- The industry is in a lather over EPA's imminent release of the non-cancer portion of its assessment of dioxin with a non-cancer risk estimate (i.e. reference dose, RfD), rather than waiting until completion of its cancer assessment. The Food Industry terms this a "break from longstanding international science-based dioxin standards." The Food Industry fails to note that EPA's development of a reference dose for the non-cancer assessment was done based upon the recommendation of the National Academy of Sciences. If EPA ignored that recommendation, no doubt the industry would use it to justify a call for additional delay by EPA, and perhaps a legislative rider to prevent the EPA from moving forward without another review by the NAS. However, after nearly three decades of work on the dioxin assessment, EPA's procedural decision to issue the portion of the assessment it has completed will provide the public and regulators with a clear consensus statement on the most current estimated risk associated with dioxin exposure, and the supporting scientific evidence and rationale. Industry's disparagement of EPA's release of the assessment in two parts as a "split-decision" makes about as much sense as criticizing J.K. Rowling for not waiting to complete all seven Harry Potter books before releasing the first one.
- The industry, despite its frequent exhortation to EPA to use the most recently available science to address an issue, absurdly compares EPA's proposed RfD to a 20-year old level established by Canada, as well as other outdated levels set by Japan and the WHO. Only favoring the use of the most recent scientific data when it is exculpatory hardly complies with "accepted international standards."
- Although the industry accuses EPA of "cherry-picking" amongst the NAS recommendations on dioxin – without offering any specifics – industry itself is constantly selectively picking and choosing which NAS recommendations it believes EPA should implement. Whereas the NAS, in its groundbreaking report, Science and Decisions (2009), clearly recommends, "that cancer and noncancer responses be assumed to be linear as a default" (NAS at 180) so that no threshold, or "safe" level of exposure is assumed, the chemical industry is calling for the opposite. ACC was quoted in the trade press as saying EPA should use a less conservative, non-linear model for both cancer and non-cancer effects.⁶ Despite the overheated rhetoric of more than a dozen food industry trade associations, the fact remains that EPA's approach to dioxin has been reviewed, improved, and approved – multiple times- by both the National Academy of Sciences and its own Science Advisory Board, with many opportunities for public review and comment.

- Industry suggests that, because our environment and our bodies are already contaminated with so much toxic dioxin that “background” levels exceed health-based limits, we should not inform the public about those limits, for fear that the public would demand measures to lessen the amount of dioxin in our food supply. Again, the industry is in direct opposition to recommendations of the NAS; Science and Decisions specifically recommends that background exposures be incorporated to “account for additional sources of exposure to the same chemical or to similarly acting chemicals (including endogenous sources)” (NAS at 180). The industry’s analogy to “too big to fail” – “too polluted to tell” must be rejected by EPA and the Administration.
- Finally, the food and chemical industries rely upon their old standby argument for not releasing information about the potential health effects of chemicals, particularly in the food supply: the predicted consumer “confusion,” “fear” or “panic” that will result. If only the U.S. Treasury had a dollar for every time industry has made this specious claim -- for the TRI, for Consumer Confidence Reports under the Safe Drinking Water Act, for regulation of perchlorate, for mercury in seafood – there would be no budget deficit. It is an all purpose patronizing excuse for denying the public’s right to know about the toxic chemical pollution to which they are exposed and its potential harm. The Obama Administration is too smart to fall for the same old dodge when it comes to dioxin.

The chemical industry for years has sought to block, weaken or delay the EPA and other government bodies from assessing the harms of its hazardous chemicals. NRDC describes this tried and true industry strategy in three case studies – of formaldehyde, TCE, and styrene -- in our recent report, The Delay Game.⁷ Dioxin is another poster child for these delay tactics, leaving the public at risk of continuing exposure to this dangerous chemical. Now, after 27 years of assessing dioxin, the industry is calling for additional review and “oversight” by OSTP, OMB and the NAS.

Children born in 1985 -- with dioxin in their bodies at birth -- are now 27, perhaps with children of their own, also born polluted with dioxin and hundreds of other toxic chemicals. Don’t let the chemical and food industries stall the dioxin assessment for another generation. We urge you and the Administration to reject the latest wave of industry pressure to further stall the release of the dioxin reassessment and finalize the non-cancer portion of the dioxin reanalysis by the end of this January and the cancer portion as quickly as possible thereafter.

Thank you for the EPA’s efforts, in the face of considerable opposition, to improve public disclosure about the potential hazards of toxic chemicals.

Sincerely,

Jennifer Sass

Jennifer Sass, Ph.D.
 Senior Scientist, Natural Resources Defense Council (NRDC)
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Correspondence Management System

Control Number: AX-11-001-6806

Printing Date: October 11, 2011 01:14:29



Citizen Information

Citizen/Originator: Edano, Yukio

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Constituent: N/A

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

Control Information

Control Number: AX-11-001-6806 Alternate Number: N/A
Status: Pending Closed Date: N/A
Due Date: Oct 26, 2011 # of Extensions: 0
Letter Date: Oct 11, 2011 Received Date: Oct 11, 2011
Addressee: AD-Administrator Addressee Org: EPA
Contact Type: LTR (Letter) Priority Code: Normal
Signature: AD-Administrator 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: DRF - Appointment of Minister of Economy, Trade and Industry
Instructions: AD-Prepare draft response for the Administrator's signature
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
(b) (6) Personal Privacy	OEX	OITA	Oct 11, 2011	Oct 26, 2011	N/A
Instruction: 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	Oct 11, 2011

DAILY READING FILE
DAILY READING FILE
(Provisional Translation)

September 15, 2011

The Honorable Lisa P. Jackson
Administrator of the U.S. Environmental Protection Agency

Excellency,

I have the honor to hereby inform you that I have been appointed Minister of Economy, Trade and Industry.

I am keenly aware of the important responsibility I now shoulder in steering Japan's policies on economy, trade and industry in the present situation in which countries of the world have been trying to achieve sustainable economic growth as well as overcome a series of issues such as tighter environmental and energy constraints.

As for trade policies, in accordance with the "Basic Policy on Comprehensive Economic Partnerships" which was decided by the Cabinet last November, I will promote high-level bilateral and multilateral economic partnerships that will withstand comparison with the trend of other such relationships. Especially, I will expeditiously improve our domestic environment and actively consult with the United States of America and other member countries for the decision on whether to join negotiations for the TPP Agreement as early as possible.

I am greatly looking forward to further strengthening the ties between us and look forward to the opportunity to collaborate with you on the many challenging issues that we face.

Respectfully yours,

Minister of Economy, Trade and Industry
Japan

Yukio Edano

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2011 OCT -6 PM 12:32
OFFICE OF THE
EXECUTIVE SECRETARIAT



Correspondence Management System

Control Number: AX-11-001-6843

Printing Date: October 11, 2011 07:54:19



Citizen Information

Citizen/Originator: Brown, Nicholas A.

Organization: Southwest Power Pool, Inc.
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Christiano, David

Organization: Southwest Power Pool
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Meyer, John

Organization: Southwest Power Pool, Inc
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Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number:	AX-11-001-6843	Alternate Number:	N/A
Status:	Pending	Closed Date:	N/A
Due Date:	Oct 25, 2011	# of Extensions:	0
Letter Date:	Sep 20, 2011	Received Date:	Oct 6, 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-Request for Reconsideration of Stay EPA-HQ-OAR-2009-0491		
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 ORD - Office of Research and Development -- Immediate Office 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	Oct 11, 2011	Oct 25, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					

Supporting Information

Supporting Author: N/A



HELPING OUR MEMBERS WORK TOGETHER
TO KEEP THE LIGHTS ON... TODAY AND IN THE FUTURE

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

September 20, 2011

Administrator Lisa P. Jackson
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Re: SPP's Review of the EPA's IPM Analysis of the Cross-State Air Pollution Rule, Docket ID No. EPA-HQ-OAR-2009-0491

Dear Ms. Jackson:

Southwest Power Pool, Inc. (SPP), in its capacity as a Federal Energy Regulatory Commission (FERC) approved Regional Transmission Organization (RTO) and a Regional Entity, is concerned that the Environmental Protection Agency (EPA) finalized the Cross-State Air Pollution Rule (CSAPR) without adequately assessing the reliability impacts of the CSAPR on the SPP region. SPP originally expressed concern with the reliability impacts of proposed regulations¹ in its July 19, 2011 comment letter to the EPA.

As required by the Energy Policy Act of 2005, FERC has approved mandatory and enforceable reliability standards promulgated by NERC with which the industry must comply. These standards were developed through a well vetted industry process identifying key requirements to ensure the bulk electric system meets an adequate level of reliability. Failure to comply with these standards can affect the ability of the power grid to operate reliably as well subject SPP and its members to financial penalties. These standards require that SPP's Transmission Planners ensure that transmission lines are not overloaded and that voltage is maintained within certain prescribed limits in the event of the failure of a single element in the system. Additionally, the standards require that Transmission Operators operate in real-time within certain limits. In order to meet the demands of the system there needs to be an adequate balance of generation and transmission availability both in the short and long term. The timing of the CSAPR regulations does not provide the SPP region with enough time to ensure that adequate balance.

Our reliability modeling² indicates that the CSAPR Integrated Planning Model 4.1 (IPM) results, as depicted by the EPA, are likely to cause SPP to be out of compliance with the applicable NERC standards as early as 2012. SPP's planning models identified 5.4 GW from the 48 generation units identified by the EPA with zero fuel burn in 2012 that would have been dispatched during the 2012

¹ On July 19, 2011, Nicholas A. Brown, SPP President and CEO, submitted comments to the EPA in Docket ID Nos. EPA-HQ-OW-2008-0667, EPA-HQ-OAR-2009-0234, and EPA-HQ-OAR-2011-0044, additionally providing SPP's preliminary assessment of the potential reliability impacts of proposed EPA regulations impacting generation in the SPP footprint.

² SPP removed all generation units in its models that consumed zero fuel in the EPA models. No other SPP model adjustments were made.

Summer Peak conditions. Our analysis revealed 220 overloads in excess of the required, 100% of emergency ratings under contingencies, and 1047 circumstances at various locations on the transmission system where voltage was below the prescribed lower limit of 90% of nominal rating. The statistics in this analysis must be viewed as being indicative, not definitive, results and are probably very conservative compared to what would be experienced in the real world should the modeled system conditions exist. An even clearer representation of reliability violations can be found by applying higher operability limits of 120% to the overloads. There were 16 such overloads on the system. Using a similar out of normal range there were 93 circumstances where voltage dropped below 85% of nominal. These “clear-cut” examples of standards violations represent the well founded concerns regarding the timeline with which the CSAPR would be instituted.

Additionally, 30 contingency scenarios did not solve, which is indicative of extreme system constraints, including the potential of cascading blackouts similar to what occurred in 2003 or which could require the shedding of firm load (that is, localized rolling black-outs initiated by utilities within the SPP region) to avoid more widespread and uncontrolled blackouts and to remain in compliance with reliability standards. Some of the contingencies could be resolved with other short-term transmission and/or resource solutions, but several could not. In those cases, SPP would be in clear violation of mandatory reliability standards and subject to penalty from FERC. However, SPP cannot be compliant with NERC’s planning standards without placing its generation owners in violation of EPA standards when the unutilized units in the IPM are unavailable to SPP. Further exacerbating this situation, SPP’s analysis also revealed that generation production from “small units”³ increased from 13 to 57 units deployed. Some of these units are likely subject to the reciprocating internal combustion engines (RICE) regulations, which were not evaluated as part of this reliability study. If we look beyond the summer peak hour studied, the unavailability of approximately 11 GWs⁴ of total capacity from the EPA model in SPP’s footprint would likely result in additional localized reliability issues.

The result of SPP’s reliability assessment of the EPA’s CSAPR IPM generation dispatch indicates serious, negative implications to the reliable operation of the electric grid in the SPP region raising the possibility of rolling blackouts or cascading outages that would likely have significant impacts on human health, public safety and commercial activity within SPP. These regulations further compound the reliability impacts addressed by SPP in its July 19, 2011 comment letter, which focused on the MACT regulations to be enacted in 2014/15. The time period between finalization of the CSAPR and its effective date is too short to allow SPP and its members/registered entities to appreciate the effects of the rule and to take actions to ensure reliability.

SPP supports a more flexible approach to meeting the emission requirements under the CSAPR, as stated in a joint letter from the New York Independent System Operator, Midwest Independent System Operator, PJM Regional Transmission Organization, the Electric Reliability Council of Texas, and SPP to the EPA in August. The EPA must provide time to allow the industry to plan an approach to comply with its rules in a reliable and reasonable fashion. As it stands now, SPP and its members may be placed in the untenable position of deciding which agency’s rules to violate, FERC or EPA. Putting an

³ “Small units” denotes those units generating 25 megawatts or less per unit.

⁴ Although the EPA model had additional units and capacity with zero fuel burn in 2012 (10.7 - 10.9 GW in total depending on the source of the Pmax), many of these units which were not dispatched in our 2012summer model will be needed during off-peak load periods to accommodate outages and to maintain system reliability.

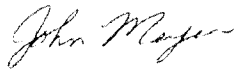
industry with critical infrastructure in the position of choosing which agency's rules to violate is bad public policy. SPP suggests that the EPA delay CSAPR's effective date at least a year to allow for investigating, planning, and developing solutions to assist our members in maintaining grid reliability and compliance with both its current regulatory bodies and all of the EPA regulations that impact the electric industry.

Your prompt attention to this matter is greatly appreciated. Please do not hesitate to contact me if you have any questions or would like to discuss this matter further.

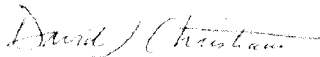
Respectfully submitted,



Nicholas A. Brown
President & CEO
Southwest Power Pool, Inc.
(501) 614-3213 • Fax: (501) 664-9553 • nbrown@spp.org



John Meyer
Chairman and Trustee
Southwest Power Pool Regional Entity



David Christiano
Trustee
Southwest Power Pool Regional Entity



Gerry Burrows
Trustee
Southwest Power Pool Regional Entity

cc: SPP Board of Directors
SPP Regional State Committee
SPP Strategic Planning Committee
State Regulators in Arkansas, Kansas, Louisiana, Missouri, Mississippi, Nebraska, New Mexico,
Oklahoma, and Texas



Correspondence Management System

Control Number: AX-11-001-6857

Printing Date: October 11, 2011 11:15:50



Citizen Information

Citizen/Originator: Prager, Frank P.

Organization: Xcel Energy

Address: 1800 Larimer Street, Denver, CO 80202

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-11-001-6857

Alternate Number: N/A

Status: Pending

Closed Date: N/A

Due Date: Oct 25, 2011

of Extensions: 0

Letter Date: Oct 5, 2011

Received Date: Oct 11, 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-Stay of the Cross-State Air Pollution Rule-Request for Reconsideration EPA-HQ-OAR-2009-0491

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

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	Oct 11, 2011	Oct 25, 2011	N/A
Instruction: 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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RECEIVED
2011 OCT -6 PM 3:16
OFFICE OF THE
EXECUTIVE SECRETARY

Frank P. Prager
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Environmental Policy & Services
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Denver, CO 80202
(303)294-2108

October 5, 2011

Lisa P. Jackson
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Environmental Protection Agency
Room 3000, Ariel Rios Building
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CC:

Ms. Meg Victor
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Ms. Sonja Rodman
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Washington, D.C. 20460

**SOUTHWESTERN PUBLIC SERVICE COMPANY'S
SUPPLEMENTAL PETITION FOR RECONSIDERATION AND REQUEST FOR STAY OF
THE CROSS-STATE AIR POLLUTION RULE**

Docket No. EPA-HQ-OAR-2009-0491

I. INTRODUCTION

Southwestern Public Service Company ("SPS"), a subsidiary of Xcel Energy, Inc. ("Xcel Energy"), respectfully submits this Supplemental Petition for Reconsideration and Request for Stay of the Cross-State Air Pollution Rule ("CSAPR"). 76 Fed. Reg. 48,208 (Aug. 8, 2011). This Supplemental Petition follows SPS's Initial Petition for Reconsideration ("Initial Petition"), which SPS submitted to EPA on August 23, 2011.

In CSAPR, EPA has created a new rule that places SPS's customers—the people of West Texas and Eastern New Mexico—at great economic and personal risk. Without notice or opportunity for public comment, EPA unexpectedly subjected the State of Texas to the full regulatory reach of CSAPR and then compounded the impact of this decision by imposing an utterly impracticable requirement that Texas sources comply with the rule by January 1, 2012, less than five months after its publication.

The imposition of CSAPR's new and draconian requirements on such an unreasonable schedule provides SPS with insufficient time to implement nearly all of the available control technology options. In the initial years of the CSAPR program (and especially in 2012), it leaves SPS with no choice but to run its electric system in a way it was never designed to run: to reduce dramatically the operation of its base load coal plants and commit to run its aging peaking and intermediate gas plants around the clock. As discussed in SPS's Initial Petition, this "system flip" operating plan would, at a minimum, result in a huge increase in customer energy costs—currently estimated to be as high as \$200 to \$250 million in 2012. That abrupt cost increase comes at a time when the U.S. economy is still reeling from the protracted economic slowdown.

More importantly, as also recognized by other utilities, reliability regions and states, this type of "system flip" also exposes SPS's customers to a substantially increased risk of electric system reliability problems. It could lead to blackouts. Utility systems are carefully planned and built with multiple redundancies to greatly reduce the possibility and scope of system emergencies or failures. These redundancies include, among other things, standby peaking power plants, power import capabilities, and power purchase options. These redundancies are reinforced by careful transmission system and network design. Under CSAPR, however, SPS would be forced to run the electric system in a way that cannibalizes these redundancies; SPS would need them to serve daily load and would not be able to reserve them for system emergencies.

In its Initial Petition, SPS outlined the severe nature of the "system flip" that would be required to meet the huge emission reductions that EPA has mandated for 2012. For that Initial Petition, SPS modeled a potential compliance scenario on an average load year, and pointed out that this analysis was far from a worst case scenario. In this Supplemental Petition, SPS discusses its additional analysis showing the impact of CSAPR on its ability to meet system load in more challenging years. In any year, system conditions are likely to deviate from the average. The SPS system has often experienced years where wind production is lower, temperature is hotter, or an unexpected plant or equipment outage occurs for an extended period of time. In fact, 2011 was such a year. This past summer, West Texas and Eastern New Mexico experienced record heat, and SPS's electricity was a lifeline for our customers. The loss of this electricity, even for a short period, would be devastating, and the CSAPR requirements unreasonably increase the potential for this risk to be realized.

CSAPR's short compliance deadline for Texas apparently grows from EPA's confidence in the outputs from its power dispatch computer models. In reliance on these models, EPA believes that SPS can comply with CSAPR merely by purchasing emission allowances placed on the market by yet-unrealized emission reductions at other utilities. While models may be useful as planning tools, they are no substitute for good judgment and common sense. They cannot predict the future with the certainty that EPA is apparently ascribing to them. In effect, EPA is asking SPS to be its agent for a high stakes environmental policy experiment, one that tests whether a constrained and complicated emissions trading program can, in just five months,

deliver both substantial emission reductions and reliable, cost effective power. If this experiment fails, it is the people of West Texas and Eastern New Mexico that will pay the price.

II. SUMMARY

In its Initial Petition, SPS emphasized the unreasonableness of EPA's belated decision to include Texas in the annual reduction programs for sulfur dioxide ("SO₂") and oxides of nitrogen ("NO_x") emissions under CSAPR and its unreasonably immediate compliance deadline of 2012. SPS filed its Initial Petition with the utmost urgency given the belated addition of Texas and the rapidly approaching compliance deadlines. In that Initial Petition, SPS noted that a second petition for reconsideration containing additional technical detail would likely follow once SPS had additional time to analyze the voluminous information placed into the docket with EPA's issuance of the final rule. This Supplemental Petition contains additional information that warrants reconsideration and stay of CSAPR as follows.

First, since submitting the Initial Petition, SPS has completed additional modeling to assess the impacts of 2012 CSAPR compliance on its system under conditions that deviate from the average. In the Initial Petition, SPS's model assumed average load, average outage rates and no extraordinary conditions. Even under average conditions, the model showed that an unprecedented "system flip" would be required for SPS to comply with CSAPR. In the new modeling presented in this Supplemental Petition, SPS has modeled two additional scenarios that vary from historical average conditions: a high-load scenario and an extended-outage scenario. Both scenarios assume that allowances will not be available from outside the SPS system for the reasons stated in the Initial Petition and confirmed in this Supplemental Petition. Under these very realistic scenarios, the SPS models cannot fully reconcile compliance with CSAPR with reliable system operations.

Second, SPS has identified critical errors and flaws in EPA's IPM modeling, which form the basis for the state emissions budgets. In particular, the IPM modeling is overly-simplistic in failing to account for constraints in intra-regional and inter-regional transmission capabilities, which in turn leads the model to predict impossible dispatch scenarios in the SPS system.

Finally, SPS has noted its additional concerns—beyond those already identified in the Initial Petition—with several legal flaws in CSAPR. SPS, like other parties that have filed petitions with EPA and the Court of Appeals, believes these flaws place the rule on highly questionable legal ground and warrant reconsideration. EPA erred in finding a linkage between Texas sources and PM_{2.5} nonattainment in Madison County, Illinois, given that EPA recently found Madison County to be attaining the 1997 PM_{2.5} national ambient air quality standard ("NAAQS"). EPA also used a flawed method for setting state budgets, which is unrelated to the state's actual contribution to downwind nonattainment and inconsistent with judicial direction in *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), *modified on rehearing*, 550 F.3d 1176 (D.C. Cir. 2008). Because these issues have been addressed by other petitioners, SPS has not given them lengthy discussion in this Supplemental Petition. However, SPS strongly believes that these issues warrant reconsideration of CSAPR.

In sum, this Supplemental Petition provides additional support for SPS's Initial Petition urging reconsideration and stay of the CSAPR's application to Texas. SPS re-asserts the arguments and evidence presented in its Initial Petition here, as well as its request for stay. For ease of reference, SPS attaches its Initial Petition as Attachment A to this Supplemental Petition.



Correspondence Management System

Control Number: AX-11-001-6858

Printing Date: October 11, 2011 03:36:42



Citizen Information

Citizen/Originator: **Shurden, Shawn**

Organization: Mississippi Public Service Commission
Address: 501 North West Street, Jackson, MS 39201

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-11-001-6858 **Alternate Number:** N/A
Status: Pending **Closed Date:** N/A
Due Date: Oct 25, 2011 **# of Extensions:** 0
Letter Date: Oct 5, 2011 **Received Date:** Oct 11, 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-Petition for Reconsideration of Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approval.

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	Oct 11, 2011	Oct 25, 2011	N/A
Instruction: DX-Respond directly to this citizen's questions, statements, or concerns					
Sabrina Hamilton	OAR	OAR-OAP	Oct 11, 2011	Oct 21, 2011	N/A
Instruction: DX - DIRECT REPLY - - PREPARE RESPONSE FOR THE SIGNATURE OF THE DIVISION DIRECTOR.					
Louise Staley	OAR-OAP	Trina Wilkerson	Oct 11, 2011	Oct 21, 2011	N/A
Instruction: N/A					

Supporting Information

Mississippi Public Service Commission



LYNN POSEY, Chairman
UNION CHURCH - FIRST DISTRICT
LEONARD L. BENTZ, Vice-Chairman
BILOXI - SECOND DISTRICT
BRANDON PRESLEY, Commissioner
NETTLETON - THIRD DISTRICT

BRIAN U. RAY
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KATHERINE COLLIER
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MARK McCARVER, DIR.
GAS PIPELINE SAFETY
SHAWN S. SHURDEN
COMMISSION COUNSEL

October 5, 2011

VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

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

RECEIVED
2011 OCT 11 AM 8:56
OFFICE OF THE
EXECUTIVE SECRETARY

RE: Petition for Reconsideration and Stay of Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 Fed. Reg. 48, 208 (Aug. 8, 2011); Docket No. EPA-HQ-OAR-2009-0491

Dear Administrator Jackson:

Enclosed for filing please find the Mississippi Public Service Commission's Petition for Reconsideration and Stay of the above-styled Final Rule as it relates to the State of Mississippi. Upon receipt, please file the Petition for Reconsideration and Stay in Docket No. EPA-HQ-OAR-2009-0491.

I have enclosed an extra cover page of the Petition for Reconsideration and Stay, along with a self-addressed, stamped envelope. Please have this cover page date-stamped and returned to me for the Commission's records.

I thank you and your staff for assistance with this matter. If there are any questions regarding this filing, please do not hesitate to contact me at 601-961-5497.

Sincerely,

A handwritten signature in blue ink, appearing to read "Shawn Shurden".

Shawn Shurden, Senior Attorney
Mississippi Public Service Commission

cc: Assistant Administrator Gina McCarthy
Ms. Sonja Rodman

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In re:

EPA Docket No.:

Federal Implementation Plans: Interstate
Transport of Fine Particulate Matter and
Ozone and Correction of SIP Approvals,
76 Fed. Reg. 48,208 (Aug. 8, 2011)

EPA-HQ-OAR-2009-0491

PETITION FOR RECONSIDERATION AND STAY

Pursuant to 5 U.S.C. § 705 and 42 U.S.C. § 7607(d)(7)(B), the Mississippi Public Service Commission (“MPSC”) requests reconsideration and an immediate stay of the above referenced rule (the “Final Rule”) as it applies to Mississippi.

INTRODUCTION

In August 2003, North America experienced an historic blackout that affected 50 million people in 8 Northeast states and Ontario, Canada. The blackout lasted two days, with a load shed of around 61,800 MW (megawatts). At least eleven people died, and the region suffered financial losses of \$4-\$10 billion. *See* Electricity Consumers Resource Council, *The Economic Impacts of the August 2003 Blackout*, (February 9, 2004).¹ Financial losses stemmed primarily from lost production as hundreds of thousands of workers were idled, disrupted deliveries, overtime wages for government disaster relief workers and commodity spoilage. The potential for a broader financial disaster loomed as eight oil refineries were forced to perform emergency shutdowns, threatening a gasoline shortage. *Id.*

The blackout also had serious environmental impacts. A leak of hydrocarbons and steam following a faulty emergency shutdown procedure at a Marathon Oil Corporation facility forced the evacuation of residents within a one mile radius. Also tied to the blackout were several chemical plant fires, with pluming black smoke, as well as a massive orange-gray cloud emanating from one burning steel plant. *Id.*

Negative health effects abounded. Instances of heat related illness skyrocketed, compounded by electric equipment failure at several hospitals. The loss of refrigeration at hospitals led to widespread vaccine and banked blood spoilage. Loss of home refrigeration resulted in spoilage of perishable foods, leading to increased instances of gastrointestinal disease and an increased rodent population. *See* Mark E. Beatty et al., *Blackout of 2003: Public Health Effects and Emergency Response*, 121 Public Health Rep. 36 – 44 (Jan. – Feb. 2006).

In response to the blackout, the U.S. - Canada Power System Outage Task Force was commissioned, issuing its report in February of 2004. The Task Force’s paramount recommendation sought to make industry reliability standards mandatory and

¹ <http://www.elcon.org/Documents/EconomicImpactsOfAugust2003Blackout.pdf>.

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In re:

EPA Docket No.:

Federal Implementation Plans: Interstate
Transport of Fine Particulate Matter and
Ozone and Correction of SIP Approvals,
76 Fed. Reg. 48,208 (Aug. 8, 2011)

EPA-HQ-OAR-2009-0491

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¹ <http://www.elcon.org/Documents/EconomicImpactsOfAugust2003Blackout.pdf>.

enforceable. U.S. – Canada Power System Outage Task Force, *Final Report on the August 14, 2003 Blackout in the United States and Canada: Causes and Recommendations* 140 (April 2004). Soon after, Congress responded with the Energy Policy Act of 2005. A key provision of EPAct was the expanded role for the Federal Energy Regulatory Commission (“FERC”) in the approval and enforcement of mandatory reliability planning standards for utilities or other entities that use the bulk power system. EPAct called on FERC to designate a self-regulated Electric Reliability Organization (“ERO”), which it did with the North American Electric Reliability Corporation (“NERC”). NERC reliability standards, which had been voluntary since 1965, were made mandatory on June 18, 2007. Penalties for standards violations can include restrictions on activities within the bulk power system, remedial actions to diffuse threats to system reliability, disgorgement of unjust profits, or fines of up to \$1 million per day. 123 FERC ¶ 61,156 (2008).

Despite the priority of resource adequacy and reliability, the EPA has failed to conduct any significant study of the effects of the Final Rule on system reliability. A fully implemented Final Rule likely will place Mississippi utilities in the untenable position of choosing between compliance with FERC reliability standards or EPA environmental standards. With the 2003 Blackout dramatically demonstrating the need for and importance of a reliable electric system, EPA’s dismissal of the matter is troubling.

Forcing an unnecessary choice between FERC compliance and EPA compliance is irresponsible. NERC standards have worked well and represent progress toward a more reliable electric system. For example, 2011 saw record setting heat in the South. According to the National Oceanic and Atmospheric Administration, Mississippi experienced the 12th hottest July on record and the 18th hottest August since records were kept. Across the South, July was the warmest single calendar month ever recorded for the region. *See NOAA, State of the Climate National Overview, (2011).*² One Mississippi utility set a peak load record on August 3, 2011; while another system operated at 97% of budgeted load, bringing 80% of its generating capacity on-line to meet load requirements.

Resource adequacy built into the system sufficed to avoid any load shedding events. The Final Rule would require Mississippi to curtail roughly 46% of its capacity. If that were the result, a summer like the past would lead to load shed in Mississippi. The MPSC’s interest in asking for reconsideration and an immediate stay lies in its charge to assure that Mississippians have *reliable* power at the lowest reasonable cost. The Final Rule risks undoing the progress made by FERC, making the nations electric system more vulnerable to load shed and exposing ratepayers to sharply rising costs for energy.

STANDARDS FOR RECONSIDERATION AND STAY

The Clean Air Act (“CAA”) requires the Administrator to reconsider the Final Rule if Mississippi can show two things: 1) that it is was either impracticable to raise the

² <http://www.ncdc.noaa.gov/sotc/national/2011>.

objection during the comment period or that the grounds for the objection arose after the close of the period for public comment; and 2) that the objection is of central relevance to the outcome of the Final Rule. 42 U.S.C. § 7607(d)(7)(B).

The MPSC satisfies the first showing because the Final Rule differed so significantly from the Proposed Rule both in regards to the state budget and the time for implementation that the MPSC could not have raised its concerns for the reliability of the electric system within the appropriate time period. The MPSC satisfies the second showing because its objections to the Final Rule relate directly to the calculation of the State's budget and the truncated implementation schedule. Further, the MPSC has identified several legal flaws that place in jeopardy the legal validity of the Rule; thus, Mississippi's objections are of central relevance to the outcome of the Final Rule.

Given the various factual and legal flaws with the Final Rule, the Administrator should stay the effective date and implementation of the Rule. Upon a finding "that justice so requires," the EPA can stay implementation of the Final Rule pending judicial review.³ 5 U.S.C. § 705. Setting aside the very real threat of blackouts, should the Final Rule become effective, absent a stay, Mississippi utilities will undertake immediate and costly steps to comply with the Final Rule. The utilities will pass these costs on to Mississippi ratepayers, who will pay the price whether the Rule changes or remains the same. Unlike taxes, everyone pays electricity bills; thus, without a stay, the costs of complying with the Final Rule, even before the completion of judicial review, will be passed on to every citizen. Because everyone pays rates, the costs imposed by the EPA will be born disproportionately by those least able to afford it.

DISCUSSION

The MPSC respectfully requests that the EPA reconsider the Final Rule and stay its implementation pending judicial review as it relates to Mississippi's inclusion in the seasonal ozone program. The unrealistic and deeply flawed state budget for summer NO_x emissions, in conjunction with the impossible compliance date, will require Mississippi utilities to shutter or de-rate approximately 46% of the State's electric generating capacity. The sudden and dramatic unavailability of local capacity will degrade the reliability of the system. In the absence of local generation, transmission will become congested and imbalanced, leading to load shedding events. In simple terms, people will not have electricity because the transmission system will not be able to deliver power.

Apart from reliability, Mississippians will be harmed by the Final Rule, especially if compliance is required by May 2012. Mississippi, like many states, grants its electricity utilities monopoly status. In exchange for exclusive rights to serve a defined area, a utility promises to provide reliable power at the lowest, reasonable cost to ratepayers. Under this regulatory model, all prudently incurred costs are passed to the ratepayers. If the Final Rule is not stayed, ratepayers will bear the cost of compliance, whether the Final Rule changes or remains the same. To avoid unnecessarily taxing

³ Additionally, the Administrator can grant a three-month stay pending reconsideration under 42 U.S.C. § 7607(d)(7)(B).

those that can least afford it, the EPA should stay implementation of the Final Rule pending judicial review or agency reconsideration, whichever is longer.

I. The Final Rule is not a logical outgrowth of the Proposed Rule.

Given the unrealistic state budget numbers and the unattainable May 2012 implementation date, the Final Rule will cause an unprecedented shift in generation dispatch, leading to an unreliable electric system. Just as the Final Rule does not reflect reality, the Proposed Rule was not a fair precursor of the Final Rule. “Given the strictures of notice-and-comment rulemaking, an agency’s proposed rule and its final rule may differ only insofar as the latter is a ‘logical outgrowth’ of the former.” *Envil. Integrity Project v. EPA*, 425 F.3d 992, 996 (D.C. Cir. 2005). A “final rule is a ‘logical outgrowth’ of a proposed rule only if interested parties should have anticipated that the change was possible, and thus reasonably should have filed their comments on the subject during the notice-and-comment period.” *Id.* at 998. The EPA cannot “use the rulemaking process to pull a surprise switcheroo on regulated entities.” *Id.*

Apart from strict notice-and-comment requirements, a court will find the EPA’s determinations arbitrary and capricious if the agency

has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.

North Carolina v. EPA, 531 F.3d 896, 906 (D.C. Cir. 2008) (quoting *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). Applying this standard to the EPA’s use of modeling, the D.C. Circuit explained that “it is only when the model bears no rational relationship to the characteristics of the data to which it is applied that we will hold that the use of the model was arbitrary and capricious.” *Appalachian Power Co. v. EPA*, 249 F.3d 1032, 1052 (D.C. Cir. 2001) (quoting *Appalachian Power Co. v. EPA*, 135 F.3d 791, 802 (D.C. Cir. 1998)).

The EPA has power to use predictive modeling “so long as it ‘explain[s] the assumptions and methodology used in preparing the model’ and ‘provide[s] a complete analytic defense’ should the model be challenged.” *Appalachian Power*, 249 F.3d at 1052 (quoting *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 535 (D.C. Cir. 1983)). Modeling, however, must yield to reality. “While courts routinely defer to agency modeling of complex phenomena, model assumptions must have a ‘rational relationship’ to the real world.” *Appalachian Power*, 249 F.3d at 1053; see *NRDC v. Jackson*, 650 F.3d 662, 2011 WL 2410398, at *3 (7th Cir. 2011) (“The way to test a model is to compare its projection against real outcomes. . . . An agency that clings to predictions rather than performing readily available tests may run into trouble.”).

In *Appalachian Power*, the D.C. Circuit reviewed the EPA's final rule to control NO_x emissions from stationary sources under § 126 of the CAA. 249 F.3d at 1036. In creating state-specific emissions budgets, the EPA used the Integrated Planning Model ("IPM") to project EGU utilization for 2007 by taking the actual EGU utilization for 1996 or 1997 and applying a "growth factor." *Id.* at 1053. Strikingly, the IPM predicted facility utilization for 2007 that was *lower* than the actual facility utilization in 1998. *Id.* The Court observed that

[i]n Michigan and West Virginia, for example, actual utilization in 1998 already exceeded the EPA's projected levels for 2007. This, on its face, raises questions about the reliability of the EPA's projections. While courts routinely defer to agency modeling of complex phenomena, model assumptions must have a "rational relationship" to the real world.

Id. In remanding the issue to the EPA "so that the agency may fulfill its obligation to engage in *reasoned* decisionmaking," the Court found that "the EPA has not fully explained the bases upon which it chose to use one set of growth-rate projections for costs and another for budgets, nor has it addressed what appear to be stark disparities between its projections and real world observations." *Id.* at 1054 (emphasis in original).

Here, the MPSC did not have adequate notice and a real or practical opportunity to comment or raise objections because the proposed state budgets and the uncapped trading program (which differed so drastically in the Final Rule) would not have alarmed state utility regulators. Mississippi's NO_x emissions budget in the Proposed Rule for the seasonal ozone program was 16,530 tons, a more realistic reflection of Mississippi's actual 2010 emissions of approximately 16,089 tons. While cost to ratepayers is always a concern, the emissions budget in conjunction with an unrestricted trading program would not have piqued the MPSC's fears of unreliability, the reasons for which are so obvious in the Final Rule.

Like the MPSC, the Office of Management and Budget ("OMB") was taken aback by the changes wrought in the Final Rule:

It is unclear if states and affected facilities will be prepared for a January 1, 2012 start date, especially given other changes that EPA is making in the draft final rule. For instance, **modeling results used in the final rule are substantially different than those in the original August 2, 2010 Proposed Rule and subsequent notices.** Six (6) States are being dropped from the proposed rule; Texas is being added; 3 States have their SO₂ Group status change; and the sheer magnitude of change to the budgets of all of the states results in a significantly different rule than originally proposed.

(OMB, *Summary of Interagency Working Comments on Draft Language under EO 12866 Interagency Review*, ¶ E, p. 11.)

As observed by OMB, neither the Proposed Rule nor subsequent Notices of Data Availability alerted interested parties of the drastic re-working of state budgets. Consequently, it was not only impractical for the MPSC to object, but it was actually impossible. Moreover, because the “substantially different” state budgets were finalized and presented after the close of the public comment period, the grounds for MPSC’s objections necessarily arose after such time.

A closer look at some representative results exemplifies the magnitude of the changed Rule and its disassociation from reality. Mississippi’s seasonal NO_x budget crafted for the Final Rule and effective May 2012 is 10,160 tons, a reduction of nearly 37% from actual 2010 levels of 16,089 tons. Additionally, the IPM base case run for the Final Rule removed 94 TBtu heat input from Mississippi’s actual 2010 heat input of 205 TBtu.⁴ Stated differently, while Mississippi converted fuel to energy at 205 TBtu in 2010, the IPM base case projected Mississippi’s heat input for 2012 at approximately 111 TBtu. (Ex. A, attached hereto). **This 46% reduction in heat input effectively translates to a 46% reduction in local generation.**

Below, Table 1 shows those Mississippi EGUs that were essentially “zeroed out,” or taken out of service, in the base case compared to their actual heat inputs for 2010.

TABLE 1

Out of Service Facilities in IPM 2012 Base Case

Plant Name	Plant Type	Unit ID	Capacity (MW)	2010 Ozone Season Heat Input (mmBtu)
Baxter Wilson	O/G Steam	1	475	11,233,893
Baxter Wilson	O/G Steam	2	771	6,651,216
Crossroads Energy Center	Combustion Turbine	CT01	77	78,982
Crossroads Energy Center	Combustion Turbine	CT02	77	74,870
Crossroads Energy Center	Combustion Turbine	CT03	77	68,478
Crossroads Energy Center	Combustion Turbine	CT04	77	66,758
Delta	O/G Steam	1	104	21,210
Delta	O/G Steam	2	103	74,222
Gerald Andrus	O/G Steam	1	670	13,424,790
Jack Watson	O/G Steam	1	76	109
Jack Watson	O/G Steam	2	76	9,342
Jack Watson	O/G Steam	3	107	0
Moselle	O/G Steam	1	59	545,684
Moselle	O/G Steam	2	59	400,284
Moselle	O/G Steam	3	59	494,797
Natchez	O/G Steam	1	73	0

⁴ The “TBtu” acronym represents “trillion British thermal units” and “mmBtu,” as presented in Table 1, represents “million metric British thermal units.”

Rex Brown	O/G Steam	1A	36	0
Rex Brown	O/G Steam	3	68	0
Rex Brown	O/G Steam	4	200	2,033,018
Sweatt	O/G Steam	1	46	22,500
Sweatt	O/G Steam	2	46	21,834
Sylvarena	Combustion Turbine	1	43	176,934
Sylvarena	Combustion Turbine	2	43	253,604
Sylvarena	Combustion Turbine	3	43	241,804
Totals			3465	35,894,329

Again, Table 1 shows *only* those units that were taken out of service by the final base case; a plant by plant comparison is attached as Exhibit A to this Petition. Of the 24 units that were retired under the base case, all but 4 actually ran during the 2010 ozone season. Alarming, the units at Baxter Wilson, Gerald Andrus, Moselle and Rex Brown are critical to grid stability within their respective systems, serving consistent native load and absolutely necessary to balance the systems and maintain reliability.

The EPA has repeated the errors it made in *Appalachian Power* because the Final Rule and underlying base case are divorced from reality. The base case, which is intended to reflect real-world economic decisions, fails in this instance. But for this Rule, Mississippi utilities would have no intention to shutter nearly half of their fleet by May 2012. Like the inexplicable IPM growth rate predictions in *Appalachian Power*, the base case emissions projections and heat input reductions are erroneous on their face. The EPA has not and cannot explain why or how Mississippi utilities would reduce their NO_x emissions by 37% and their local generation by an even more astounding 46% from 2010 to 2012.

After the fact, EPA appears to attribute the dramatic changes in state NO_x budgets to an unexplained “combination of modeling updates, including lower natural gas prices, reduced electricity demand, newly modeled consent decrees and state rules, and updated NO_x rate to reflect 2009 emissions data.” 76 Fed. Reg. 152, 48251. As to Mississippi, there are no applicable consent decrees or state rules; no modeling performed by utilities in proceedings before the MPSC have indicated lower natural gas prices than presently enjoyed; most assuredly, no projections show reduced electricity demand⁵; and as shown above, the emissions rates and heat input (a fair proxy for demand) for 2010 are far in excess of the projected emissions and heat input for 2012. EPA’s limited explanation, offered *after* the Final Rule, is not adequate to defend the drastic reduction of Mississippi’s proposed state budget and cannot satisfy the required notice-and-comment mandated by federal law.

EPA’s cavalier dismissal of the IPM’s clear divergence from reality falls short of offering a real explanation of the model’s assumptions and methodology or “a complete

⁵ See generally MPSC Docket Nos. 2008-AD-158 (Generation Needs Docket), 2009-UA-14 (Kemper County IGCC Project Certificate Docket), 2009-UA-260 (Grand Gulf Nuclear Facility Uprate Certificate Docket).

analytic defense” of the model and its results. *Appalachian Power*, 249 F.3d at 1052 (quoting *Small Refiner*, 705 F.2d at 535). Having no meaningful basis in reality, Mississippi’s state budget under the Final Rule is not a logical outgrowth of the Proposed Rule and has no rational relationship to the real world.

II. CSAPR forces utilities to reduce emissions by curtailing generation.

Mississippi utilities cannot comply with the Final Rule by May 2012 through the construction of additional emission controls and/or the purchase of allowance credits in a NO_x emission trading market. The addition of NO_x emission controls on the affected Mississippi EGUs sufficient for compliance cannot be permitted and constructed by May 2012. Additionally, a viable trading market will not exist due to deficient emission budgets and accelerating implementation of the assurance provision from 2014, as originally proposed, to 2012. Under rationally-predicted market and weather conditions, and based on historic conditions of load demand, Mississippi utilities will have no choice but to curtail generation during the summer of 2012.

Offering no real options, the EPA’s directive to curtail generation runs afoul of the D.C. Circuit Court’s repeated admonishment that the CAA “does not permit the agency to require the state to pass legislation or issue regulations containing control measures of the EPA’s choosing.” *Virginia v. EPA*, 108 F.3d 1397, 1408 (D.C. Cir. 1997). Even where the EPA sets out state budgets and trading programs, the State must have “real choice” among compliance options. *Michigan*, 213 F.3d at 687. As explained by the *Michigan* Court:

Given the *Train* and *Virginia* precedent, the validity of the NO_x budget program underlying the SIP call depends in part on whether the program in effect constitutes an EPA-imposed control measure or emission limitation triggering the *Train-Virginia* federalism bar: in other words, on whether the program constitutes an impermissible source-specific means rather than a permissible end goal. However, the program's validity also depends on whether EPA's budgets allow the covered states real choice with regard to the control measure options available to them to meet the budget requirements.

Id. The Final Rule offers no choice short of curtailing local generation.

A. Mississippi utilities cannot permit and construct NO_x emission controls in 8 months.

The Final Rule assumes Mississippi utilities will be able to install NO_x emission controls by May 2012. The EPA concluded that certain controls such as low-NO_x burners, overfire air and SNCRs could be installed prior to the beginning of the compliance period. 76 Fed. Reg. 48,280. However, the EPA NO_x emission control installation analysis is flawed.

The EPA based its analysis on installation of NO_x emission controls on coal units. 76 Fed. Reg. 48,279-81. However, many of the EGU's removed from the base case are **gas fired** units. Emission controls such as low-NO_x burners and SNCR's are not as common on gas units. Therefore, utilities must comprehensively evaluate whether these controls will be economic and effective. For example, Entergy Mississippi, Inc. ("EMI") is assessing whether to install low NO_x burners on the Gerald Andrus units. Low NO_x burners, however, are not implemented often for gas units. Thus, EMI must evaluate within eight months how low NO_x burners will affect the performance of the units. EMI is also evaluating the possibility of installing a SNCR on the Gerald Andrus units. Unlike coal units, though, limited historical analysis exists for installing SNCRs on gas units, and the effect on the performance of the unit is uncertain. For the Baxter Wilson units, EMI is evaluating whether to install Burners-Out-Of-Service ("BOOS"). The BOOS will affect the ramp rates of the Baxter Wilson units, which poses yet another hurdle. The ability to ramp up or down quickly is the primary benefit the Baxter Wilson units provide to the EMI generating fleet.

The EPA failed to consider the cumulative impact of multiple units on a system requiring emission controls within an eight month time frame. During significant portions of the installation of emission controls units must be shut down; thus, a utility will have to schedule an outage of that unit for installation. One Mississippi utility anticipates that NO_x emission controls must be installed on 9 to 13 units during the 8 month time frame. These outages must be scheduled cautiously in order for the system to effectively serve its native load and ensure reliability of the transmission system. It is unlikely that Mississippi utilities can manage the necessary installation on the schedule set forth by the Final Rule.

The EPA also failed to consider that decisions regarding the addition of emission controls cannot be made in a vacuum. Utilities must determine how to comply with CSAPR while also achieving and maintaining compliance with all of EPA's rules. For example, South Mississippi Electric Power Association ("SMEPA") is evaluating the installation of SNCRs and/or low NO_x burners in addition to other options to ensure the availability and reliability of the Plant Morrow capacity, yet meet the restrictions to plant operation as a result of CSAPR. The HAPS MACT final rule which is set to be issued in November 2011 will play a part in the economic evaluation related to installing controls on Plant Morrow. SMEPA's prudence in trying to comply with all of EPA's upcoming rules should not be thwarted.

Further, the Proposed Rule provided no notice that Mississippi utilities would need to evaluate the ability to have additional NO_x emission controls installed by May 2012. The EPA stated that implementation of controls would be possible especially for those "early movers" who have initiated projects based on the Proposed Rule. 76 Fed. Reg. 48,281. Mississippi utilities had no reason to be an early mover. The state budget of 16,530 tons in the proposed rule was realistic compared to Mississippi's actual emission of approximately 16,089 tons in 2010. Moreover, Mississippi was under the assumption that unlimited interstate trading would exist until implementation of the assurance provision in May 2014.

Finally, EPA appears to assume that controls will not require a permit from state regulatory authorities prior to construction. State law requires that a public utility receive a Certificate of Public Convenience and Necessity from the Commission before the utility may begin construction of an addition to a generating facility. The most recent petition for a CCN for environmental controls was Mississippi Power Company's petition to construct a scrubber for Plant Daniel Units 1 and 2. MPSC anticipates that it will issue a final order no earlier than December 2011. If that is the case, it will have been 1.5 years since the petition was initially filed, with actual construction anticipated to take 18 months. The MPSC has the statutory duty to ensure that the public convenience and necessity requires the addition of environmental controls to generating units under its jurisdiction. Certain pollution control projects also may require environmental permits, which can take several months to obtain (or longer if contested).

Even in a perfect world the construction process alone for most of the control measures identified would take between 10-18 months; yet, the Final Rule does not create a perfect world. Rather, the Final Rule creates immediate increased demand for the resources and labor needed to comply in an artificially constrained period. Decreased supply could extend and delay construction and will certainly increase costs.

B. A NO_x allowance trading program does not exist nor will a robust trading market come to fruition.

According to the EPA, individual sources may comply through other measures such as purchasing additional allowances if installation takes longer than expected for a given combustion control. 76 Fed. Reg. 152, 48,280. Unfortunately, Mississippi utilities will not be able to comply through the interstate trading program. The accelerated implementation of the state assurance provision to May 2012 combined with the reduced allocations in the Final Rule eviscerates the interstate trading program.

The assurance provision ensures that the necessary emission reductions occur within each covered state. The assurance provision restricts the emissions within each state to the state's budget plus the variability limit; thus, Mississippi's emissions (total sum of EGU emissions) must not exceed the state budget plus variability limit. For Mississippi, it must not exceed 12,294 tons. If a state exceeds the state assurance level, the EPA will then identify which utility exceeded its individual assurance level. The public utility that has emissions greater than its assurance level will be required to surrender one allowance as an offset and one allowance as an excess emissions penalty for each ton of emissions in excess of the amount of allowances held. The utility would also be subject to a discretionary civil penalty as well.

Mississippi's state emission assurance level was cut by 25% compared to Mississippi's actual 2010 NO_x emissions. The state assurance level is 12,294 tons while Mississippi's 2010 ozone season NO_x emissions were 16,089 tons. Unquestionably, a trading market will not exist inside Mississippi. It is inconceivable to expect that allowances will be available for trading among Mississippi due to EPA's severe reduction in allowances afforded to the State by the Final Rule. Furthermore, Mississippi utilities will be hesitant to purchase allowances available from utilities in other states due to the

risk of exceeding the variability limit and triggering the assurance provisions.⁶ Astonishingly, the EPA readily admits the “catch-22” placed upon the utilities:

In making compliance decisions and determining to what extent to rely on purchased or banked allowances, owners and operators will have to take into account the risk of triggering the assurance provisions in the state involved and of incurring significant assurance provision penalties.

76 Fed. Reg. at 48,295.

Even if the chilling effect of the assurance provision ceased to exist until 2014 instead of 2012, the substantial cuts in NO_x emission allocations to the states in the seasonal NO_x program would keep a viable interstate trading market from becoming a reality. For seasonal NO_x emissions, 14 states face budget reductions ranging from 0.70% to 51% with an average of 18% for the affected states. When the state budgets are compared to actual 2010 season NO_x emissions, the severity of the cuts crystallizes. Total 2010 seasonal NO_x emissions for states under the Rule were 585,566 while the 2012 total budget is 495,314. Regardless of when the assurance provision begins, there are not enough allowances for a viable market to exist in May 2012.

The OMB accurately summarized the problem:

While each of the components (the variability limits, the allocation rule, and the assurance mechanism) may appear reasonable in isolation, in combination they appear very likely to stifle the development of an emissions market and undermine the scheme’s cost-effectiveness.

(OMB, *supra*, at ¶ E, p. 7.)

The reduced allocation budgets in the final rule combined with acceleration of the implementation of the assurance provision program to 2012 leaves no option for Mississippi utilities to comply with the Final Rule by May 2012. Mississippi utilities will be forced to curtail generation by a draconian 46% during the summer of 2012.

The EPA’s decision to foreclose state options and to impose the Final Rule through a Federal Implementation Plan (“FIP”) engenders a serious legal challenge.⁷ The CAA provides that states bear the primary responsibility for assuring air quality within each state. 42 U.S.C. §§ 7401(a)(3) and 7407(a). Once the EPA promulgates air quality standards, each state subject to the rule must submit a State Implementation Plan (“SIP”) setting out the means to achieve the required outcome. 42 U.S.C. § 7410(a)(1). If the EPA determines that a SIP is deficient, within two years of such determination, the EPA

⁶ The OMB echoes the logic that the assurance mechanism will severely limit trading. “It is hard to imagine, for example, that a regulated utility would choose to comply by leaving its emissions uncontrolled and covering those emissions with purchased allowances, because that would leave it exposed to the risk of higher-than-expected emissions and a steep penalty.” OMB, *supra*, at ¶ E, p. 6.

⁷ The MPSC incorporates and adopts by reference the FIP First arguments regarding the Final Rule as presented by Luminant Generation Company, “Request for Partial Reconsideration and Stay of EPA’s Final Rule” filed August 5, 2011; and Wisconsin Public Service Corporation, “Petition for Reconsideration and Request to Stay the Final Rule” filed September 23, 2011.

may issue a FIP, provided that the state has not corrected the noted deficiency. 42 U.S.C. § 7410(c)(1)(A), (B). Prior to imposing a FIP, however, the EPA must give the state a chance to revise its plan to correct any inadequacies through what is referred to as a “SIP Call.” 42 U.S.C. § 7410(k)(5); *see Michigan*, 213 F.3d at 671 (describing SIP call).

The interplay, or “cooperative federalism,” between the states and the EPA has been explained by the D.C. Circuit Court, as follows:

[T]he Clean Air Act creates a partnership between the states and the federal government. The state proposes, the EPA disposes. The federal government through the EPA determines the ends—the standards of air quality—but Congress has given the states the initiative and a broad responsibility regarding the means to achieve those ends through state implementation plans and timetables of compliance.... The Clean Air Act is an experiment in federalism, and the EPA may not run roughshod over the procedural prerogatives that the Act has reserved to the states, ... especially when, as in this case, the agency is overriding state policy.

Virginia, 108 F.3d at 1408 (quoting *Bethlehem Steel Corp. v. Gorsuch*, 742 F.2d 1028, 1037-38 (7th Cir. 1984)).

In the present context, under the “good neighbor” provision of the CAA, the EPA must first quantify the emissions within a state that significantly contribute or interfere with maintenance of air quality standards in another state. The EPA purported to determine significant contributions or interference with maintenance in the Final Rule; therefore, a state could not submit a SIP that would address the EPA’s determination until after the Final Rule was promulgated.

Here, the EPA went straight to a FIP. Beyond the clear departure from the CAA, the MPSC notes that the *North Carolina* Court deemed CAIR deficient⁸, prompting the EPA to abandon CAIR and promulgate CSAPR as a replacement; thus, there was no basis for a SIP prior to the Final Rule. The Final Rule offers Mississippi its first chance to craft a responsive SIP.

Neither Mississippi, nor any other state, has had the full opportunity to submit a SIP relevant to the Final Rule. *See* 42 U.S.C. § 7410(a)(1) (“Each State *shall* . . . adopt and submit to the Administrator . . . a plan[.]” (emphasis added)). Because Mississippi has not had the chance to submit a SIP, the EPA cannot make the requisite findings (failure to file a plan/revision, filing a deficient plan/revision or disapproval of a plan) that would trigger the EPA’s secondary authority to issue a FIP. *See* 42 U.S.C. § 7410(c)(1)(A), (B) (“The Administrator shall promulgate a [FIP] . . . *after* the Administrator--finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria . . . or disapproves a State implementation plan submission in whole or in part[.]” (emphasis

⁸ “CAIR’s flaws are deep. No amount of tinkering with the rule or revising of the explanations will transform CAIR, as written, into an acceptable rule.” *North Carolina*, 531 F.3d at 930.

added)). As a result, the EPA has violated the plain language of the CAA and has run afoul of the D.C. Circuit Court's admonishment to allow states "real choice" among compliance options. *Michigan*, 213 F.3d at 687.

III. CSAPR renders Mississippi's electric system unreliable.

If Mississippi generation is curtailed by 46%, as presented in the Final Rule, transmission will become congested and imbalanced, leading to load shedding events. In simple terms, people will not have electricity because the transmission system will not be able to deliver it. Setting aside the irrational and unrealistic curtailment of emissions and heat input projected by the base case, the MPSC does not think that Mississippi's utilities will be able to reliably serve their ratepayers if the Final Rule goes into effect.

The IPM base case seeks to predict EGU emissions based on speculative market-driven decisions. While the IPM pays lip-service to the concept of reliability, the model treats reliability in a cursory, and largely economic, fashion. For example, the IPM explains in its modeling framework for Transmission Decision Variables and Transmission Constraints, as follows:

IPM includes decision variables representing the electricity transmission along each transmission link between model *regions* in each run year. In the objective function, these variables are multiplied by variable transmission cost rates to obtain in the total cost of transmission across each link.

* * *

IPM can simultaneously model any number of *regions* linked by transmission lines. The constraints define either a maximum capacity on each link, or a maximum level of transmission on two or more links (joint limits) to different *regions*.

(Documentation for EPA Base Case v.4.10 Using the Integrated Planning Model, §§ 2.2.2, 2.2.3, pp. 2-4, 2-3, Aug. 2010) (emphasis added.)

The IPM focuses on the economics associated with moving power between regions. In fact, the IPM assumes a perfect transmission world once power passes through known regional "bottlenecks." Even assuming that the IPM's assumptions regarding regional transmission capacity are correct (which they are not)⁹, intra-regional and more local constraints play an even greater role in relation to reliability and deliverability.

⁹ The Eastern Interconnection Planning Collaborative ("EIPC") is conducting an ongoing study of the reliability of the Eastern Interconnection electric grid. The EIPC study results indicate that the energy transfer capability between regions external to the defined Entergy Region are significantly lower than those assumed in the IPM. Even the EIPC results may be exaggerated because they take into account future, but not yet constructed, transmission projects extending to the 2020 horizon.

The IPM ignores local transmission constraints and “must run” generation. The utility industry has a saying: “Transmission is built with generation in mind.” Generally speaking, generation is built as close as practicable to the load it will serve. Transmission then runs from the generation to the load. The farther away load is from generation the more costly and difficult it becomes to reliably deliver electricity to load. The farther electricity must travel from its generation the greater the need for higher voltage transmission. At certain distances, “line losses” become unacceptable, and electricity cannot be reliably delivered. Well-placed generation improves the overall operational efficiency and reliability of the transmission system.

For example, assume you have a single, 100’ string of Christmas lights. If you plug that string into a single outlet, the bulb nearest the outlet will burn brighter than the bulb at the opposite end of the long string. If you have five, 20’ strings of lights and you plug each string into its own outlet (voltage source), then the five bulbs at the remote ends of the strings will burn brighter than the single bulb at the end of the 100’ string. So it is with generation, transmission and the reliable delivery of power. The location of generation (system voltage support) matters because it supplies needed voltage support at specific locations on the transmission system allowing delivery of electricity to load in a more efficient and reliable manner.

SMEPA provides a working example. SMEPA is a non-profit electric cooperative that provides generation and transmission service to its eleven Member distribution cooperatives located throughout rural Mississippi. SMEPA operates a generation and transmission system (“G&T area”) that serves as a NERC Balancing Authority and is interconnected with four neighboring utilities through six transmission interconnections.

The Final Rule will effectively require SMEPA-owned generation to reduce NO_x emissions by approximately 70% from the actual 2010 ozone season emissions, correlating to a 32% curtailment of generation within SMEPA’s G&T area. The impact of the Final Rule on two SMEPA-owned facilities, Plants Morrow and Moselle, is of particular concern. The Final Rule’s impact on these two facilities is significant due to the limited generation located within the G&T area and the limited transfer capability into the G&T area from neighboring utilities. The loss or reduction of generation from either or both plants is detrimental to SMEPA and its customers from both a system reliability and economics standpoint due to the plants’ contributions to the reliable operation of the SMEPA Balancing Authority.

Plant Moselle is located in the geographic center of SMEPA’s transmission system and provides necessary voltage support to the 69kV portion of the transmission system and regulation for the SMEPA Balancing Authority. The design of the transmission system includes properly placing generation resources capable of providing necessary reactive (voltage) support to the system. Without the voltage support provided by generation at Plant Moselle during the summer peak season, low voltage conditions will occur at remote ends of the transmission system during normal operating and

contingency outage conditions (the Christmas lights example above). Due to its geographic location and the transmission configuration, generation at Plant Moselle is considered “must run” during peak system loading conditions.

Plant Morrow is the largest and most efficient generation resource within SMEPA’s G&T area and provides necessary voltage support and regulation for the 161kV transmission system and the SMEPA Balancing Authority. Without the voltage support from Plant Morrow during summer peak conditions, low voltage can result on SMEPA’s 161kV transmission system during both normal and contingency outage conditions. Plant Morrow and Plant Moselle provide more than 82% of the dynamic reactive reserves required for the G&T system.

In addition to providing voltage support and regulation to the SMEPA system, units at Plant Morrow and Plant Moselle combined to provide 64% of the generation capacity within the G&T area. The loss or reduction in capability of either facility will cause SMEPA to be capacity deficient in resources required to reliably serve load in its Member systems.

In the Final Rule’s base case, Plant Moselle was effectively “retired,” and Plant Morrow’s emissions were reduced by 66%, even though both plants ran as required in 2010, continue to run as needed, and are projected to operate at capacity factors important to system operations and reliability in 2012.

The Final Rule and its base case detrimentally affect the reliability of small and large systems alike. Entergy Mississippi Incorporated (“EMI”) is a large, diversified utility within the even larger Entergy Corporation system of operating companies. Given the historical development and geographical features within the Entergy Electric System, certain sub-regions or “load pockets” were identified for planning and operational purposes. Load pockets are areas of the system that must be served in part by the transmission system but are dependent on local generation to serve the entire load within the load pocket, similar to the SMEPA G&T area example above. Given these constraints, the Entergy Transmission System evolved to comprise local generation and transmission serving sub-regions linked together by an extra high voltage grid (500kV). Reliable operation of the Entergy Electric System relies on close coordination of the power generated by the local generation facilities and the available internal transmission capability to move energy reliably between sub-regions.

One such sub-region exists around the Jackson, Mississippi, metropolitan area. At certain load levels and in the absence of local generation, the loss of 500kV autotransformers will cause other autotransformers to exceed their thermal ratings, causing possible multiple failures. Consequently, Rex Brown Unit 4 is designated as a “must run” unit for reliability.

Two plants, Gerald Andrus and Baxter Wilson, are not only critical to serving native load within EMI, but also in producing counterflow that allows efficient combined cycle units to generate in northern Louisiana and central Mississippi. Loss of EMI

generating units as modeled by the IPM could reduce the dispatch of CCGT units in other states, thus reducing flexibility to respond to load demand. The negative impact will likely be felt across the Entergy Transmission System, as well as TVA and Southern Company systems.

In the Final Rule's base case, Rex Brown, Gerald Andrus and Baxter Wilson were all effectively "retired," even though each plant ran as required in 2010, continues to run as needed, and is projected to operate at capacity factors important to system operations and reliability in 2012.

The assumed ability to purchase and deliver power from outside a system to any point within a system ignores reality. Even assuming such a perfect world exists (as does the IPM), purchased power cannot adequately replace local generation for purposes of reliability. Such assumptions ignore the need to maintain voltage support and balance a system. Even if planning reserves and reserve margins could be met through purchased power and firm transmission agreements, this mode of operation would expose a system to regional, intra-regional and local transmission constraints while placing one system's duty to reliably deliver power in the hands of a stranger. Further, the ability of a system to plan its operating reserves on a day-ahead or real-time basis would greatly diminish. A system's ability to turn generation up or down as the situation dictated would be degraded.

Overreliance on transmission to the detriment of local generation exposes a system to greater reliability risks related to "normal" emergencies, such as inclement weather. For example, one public utility had to take 46 transmission lines out of service for varying lengths of time in April 2011. These losses were not due to hurricanes, ice storms or tornados but rather, attributable only to normal "severe spring weather events" that the South and other parts of the country routinely experience. Without adequate local generation, transmission cannot reliably deliver power as needed.

Interested parties are not exaggerating their concerns related to the reliability of the nation's electric grid. Southwest Power Pool, Inc. ("SPP"), a Regional Transmission Organization ("RTO") has warned the EPA that compliance with CSAPR would place it in violation of FERC/NERC reliability standards and could lead to cascading outages like those experienced in 2003 or more localized rolling blackouts or load-shedding events. (SPP letter to Administrator dated Sept. 20, 2011, attached hereto as Ex. B.) Electric Reliability Council of Texas, Inc. ("ERCOT"), another RTO, has expressed similar concerns. (State of Texas, Pet. for Recon. and Stay, Sept. 8, 2011, Ex. A.)

In a letter to FERC Chairman Jon Wellinghoff, Senator Lisa Murkowski, Ranking Member of the Committee on Energy and Natural Resources, explained, as follows:

Today's transmission systems do not allow for seamless transfer of power from any point in the country to another. Instead, as the Commission has pointed out time and again, our electric systems are in regions and sub-regions with singular characteristics. Often reliability in a particular sub-region or local control area

comes down to a specific plant or plants or one or more transmission lines. A failure at that level can result in a local outage, even though ample generating capacity may be available across the region or across the nation as a whole. The risks are more acute in areas of the country where generating capacity is located far from load centers. These overall risks, if not properly addressed, can result in local outages becoming ones with even more widespread effects.

(U.S. Senator Lisa Murkowski, letter to Jon Wellinohoff, FERC chairman dated September 19, 2011, attached hereto as Ex. C.) The MPSC joins the chorus of well-meaning and interested parties asking the EPA to reconsider the Final Rule and its impact on the reliability of the electric grid.

IV. Mississippi should not be subject to CSAPR.

Applying the EPA's standards, Mississippi's NO_x emissions do not contribute significantly to non-attainment in or interfere with the maintenance of NAAQS in a downwind state. The "good neighbor" provision of the CAA requires that implementation plans must

contain adequate provisions-- (i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will-- (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard

42 U.S.C. § 7410(a)(2)(D)(i)(I).

In *Michigan*, the D.C. Circuit approved EPA's determination that a "significant contribution" of emissions to non-attainment were those emissions that could be eliminated with "highly cost-effective controls." *Michigan v. EPA*, 213 F.3d 663, 675, 679 (D.C. Cir. 2000). As reiterated by the D.C. Circuit, "we held EPA may 'after [a state's] reduction of all [it] could . . . cost effectively eliminate[],' consider 'any remaining 'contribution' insignificant.'" *North Carolina*, 531 F.3d at 917 (quoting *Michigan*, 213 F.3d at 677, 679)). Even so, EPA cannot force a state to reduce its emissions beyond its significant contribution. *North Carolina* at 921 ("Each state must eliminate its own significant contribution to downwind pollution. While CAIR should achieve something measurable towards that goal, it may not require some states to exceed the mark.").

In *North Carolina*, the D.C. Circuit entertained several challenges to the EPA's Clean Air Interstate Rule ("CAIR"), but as the Court explained, "[a]t issue in much of this litigation is the definition of the term 'contribute significantly.'" In other words, in order to promulgate CAIR, EPA had to determine what amount of emissions constitutes a 'significant contribution' to another state's non-attainment problem." *Id.* at 903. CAIR focused on reducing the significant contributions of a region in the interests of equity and efficiency, as opposed to identifying and eliminating each state's significant

contribution. *Id.* at 906-07. In light of the CAA’s plain language, EPA’s equitable regional focus, rather than a state-by-state approach, led the Court to vacate CAIR in its initial decision. *Id.* at 929-30.

EPA appears to have committed some of the same fundamental errors with CSAPR that it did with CAIR. In the Final Rule, the EPA explains that it used a “cost- and air quality-based approach to quantify the amount of emissions that represent significant contribution to nonattainment and interference with maintenance for each state.” 76 Fed. Reg. 48,246. After EPA’s air quality analysis “links” an upwind state with nonattainment or maintenance issues in a downwind state, then the EPA “quantifies the portion of each state’s contribution that constitutes its ‘significant contribution’ or ‘interference with maintenance.’” *Id.* at 48,248.

In attempting to quantify each state’s contribution, EPA claims to “expand upon the methodology in the NO_x SIP Call and CAIR but modifies it in important respects.” *Id.* These modifications resulted in a four part methodology: “(1) Identification of each state’s emission reductions available at ascending costs per ton as appropriate; (2) assessment of those upwind emission reductions’ downwind air quality impacts; (3) identification of upwind “cost thresholds” delivering effective emission reductions and downwind air quality improvement; and (4) enshrinement of the upwind emission reductions available at those cost thresholds in state budgets.” *Id.* According to the EPA, the result of the application of this methodology

defines each state’s significant contribution to nonattainment *and* interference with maintenance as the emission reductions *available* at a particular *cost* threshold in a *specific upwind state* which effectively address nonattainment and maintenance of relevant NAAQS in the linked downwind state of concern.

Id. (emphasis added). The MPSC will address each step of the methodology as it applies to Mississippi in light of the definition of “significant contribution” established by the EPA.

For Mississippi’s 2012 base case, the IPM predicted that Mississippi would emit 10,161 tons of ozone season NO_x. *Id.* at 48,307; (see Technical Support Document (“TSD”) for the Final Rule, *Significant Contribution and State Emissions Budgets*, p. 10, July 2011.) In step one, at the \$500/ton and \$1,000/ton cost, Mississippi sees no reduction from the base case; emission levels slightly increase until the \$5,000/ton cost measures are applied. 76 Fed. Reg. at 48,251; TSD, *supra*, at 10. According to the EPA, Mississippi shows no reduction in emissions when control measures available at the settled-upon \$500/ton cost are applied to all relevant EGUs within the state.

Progressing with the methodology, “[i]n step two, EPA uses an air quality assessment tool to estimate the impact that the *combined reductions* from upwind contributing *states* and the downwind receptor state at different cost-per-ton levels would have on air quality at downwind monitoring sites projected to have nonattainment and/or maintenance problems.” 76 Fed. Reg. at 48,249. At this step, the Final Rule appears to

run afoul of *North Carolina* by aggregating the emissions reductions of upwind states and projecting their collective impact on a single linked state. *See North Carolina*, 531 F.3d at 918 (“EPA can’t just pick a cost for a region, and deem ‘significant’ any emissions that sources can eliminate more cheaply. Such an approach would not necessarily achieve something measurable toward the goal of prohibiting sources ‘within the State’ from contributing significantly to downwind nonattainment.”). Regardless of this apparent deficiency, because Mississippi’s emissions remain essentially unchanged as control measures are applied at varying cost levels, Mississippi has no reductions and therefore, no individual impact, under the parameters of step 2, on any downwind state.

“In step three, EPA examines cost and air quality information to identify ‘significant cost thresholds.’” 76 Fed. Reg. 48,249. From this statement, the MPSC cannot discern whether this step is an inappropriate aggregation of state sources, although the use of “air quality information” suggests that it would be given the manner by which such information is gathered as set out in “step two.” The EPA further explains that it “considered a significant cost threshold to be a point along the costs curves where a noticeable change occurred in the downwind air quality, such as a point where large upwind emission reductions become available because a certain type of emissions control strategy becomes cost-effective.” *Id.* Again, because Mississippi experiences no reductions in its emissions at relevant cost-per-ton levels, Mississippi does not appear to contribute to downwind air quality under the identified methodology.

In the fourth and final step, EPA uses emission reductions available at a certain cost threshold to form a state budget, which according to EPA, represents “the remaining emissions from covered sources . . . once significant contribution and interference with maintenance have been eliminated[.]” *Id.* Mississippi enjoyed no emissions reductions (actually experiencing increased emissions) at the favored \$500/ton cost threshold; therefore, Mississippi had no remaining emissions “once significant contribution and interference with maintenance [had] been eliminated.” Nevertheless, EPA arbitrarily imposed Mississippi’s base case level of 10,161 tons for ozone season NO_x as the State’s budget.

According to the EPA, application of the above methodology defined each state’s significant contribution to nonattainment *and* interference with maintenance as the emission reductions *available* at \$500/ton for ozone season NO_x in each relevant *state*, which effectively addresses nonattainment and maintenance of relevant NAAQS in the linked downwind state of concern. *Id.* at 48,248; 48,255-256. As shown in the step-by-step walkthrough above, Mississippi does not significantly contribute to nonattainment or maintenance issues as defined above, i.e. Mississippi does not enjoy any reduction at the “significant contribution” cost threshold of \$500/ton.

The EPA recognizes Mississippi’s situation (along with four other similarly situated states) but justifies the State’s inclusion in the ozone season program because “if emission limits were not established for these five states, ozone-season NO_x emissions in each of the states would increase (beyond the 2012 base case emission projections) due to

interstate shifts in electricity generation that cause ‘emissions leakage’ in uncovered states.” *Id.* at 48,263. The EPA’s rationale is unsupported and sounds contrived.

The EPA set out a methodology for *defining* a state’s significant contribution. But when application of that methodology revealed that Mississippi was not significantly contributing to nonattainment, the EPA abandoned the methodology and baldly concluded that because Mississippi might minimally increase emissions due to some ill-defined “interstate shifts in electricity generation” Mississippi’s base case must be its budget. The EPA’s makeshift explanation is arbitrary and capricious because it does not comply with the CAA’s mandate to eliminate significant contributions from within the State, as expressed in *North Carolina*. Simply capping all seasonal NO_x emissions beyond the base case modeled for Mississippi is arbitrary because it does not make any real or individualized determination of what constitutes a significant contribution. EPA’s conclusion as to Mississippi is contrary to its developed methodology.

The MPSC reiterates that the most startling error in the Final Rule is the miscalculation of Mississippi’s budget. The Final Rule recognizes the magnitude of the changes in state budgets, as follows:

It is worth emphasizing that the lower emission reductions observed at the \$500/ton in this final rulemaking are due to a lower starting point in the updated base case EGU NO_x emission levels (and thus do not reflect higher NO_x emissions remaining after the reductions made at the \$500/ton threshold).

76 Fed. Reg. 48,251. The EPA’s methodology as applied to the base case showed that Mississippi did not significantly contribute to nonattainment.

The base case retired 46% of Mississippi’s capacity; units that, in the real world, continue to generate power. In the real world, Mississippi runs units that the base case says should not exist, and the owners will rush to construct control measures on these units for which a model concludes there will be no reduction of emissions that significantly contribute to nonattainment.

V. EPA should stay the Final Rule to avoid injustice to ratepayers.

Under the Administrative Procedures Act, the EPA may postpone the effective date of implementation of the Final Rule pending judicial review if it finds that “justice so requires”. 5 U.S.C. § 705. Further, § 705 provides that a reviewing court may grant a stay “to the extent necessary to prevent irreparable harm.” Mississippi satisfies each of these standards.

The subjective, “as justice so requires”, standard gives the EPA broad discretion when determining whether to grant a stay. However, as noted in the Petition for Reconsideration and Stay filed by the State of Texas, the EPA has not employed any specific criteria to determine whether the standard is met. As a guidepost, 5 U.S.C. § 705 provides that a court reviewing the action of an agency may grant a stay “to the extent

necessary to prevent irreparable harm”. A court, in considering whether to grant such a stay, will consider four factors: (1) whether the petitioner has shown he is likely to prevail on the merits; (2) whether the petitioner will incur irreparable harm in the absence of a stay; (3) whether the issuance of a stay would substantially injure other interested parties; and (4) where the public interest lies. *Va. Petrol. Jobbers Ass’n v. Fed. Power Comm’n*, 259 F.2d 921, 925 (D.C. Cir. 1958). While the EPA has not adopted this test as applied to determining whether the “as justice so requires” standard is met, prongs (2) and (4) of the test are vital considerations in determining whether the standard is met with respect to Mississippi.

Justice and the public interest require that the EPA grant a stay pending judicial review of the Final Rule as applicable to Mississippi. The Final Rule unnecessarily tests the outer limits of the reliability of the nation’s electric grid, placing in jeopardy lives, jobs and security. The threat of blackouts is real. Courts have found that rolling blackouts place citizens’ health and safety at risk and that the mere threat of blackout constitutes irreparable harm. *See, e.g., California Independent System Operator Corp. v. Reliant Energy Services, Inc.*, 181 F. Supp. 2d 1111, 1121 (E.D. Cal. 2001); *Cleveland v. Cleveland Elec. Illum. Co.*, 684 N.E.2d 343, 350 (Ohio Ct. App. 1996).

As explained in the previous sections, the Final Rule forces Mississippi to curtail its local generation by approximately 46%, leading to a strain on the transmission system, deficient voltage support and ultimately, load shed. As noted in the letter to the Administrator from SPP, the impacts to reliability of the transmission system as a result of the changes in generation dispatch that will be required by CSAPR are simply unknown at this time. Due to the complexity and the significance of this rule, the industry needs time to fully evaluate the impacts, to determine a necessary plan of system improvements, and sufficient time to implement system improvements required to ensure reliability of the system. Implementation of the Final Rule as currently scheduled is simply reckless from a system reliability perspective.

Blackouts during a Mississippi summer will kill people. As highlighted in the Petition for Reconsideration and Stay filed by the Texas Attorney General, “Heat is the number one weather-related killer in the United States, resulting in hundreds of fatalities each year. On average, excessive heat claims more lives each year than floods, lightning, tornadoes, and hurricanes combined.” In 2010 twenty-three Mississippians died from exposure to excessive natural heat. Mississippi Department of Health, *Vital Statistics Bulletin*, p. 110 (2010).¹⁰ One of the primary ways the Centers for Disease Control and Prevention (“CDC”) recommends to protect oneself is to seek an air-conditioned environment. *See CDC, Heat Stress in the Elderly*. (2009).¹¹ Even the EPA has stated that “[a]ir conditioning is the best defense” to prevent heat-related problems, and recommends that local government “coordinate with local utilities to ensure that no customer’s electricity is turned off during a heat wave.” EPA, “*It’s Too Darn Hot*” – *Planning for Excessive Heat Events*, (October 2007).¹²

¹⁰ <http://www.msdh.state.ms.us/phs/2010/Bulletin/vr2010.pdf>.

¹¹ <http://www.bt.cdc.gov/disasters/extremeheat/elderlyheat.asp>.

¹² http://www.epa.gov/agingepa/resources/factsheets/itdhpfehe/itdhpfehe_english_2007_10.pdf.

The elderly, in particular, are more prone to heat stress because they do not adjust well to sudden changes in temperature, are more likely to have a chronic medical condition that changes normal body responses to heat, and are more likely to take prescription medicines that impair the body's ability to regulate its temperature or that inhibit perspiration. *Heat Stress, supra*, n. 11. The average daily high temperature from June through August in Hinds County, the largest county in Mississippi and home to 26,551 elderly individuals,¹³ exceeds 90 degrees. See The Weather Channel, *Monthly Averages for Mississippi State, MS*.¹⁴ Hinds County also contains the city of Jackson, an EMI designated load pocket. To now threaten capacity in the regions hardest hit by recent heat waves seems to run counter to the EPA's stated mission of ensuring that "all Americans are protected from significant risks to human health." EPA, *Our Mission and What We Do*.¹⁵

The Final Rule's massive curtailment of local generation will also cost jobs. Some of the plants that may have to shut down or de-rate operate in the highest unemployment areas of the country. Closing plants will create a ripple effect in the local economies. The Final Rule impacts one plant that operates in Washington County where the current unemployment rate is 16.2%. Tax revenue from the plant in fiscal year 2010 added \$4,318,845 to the county tax roll. The taxes accounted for approximately 14% of that county's total budget for fiscal year 2010. The education system and infrastructure of many rural areas supported, in part, by power plants will not be sustainable without sufficient revenue. Further, Mississippi's tax rolls could also be affected as counties attempt to address additional revenue shortfalls.

As the cost of generating power necessarily increases, these costs will be passed to ratepayers. Unlike taxes, everyone pays for electricity; therefore, increased electricity costs disproportionately impact those that can least afford it. Costs and expenses are sure to rise.

The Final Rule leaves Mississippi utilities with few, if any, viable options for compliance within the extremely short time period for implementation. Any such measures will certainly require utilities to incur enormous expense, costing ratepayers tens-of-millions of dollars on top of the *hundreds-of-millions* of dollars required to comply with other EPA rules. For example, installation of "scrubbers" at Mississippi Power Company's Plant Daniel is estimated to cost upwards of \$600,000,000.00. While other less expensive measures, by comparison, are available to control NO_x emissions to some but not all units, the expense will ultimately be borne by the ratepayer.

Even so, because the short implementation period leaves utilities little time to build control measures, construction will not alleviate the risk of non-compliance. Utilities will have little choice but to import electricity from out-of-state sources in order to meet demands that cannot be met due to curtailed local generation. While availability

¹³ <http://quickfacts.census.gov/qfd/states/28/28049.html>.

¹⁴ <http://www.weather.com/weather/wxclimatology/monthly/graph/39762>.

¹⁵ <http://www.epa.gov/aboutepa/whatwedo.html>.

of such electricity for purchase is questionable, the more serious concern is whether existing transmission systems are capable of handling the resulting increased flow of energy. Although the exact cost of necessary transmission system upgrades is unknown, it is certain to be substantial. Alarming, the EPA apparently failed to consider this real and serious consequence of the Final Rule.

While the Final Rule proposes that utilities purchase necessary allowances, this option is not viable. Because of uncertainty, especially during the early stages of implementation, the market to purchase allowances is likely to be severely restricted. Due to the severe penalties for noncompliance in addition to the necessity to procure allowances at a 3:1 ratio in order to maintain assurance levels, it can easily be anticipated that affected utilities would be reluctant to sell allocations, especially during the first few years of the Final Rule. Any sellers would extract a high price.

The likely approach is that utilities will rush to begin building control measures, whether or not they can be completed by May 2012, while simultaneously entering into expensive purchased power agreements. What credits that can be purchased will be acquired at a premium. As an additional “hidden” cost of the Final Rule, systems likely will need to build new, as-yet-unplanned transmission to ensure reliability and to meet federal standards.

Compliance measures will be financed by ratepayers unable to bear the increased expense in these difficult times. Failure to grant a stay of the Final Rule will result in irreparable harm to Mississippi ratepayers. Mississippi is one of the poorest states in the nation. According to the U.S. Census Bureau, Mississippi has the lowest median income in the nation, and in 2010, 22.4% of Mississippians were living below the poverty level. U.S. Census Bureau, 2010 *American Community Survey* (2011).¹⁶ Further, in August 2011, 10.3% of the workforce in Mississippi was unemployed. U.S. Dep’t of Labor, *Local Areal Unemployment Statistics* (August 2011).¹⁷

The substantial reductions in allocations afforded Mississippi generating facilities will almost certainly result in an increased cost to ratepayers as utilities struggle to comply with NO_x emissions requirements. Furthermore, if Mississippi utilities are unable to comply with the Final Rule and incur fines and penalties as a result, those costs might also be passed along to ratepayers.

Staying implementation of the Final Rule as applied to Mississippi is in the public interest and the interest of justice. Beyond the dire consequences of skyrocketing electric bills to already impoverished Mississippi families, citizens and businesses will also be faced with unreliable electricity service and even higher unemployment rates due to shut-down or de-rating of generating facilities. Respectfully, the MPSC petitions the Administrator to reconsider the Final Rule as to Mississippi and issue a stay because justice so requires.

¹⁶ <http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>.

¹⁷ <http://www.bls.gov/web/laus/laumstrk.htm>.

CONCLUSION

The MPSC respectfully requests that the EPA reconsider the Final Rule and stay its implementation pending judicial review or agency reconsideration, whichever is longer, as it relates to Mississippi's inclusion in the seasonal ozone program as discussed above. The unrealistic and deeply flawed state budget for summer NO_x emissions in conjunction with the impossible compliance date will require Mississippi utilities lose approximately 46% of the State's electric generating capacity. The sudden and dramatic unavailability of local capacity will degrade the reliability of the system. The MPSC had no way of anticipating the Final Rule's drastic departure from the Proposed Rule and the impact these changes would have on Mississippi. The Final Rule, particularly its modeling and methodology, is replete with factual and legal errors that go to the heart of the Rule. These errors translate into irreparable harm for Mississippi and the nation such that justice and the public interest require the Administrator to stay the case.

Respectfully submitted,



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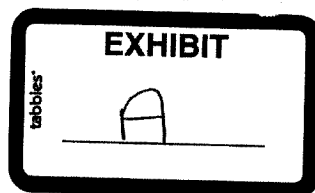
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EXHIBIT A

Comparison of 2010 actual emissions and 2012 Base Case

Facility Name	Data	Total
Attala Generating LLC	Sum of 2010 Ozone Season Heat Input (Tbtu)	5.50
	Sum of 2012 Base Summer Fuel Use (TBtu)	1.72
Batesville Generation Facility	Sum of 2010 Ozone Season Heat Input (Tbtu)	10.91
	Sum of 2012 Base Summer Fuel Use (TBtu)	3.07
Baxter Wilson	Sum of 2010 Ozone Season Heat Input (Tbtu)	17.89
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.00
BTEC New Albany LLC	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.00
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.15
BTEC Southaven LLC	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.00
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.13
Caledonia	Sum of 2010 Ozone Season Heat Input (Tbtu)	12.61
	Sum of 2012 Base Summer Fuel Use (TBtu)	7.59
Chevron Oil	Sum of 2010 Ozone Season Heat Input (Tbtu)	3.89
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.03
Choctaw	Sum of 2010 Ozone Season Heat Input (Tbtu)	3.00
	Sum of 2012 Base Summer Fuel Use (TBtu)	1.24
Choctaw Gas Generation, LLC	Sum of 2010 Ozone Season Heat Input (Tbtu)	9.16
	Sum of 2012 Base Summer Fuel Use (TBtu)	
Crossroads Energy Center	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.29
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.00
Delta	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.10
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.00
Gerald Andrus	Sum of 2010 Ozone Season Heat Input (Tbtu)	13.42
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.00
Jack Watson	Sum of 2010 Ozone Season Heat Input (Tbtu)	16.36
	Sum of 2012 Base Summer Fuel Use (TBtu)	17.19
Kemper County	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.91
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.60
KGen Hinds LLC	Sum of 2010 Ozone Season Heat Input (Tbtu)	5.87
	Sum of 2012 Base Summer Fuel Use (TBtu)	4.67
Magnolia Power Plant	Sum of 2010 Ozone Season Heat Input (Tbtu)	8.89
	Sum of 2012 Base Summer Fuel Use (TBtu)	3.31
Moselle	Sum of 2010 Ozone Season Heat Input (Tbtu)	1.63
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.31
Natchez	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.00
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.00
New	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.00
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.10
R D Morrow	Sum of 2010 Ozone Season Heat Input (Tbtu)	12.95
	Sum of 2012 Base Summer Fuel Use (TBtu)	11.61
Red Hills Generating Facility	Sum of 2010 Ozone Season Heat Input (Tbtu)	19.12
	Sum of 2012 Base Summer Fuel Use (TBtu)	12.23
Rex Brown	Sum of 2010 Ozone Season Heat Input (Tbtu)	2.03
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.00
Silver Creek	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.28
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.09
Southaven Power LLC	Sum of 2010 Ozone Season Heat Input (Tbtu)	12.49
	Sum of 2012 Base Summer Fuel Use (TBtu)	7.93
Sweatt	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.05



Sweatt	Sum of 2012 Base Summer Fuel Use (TBtu)	0.02
Sylvarena	Sum of 2010 Ozone Season Heat Input (Tbtu)	0.67
	Sum of 2012 Base Summer Fuel Use (TBtu)	0.00
Victor J Daniel Jr	Sum of 2010 Ozone Season Heat Input (Tbtu)	47.33
	Sum of 2012 Base Summer Fuel Use (TBtu)	39.44
Total Sum of 2010 Ozone Season Heat Input (Tbtu)		205.34
Total Sum of 2012 Base Summer Fuel Use (TBtu)		111.44

EXHIBIT B

VIA ELECTRONIC MAIL AND FIRST CLASS MAIL

September 20, 2011

Administrator Lisa P. Jackson
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.
Mail Code: 1101A
Washington, DC 20460

Re: SPP's Review of the EPA's IPM Analysis of the Cross-State Air Pollution Rule, Docket ID No. EPA-HQ-OAR-2009-0491

Dear Ms. Jackson:

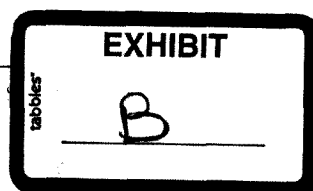
Southwest Power Pool, Inc. (SPP), in its capacity as a Federal Energy Regulatory Commission (FERC) approved Regional Transmission Organization (RTO) and a Regional Entity, is concerned that the Environmental Protection Agency (EPA) finalized the Cross-State Air Pollution Rule (CSAPR) without adequately assessing the reliability impacts of the CSAPR on the SPP region. SPP originally expressed concern with the reliability impacts of proposed regulations¹ in its July 19, 2011 comment letter to the EPA.

As required by the Energy Policy Act of 2005, FERC has approved mandatory and enforceable reliability standards promulgated by NERC with which the industry must comply. These standards were developed through a well vetted industry process identifying key requirements to ensure the bulk electric system meets an adequate level of reliability. Failure to comply with these standards can affect the ability of the power grid to operate reliably as well subject SPP and its members to financial penalties. These standards require that SPP's Transmission Planners ensure that transmission lines are not overloaded and that voltage is maintained within certain prescribed limits in the event of the failure of a single element in the system. Additionally, the standards require that Transmission Operators operate in real-time within certain limits. In order to meet the demands of the system there needs to be an adequate balance of generation and transmission availability both in the short and long term. The timing of the CSAPR regulations does not provide the SPP region with enough time to ensure that adequate balance.

Our reliability modeling² indicates that the CSAPR Integrated Planning Model 4.1 (IPM) results, as depicted by the EPA, are likely to cause SPP to be out of compliance with the applicable NERC standards as early as 2012. SPP's planning models identified 5.4 GW from the 48 generation units identified by the EPA with zero fuel burn in 2012 that would have been dispatched during the 2012

¹ On July 19, 2011, Nicholas A. Brown, SPP President and CEO, submitted comments to the EPA in Docket ID Nos. EPA-HQ-OW-2008-0667, EPA-HQ-OAR-2009-0234, and EPA-HQ-OAR-2011-0044, additionally providing SPP's preliminary assessment of the potential reliability impacts of proposed EPA regulations impacting generation in the SPP footprint.

² SPP removed all generation units in its models that consumed zero fuel in the EPA models. No other SPP model adjustments were made.



Summer Peak conditions. Our analysis revealed 220 overloads in excess of the required, 100% of emergency ratings under contingencies, and 1047 circumstances at various locations on the transmission system where voltage was below the prescribed lower limit of 90% of nominal rating. The statistics in this analysis must be viewed as being indicative, not definitive, results and are probably very conservative compared to what would be experienced in the real world should the modeled system conditions exist. An even clearer representation of reliability violations can be found by applying higher operability limits of 120% to the overloads. There were 16 such overloads on the system. Using a similar out of normal range there were 93 circumstances where voltage dropped below 85% of nominal. These “clear-cut” examples of standards violations represent the well founded concerns regarding the timeline with which the CSAPR would be instituted.

Additionally, 30 contingency scenarios did not solve, which is indicative of extreme system constraints, including the potential of cascading blackouts similar to what occurred in 2003 or which could require the shedding of firm load (that is, localized rolling black-outs initiated by utilities within the SPP region) to avoid more widespread and uncontrolled blackouts and to remain in compliance with reliability standards. Some of the contingencies could be resolved with other short-term transmission and/or resource solutions, but several could not. In those cases, SPP would be in clear violation of mandatory reliability standards and subject to penalty from FERC. However, SPP cannot be compliant with NERC’s planning standards without placing its generation owners in violation of EPA standards when the unutilized units in the IPM are unavailable to SPP. Further exacerbating this situation, SPP’s analysis also revealed that generation production from “small units”³ increased from 13 to 57 units deployed. Some of these units are likely subject to the reciprocating internal combustion engines (RICE) regulations, which were not evaluated as part of this reliability study. If we look beyond the summer peak hour studied, the unavailability of approximately 11 GWs⁴ of total capacity from the EPA model in SPP’s footprint would likely result in additional localized reliability issues.

The result of SPP’s reliability assessment of the EPA’s CSAPR IPM generation dispatch indicates serious, negative implications to the reliable operation of the electric grid in the SPP region raising the possibility of rolling blackouts or cascading outages that would likely have significant impacts on human health, public safety and commercial activity within SPP. These regulations further compound the reliability impacts addressed by SPP in its July 19, 2011 comment letter, which focused on the MACT regulations to be enacted in 2014/15. The time period between finalization of the CSAPR and its effective date is too short to allow SPP and its members/registered entities to appreciate the effects of the rule and to take actions to ensure reliability.

SPP supports a more flexible approach to meeting the emission requirements under the CSAPR, as stated in a joint letter from the New York Independent System Operator, Midwest Independent System Operator, PJM Regional Transmission Organization, the Electric Reliability Council of Texas, and SPP to the EPA in August. The EPA must provide time to allow the industry to plan an approach to comply with its rules in a reliable and reasonable fashion. As it stands now, SPP and its members may be placed in the untenable position of deciding which agency’s rules to violate, FERC or EPA. Putting an

³ “Small units” denotes those units generating 25 megawatts or less per unit.

⁴ Although the EPA model had additional units and capacity with zero fuel burn in 2012 (10.7 - 10.9 GW in total depending on the source of the Pmax), many of these units which were not dispatched in our 2012summer model will be needed during off-peak load periods to accommodate outages and to maintain system reliability.

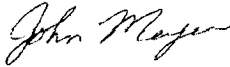
industry with critical infrastructure in the position of choosing which agency's rules to violate is bad public policy. SPP suggests that the EPA delay CSAPR's effective date at least a year to allow for investigating, planning, and developing solutions to assist our members in maintaining grid reliability and compliance with both its current regulatory bodies and all of the EPA regulations that impact the electric industry.

Your prompt attention to this matter is greatly appreciated. Please do not hesitate to contact me if you have any questions or would like to discuss this matter further.

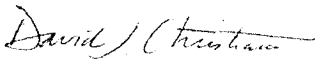
Respectfully submitted,



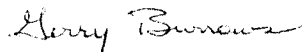
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John Meyer
Chairman and Trustee
Southwest Power Pool Regional Entity



David Christiano
Trustee
Southwest Power Pool Regional Entity



Gerry Burrows
Trustee
Southwest Power Pool Regional Entity

cc: SPP Board of Directors
SPP Regional State Committee
SPP Strategic Planning Committee
State Regulators in Arkansas, Kansas, Louisiana, Missouri, Mississippi, Nebraska, New Mexico,
Oklahoma, and Texas



HELPING OUR MEMBERS WORK TOGETHER
TO KEEP THE LIGHTS ON... TODAY AND IN THE FUTURE

Congressional Delegations of Arkansas, Kansas, Louisiana, Missouri, Mississippi, Nebraska, New Mexico, Oklahoma, and Texas
Governors of Arkansas, Kansas, Louisiana, Missouri, Mississippi, Nebraska, New Mexico, Oklahoma, and Texas
North American Electric Reliability Corporation
President Barack Obama
Secretary of Energy Dr. Steven Chu
Federal Energy Regulatory Commission

EXHIBIT C

United States Senate

UNITED STATES SENATE
OFFICE OF THE CLERK
UNITED STATES SENATE
WASHINGTON, D.C. 20540
205-354-6000

September 19, 2011

By Electronic Mail and U.S. Mail

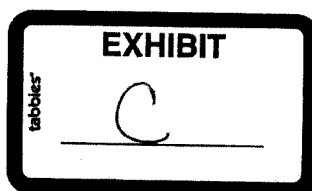
The Honorable Jon Wellinghoff
Chairman
Federal Energy Regulatory Commission
888 First Street, N E
Washington, DC 20426

Dear Chairman Wellinghoff:

Your letter of August 1, responding to mine of May 17, leaves me no alternative but to reply with an urgent request and more questions. Your statement that the Commission's staff has not conducted "any full studies" of the reliability impact of the rulemaking initiatives of the Environmental Protection Agency (EPA) that were the subject of my earlier letter was, frankly, startling. It was also quite puzzling, given your assurance at last September's Commission meeting that, through its staff or otherwise, the Commission's responsibilities with respect to reliability would be factored into EPA's deliberations.

You provided me, as an attachment to your letter, with a presentation prepared by your staff at least as long ago as October 2010 recommending prudent "next steps." These steps included directing industry openly to "assess the reliability and adequacy impacts of retirement of at-risk units." Your reliability staff (Staff) then outlined a list of elements that such studies should include. Staff also indicated that it would continue to improve its screening methodology with industry cooperation while conducting additional reliability studies. Nearly a full year later, it appears that you have not undertaken or requested any further analysis of reliability impacts. More troubling, you still have not initiated any orderly process to obtain the necessary analysis.

Despite the absence of a process or information beyond Staff's preliminary assessment, last week you testified before the House Subcommittee on Energy and Power that none of the EPA rules should be delayed, including presumably the so-called "Utility MACT" or "Cross State Air Pollution" rules. You appeared to assert that ordinary-course stakeholder processes for addressing reliability -- *after* the rules are issued -- could readily substitute for analysis that could and, in my judgment, should be undertaken before these rules go into effect. You alluded



generally to “tools” that you and other regulators may have for protecting reliability in the face of retirements of electric generating capacity as a consequence of the EPA rules, but you did not describe those tools or provide any clear indication of when and how they would be used. In fact, based upon reports from the House subcommittee hearing, it is my understanding that, at present, you have no plans for further analysis of these issues by Staff before the EPA rules go into effect.

Consequently, I must ask you to clarify, as soon as possible, the Commission’s plans, if any, for identifying and addressing threats to the nation’s bulk power system that may arise from the EPA actions listed in my previous correspondence. In doing so, I ask also that you specifically address the reliability issues connected with the Utility MACT and Cross State Air Pollution rules. Finally, I ask that you and your colleagues, together with the Electric Reliability Organization (ERO) that the Commission has certified under section 215 of the Federal Power Act – the North American Electric Reliability Corporation (NERC) – immediately initiate and complete within six months a formal process that will address these vital reliability issues in a transparent and fair manner. Unless and until such a process comes to an orderly conclusion, I will remain deeply concerned that reliability may be at risk.

Moreover, I do not believe that what can be described as a “consent decree safety valve” can or should substitute for the work that the Commission and NERC should do or the time necessary to do this work before the EPA rules take effect. As I understand it, this so-called “safety valve” would, pursuant to consent decree, enable what amounts to waivers or exceptions for particular plants on a case-by-case basis after the EPA rules are in effect. Because of the number of plants that even the low end of the projected range of retirements would represent, I do not see how such an approach could protect overall reliability, let alone be practically workable, transparent or fair.

Before embracing the “safety valve,” the Commission should do the required analysis in concert with NERC. In fact, NERC offered thoughtful recommendations in its *2010 Special Reliability Scenario Assessment: Resource Adequacy Impacts of Potential U.S. Environmental Regulation* issued last October at about the time that Staff was presenting to EPA and the Council on Environmental Quality its preliminary assessment. A key recommendation, and one that I believe EPA should follow until the process I have asked you to initiate can be completed, is that “the pace and aggressiveness of these environmental regulations should be adjusted to reflect and consider the overall risk to the bulk power system.”

Today’s transmission systems do not allow for seamless transfer of power from any point in the country to any other. Instead, as the Commission has pointed out time and again, our electric systems are in regions and sub-regions with singular characteristics. Often reliability in a particular sub-region or local control area comes down to a specific plant or plants or one or more transmission lines. A failure at that level can result in a local outage, even though ample generating capacity may be available across the region or across the nation as a whole. The risks are more acute in areas of the country where generating capacity is located far from load centers. These overall risks, if not properly addressed, can result in local outages becoming ones with even more widespread effects.

Although it is too soon to know, we may have witnessed a dramatic example of this phenomenon just recently. I refer, of course, to the major regional outage across portions of Arizona, Southern California, and Northern Mexico that left millions of customers without power. Similar outages can force critical medical facilities to lose power putting lives at risk; lead to failure of vital public infrastructure; and cause significant economic loss. According to reports, for example, the loss of power to San Diego led to significant disruptions in that city. Whatever its immediate causes, the outage in San Diego and the surrounding regions on September 8 serves as a stark reminder that our electric systems currently are stressed, and every power plant and transmission line makes a singular contribution to overall electric reliability.

In this light, it is good that you, your colleagues and I agree that the reliability of the nation's bulk power system cannot be captured in aggregate figures. High-level estimates, although useful to illustrate the magnitude of the challenge, provide only the most general idea of overall electric system stability and security. As you and your colleagues testified before the House subcommittee on September 14, assessing the risks to reliability requires a far more fine-grained and careful approach.

That is why I was taken aback by your acknowledgment that, despite Staff's projection that EPA's current regulatory agenda would likely cause the widespread retirement of electric generating capacity, the Commission apparently has neither undertaken nor ordered any further study. Your August 1 letter and your congressional testimony this week suggest that the Commission has not attempted and might not attempt to ascertain:

- which generating facilities are likely to retire as a result of the EPA rulemaking agenda in general or the Utility MACT and Cross State Air Pollution rules in particular;
- how such retirements would affect the bulk power system;
- whether such retirements would diminish reliability in particular markets and, if so, which markets;
- whether existing or planned transmission facilities will be adequate to accommodate increased demand as a result of the retirements (and, if so, over what time horizon); and
- what, if anything, the Commission should do or must do as a result to maintain the reliability and security of the nation's bulk power system.

The Commission will conduct a joint inquiry into the San Diego outage with NERC even from the beginning of NERC's analysis of that event. In FERC and NERC's statement announcing that joint inquiry, you said such an inquiry will be "an effective way . . . to protect consumers and ensure the reliability of the bulk power system." NERC's president and chief executive officer said that "[p]artnering brings together the expertise of both organizations, and emphasizes the importance placed on reliability of the bulk power system." In fact, the Commission and NERC have brought their collective experience to bear in other recent inquiries on reliability, such as that into service disruptions in Texas and the Southwest this past winter, jointly preparing a comprehensive report within just six months.

Surely the issue of the cumulative impact of the EPA rulemaking agenda generally, or of the Utility MACT or Cross State Air Pollution rules specifically, deserves no less attention from the

Commission and the ERO. Last week's outage – while rightly a cause of concern – was resolved within less than 24 hours, as I understand it. Its causes will be determined in due course and, I expect, duly addressed. The potential retirement of significant amounts of installed generating capacity – whether considering Staff's preliminary assessment of 81 gigawatts or a lower number along the broad range of predicted retirements – deserves a proportionate response by the Commission and NERC. That response must include serious study of the problem, careful projections, and – above all – an orderly and transparent process to complete this assessment. And let me be clear: establishing such a process, and promptly seeing it through, is the Commission's responsibility.

Although the EPA would bear first-order responsibility if its rules were to degrade reliability, it is the Commission's statutory responsibility under the Federal Power Act to oversee the reliability and security of the nation's bulk power system and to certify the ERO. Thus, the Commission and the ERO also would bear responsibility if they had not been diligent and prompt in assessing the risks posed by EPA's actions before those actions became final.

A "wait-and-see" approach with regard to the impact of these major federal rulemakings is both unacceptable and explicitly contrary to one of the Commission's central obligations. Congress, the executive agencies, and the public should be informed of the risks. And the Commission should take every measure within its power to protect the reliability and security of the nation's bulk power system. I trust that you understand the importance of this responsibility and the consequences of failure to fulfill it. I also respectfully request your detailed answers to the questions attached.

It is regrettable that, given Staff's preliminary analysis of a year ago, a formal process to assess the reliability impact of EPA's actions has not been long since underway. At this late date, time is of the essence. For that reason, I ask you to reply as soon as possible and, in any event, no later than September 30, 2011.

Sincerely,



Lisa Murkowski
Ranking Member

cc: The Honorable Philip Moeller
The Honorable Marc Spitzer
The Honorable John Norris
The Honorable Cheryl LaFleur
Mr. Gerry Cauley, President & CEO, NERC

Questions

Please provide detailed answers to the following questions:¹

1. Will EPA's rulemaking agenda, as described in my previous correspondence, degrade reliability in any region, sub-region or electric control area of the United States? In addition to answering this question, please state or explain:
 - a. the basis for this determination;
 - b. your degree of confidence in this determination;
 - c. the regions, sub-regions, or electric control areas that will be affected, with a particular focus on transmission "pockets" and cities where generating capacity is at risk;
 - d. the impacts on system stability or system recovery in the aftermath of wide scale forced outages (e.g., the recent regional outage in Arizona, Southern California, and Northern Mexico);
 - e. the impact on reliability of any change in the balance among different types of generation, particularly during and in the aftermath of forced outages and periods of peak demand; and
 - f. the actions that the Commission is undertaking to understand and address these effects.²
2. In your view, what is the extent of the Commission's responsibility to ensure the reliability and security of the nation's bulk power system? In this regard, please describe that responsibility and what actions by the Commission it may entail.
3. What process will the Commission undertake to assess the impact on reliability of EPA's rulemaking agenda? With respect to this process, please describe:
 - a. the scope of the process;
 - b. the projected timeline for any contemplated activities;
 - c. the division of responsibility between the Commission, NERC, and any other entity;
 - d. any contemplated studies or projections; and
 - e. the agencies and officials participating.
4. As a matter of public policy, do you believe that federal regulations should be generally applicable?
5. Do you intend to involve the Commission in the EPA's rulemaking process sufficiently to ensure that EPA's rules, in fact, can be generally applicable without a threat to reliability?
6. If, *de facto*, EPA's rules are less than generally applicable because they require significant exceptions and waivers to meet reliability requirements, please explain the process you believe should apply. Please describe any proposals for such a waiver or

¹ Please provide your answers to these questions and your reply to this letter electronically as well as on paper.

² If you are not able to answer this question, please explain what information would be required to answer this question and what steps, if any, the Commission is taking to obtain this information.

exception process that that might serve as a “safety valve” that you may have under review, or that you believe may be under review by EPA or any other Executive Agency, for permitting certain power plants to operate under the EPA rules until mitigation measures are put in place to safeguard reliability considerations. Please detail the elements of such a process for providing flexibility or targeted and discrete exceptions or waivers. If such a process would include the use of consent decrees entered in judicial proceedings, please explain how such a process might operate.

7. Please provide any estimate that you or any Commissioner or Commission employee may have developed with respect to the number of generating units that could qualify for such flexibility or targeted and discrete exceptions or waivers.
8. If you expect that completing a reliability assessment of the cumulative impact of EPA’s rulemaking agenda in general – or of the Utility MACT or Cross State Air Pollution rules in particular – will require more than six months, please explain in detail the objectives of the assessment, its methodology, and the time necessary to complete each step. In addition, please explain why it would be infeasible to release an assessment within six months’ time.
9. If the Commission is not undertaking such a process, and has no plans to do so, please either:
 - affirm that EPA’s rulemaking agenda will not materially degrade reliability in any location within the United States; or,
 - explain how the Commission will carry out its statutory obligations with respect to reliability and security in the absence of information regarding expected material degradations to reliability.

October 5, 2011

Via Overnight and Electronic Mail

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)

Re: Request of Southwestern Electric Power Company (SWEPCO) for Reconsideration and for Stay of *Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals*, 76 Fed. Reg. 48208 (August 8, 2011); Docket No. EPA-HQ-OAR-2009-0491

Dear Administrator Jackson:

We are submitting this Request for Reconsideration and Stay to the U.S. Environmental Protection Agency ("EPA" and/or "agency") on behalf of Southwestern Electric Power Company (SWEPCO), an electric public utility that has and continues to serve Northwest Louisiana, East Texas, and Western Arkansas. SWEPCO has carefully reviewed the final rule entitled *Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals*, published at 76 Fed. Reg. 48208 (August 8, 2011), (hereinafter referred to as the "Transport Rule") including the material changes to the rule between its original proposal and the final version. SWEPCO has reviewed particularly the significant issues concerning the revision of state budgets based on new modeling which contains erroneous assumptions. The new proposed rule, based on this modeling, adopts an inflexible trading system that combines new and significantly different reductions in emissions with an implementation date that is less than 6 months from the public release of the rule. These mandated reductions in such a short time period without an adequate means to comply will result in immediate and irreparable harm to states, utilities, such as SWEPCO, and particularly, to all of SWEPCO's ratepayers. In light of the foregoing, SWEPCO respectfully requests reconsideration and stay of the Transport Rule.

I. SWEPCO Adopts and Joins in the Request for Reconsideration and Stay by American Electric Power and the Louisiana Public Service Commission

In submitting this Request for Reconsideration and Stay, SWEPCO also notes that it is an operating company of American Electric Power System (collectively referred to herein as

“AEP”). SWEPCO hereby adopts the comments of AEP, in its Request for Reconsideration and Stay, such that there is no need to repeat all of the significant issues raised in the Request submitted by AEP. However, while adopting and incorporating the comments and material issues raised in the AEP Request for Reconsideration and Stay, SWEPCO as an electric public utility, also submits these comments, noting the specific negative impacts upon SWEPCO and its ratepayers, resulting from the implementation of the Transport Rule on the terms and within the timeframe currently proposed. This Request will require a specific discussion of SWEPCO’s generating and transmission assets and the adverse effects as to reliability and costs resulting from the Transport Rule, as proposed.

SWEPCO also notes that the Louisiana Public Service Commission (LPSC), an entity established directly by Louisiana Constitution in Article VI, Sections 3 through 9, is also filing a separate Request for Reconsideration and Stay of the Transport Rule. The LPSC took this significant action, due to the material adverse impacts upon the State of Louisiana, the public utilities in Louisiana, and particularly, the ratepayers throughout Louisiana. SWEPCO also supports the Request for Reconsideration and Stay by the LPSC and the material issues and impacts discussed therein. However, SWEPCO files its Request for Reconsideration and Stay, in order to set forth the specific issues resulting from the implementation of the Transport Rule as proposed, including but not limited to the need for analysis of the individual electric generating units, as well as and the ability to evaluate local transmission constraints in order to fully evaluate all reliability, costs and other impacts upon SWEPCO and its ratepayers.

In addition to faulty modeling, the EPA’s Integrated Planning Model (IPM) does not incorporate or include this type of analysis, which is essential to determine the actual impacts upon ratepayers, who are entitled to and are reliant upon reliable and low cost service.

II. Southwestern Electric Power Company, an Electric Public Utility with an Obligation to Provide Reliable Service at Reasonable Costs, Requests EPA to Reconsider and Stay its Transport Rule:

SWEPCO and its predecessors have served ratepayers throughout Northwest Louisiana, East Texas and Northwest Arkansas for about a century. SWEPCO’s corporate headquarters are located in Shreveport, Louisiana, with SWEPCO serving rural and metropolitan customers throughout the tri-state region. Some of the metropolitan areas include Shreveport and Bossier City in Northwest Louisiana, including Barksdale Air Force Base; Longview, Marshall and Texarkana in East Texas, including US Steel; and Texarkana and Fayetteville in Arkansas, including the University of Arkansas. In addition, SWEPCO provides service to eight wholesale customers, including several rural electric cooperatives and the city of Bentonville, Arkansas, which houses Wal-Mart’s world headquarters.

SWEPCO is an electric public utility that has consistently provided reliable service to its ratepayers, while maintaining some of the lowest rates in the region. In order to

accomplish these objectives, SWEPCO uses a diversified fuel mix, so as to ensure continued reliability and low rates, including natural gas, Wyoming low-sulfur coal, and locally-mined lignite. The most recent addition to its generating fleet is the J. Lamar Stall Unit at Arsenal Hill in Shreveport, a 508 MW combined cycle, natural gas unit. SWEPCO's solid fuel units are primarily baseload units, with the Stall Unit at Arsenal Hill being an example of an intermediate unit, and with older, higher-cost gas units serving as peaking units. All of SWEPCO's capacity was put to use during the summer of 2011, with SWEPCO reaching an all-time new peak of 5,543 MW on August 3rd. Additional high demands were set on August 2nd with 5,457 MW, and on August 1st with 5,370 MW. All of these peak loads exceeded the previous record of 4,994 MW set last summer on August 11, 2010. During this past summer, the load exceeded projections by over 7%. Thus, demands on SWEPCO's systems have been steadily increasing due to high demand during hot summers.

SWEPCO, as an electric public utility, is regulated by the respective public service commissions in each of the three states in which it provides service, including the Louisiana Public Service Commission (LPSC), Arkansas Public Service Commission (APSC) and the Public Utility Commission of Texas (PUCT). All of the respective commissions are charged with the responsibility of regulating service, reliability, costs, and related issues for the benefit of ratepayers. Significantly, SWEPCO, as an electric public utility has the obligation to serve, in each of the respective states. This obligation requires careful long term planning and the consideration of reliability issues, reserve requirements, transmission capacity and certainly, costs. The reliable supply of electricity is critical to the public health and to the economy of each of SWEPCO's states.

In order to consider and fully evaluate and address these issues in terms of the Transport Rule, the individual performance of each and every affected electric generation unit and any specific transmission constraints must be carefully and accurately considered and evaluated. However, system analysis has not been done, as there has not been sufficient time granted to fully analyze and address these critical issues. This lack of any meaningful analysis has also resulted in there being significant errors in the EPA's IPM, which will result in substantial and material adverse impacts. Consequently, SWEPCO requests reconsideration and stay of the Transport Rule, while these significant errors and issues, which materially and adversely affect ratepayers throughout the three state region, be fully analyzed and assessed.

SWEPCO also specifically requests that the EPA stay its anticipated action in removing allowances from the existing Clean Air Interstate Rule (CAIR) allowance accounts, so that during any period for reconsideration or judicial review, the omission reductions that have been and are being made can continue, so as to contribute to the improved air quality across the region. SWEPCO respectfully requests and urges the EPA not to dismantle the successful existing compliance structure, without providing SWEPCO and others the opportunity to seek the needed relief from the Transport Rule, which includes unreasonable reduction demands, and an inflexible compliance schedule, the impacts of which have not been correctly and fully analyzed and determined by the agency.

III. the EPA's Modeling is Fundamentally Flawed and SWEPCO Had No Notice or Opportunity to Comment on Key Errors:

In developing the proposed Transport Rule's redesign of CAIR's cap and trade system, EPA followed a process based upon the complex IPM modeling of the US Electric Power Sector. (The modeling process is discussed in more detail in the AEP Request for Reconsideration and Stay (see pp. 3-5)). The EPA then identified the proportion of each state's contributing emissions, which it projected to "contribute to" or "interfere with" the maintenance compliance by another state. Under the Transport Rule, states were included in one or more of three separate programs to reduce their annual SO₂, NO_x, and/or seasonal NO_x emissions in order to help down-wind states achieve compliance. The proposed rule also assigned annual emission budgets to each state for each pollutant and allocated emission allowances to sources within each state for the years 2012 and 2014. The 2012 emission reductions were intended to reflect continuous operation of installed controls, limited upgrades of combustion controls (for NO_x) and limited fuel switching (for SO₂). After the publication of the proposed rule in the Federal Register, the EPA provided only sixty days to review over 250 pages of regulatory language and volumes of supporting documentation and detailed modeling information. There were significant errors noted in the modeling inputs and in the various assumptions, some of which directly affect SWEPCO.

Thereafter, the EPA issued three separate notices with the last being in January 2011, which included IPM model runs still based upon incorrect inputs, examining different allocation methodologies, and compliance scenarios. Subsequently, upon receiving comments, EPA updated its models and generated scenarios that had never before been provided for public review, so as to achieve even more significant reductions in SO₂ and NO_x emissions and then proposed to expand the program into six other states for ozone-season NO_x. EPA also altered the programs that would be effective in certain states, limiting the requirements to ozone-season only reductions in Louisiana, but imposing annual SO₂ and NO_x reduction requirements that were never previously announced in Texas. All of EPA's actions affecting the regional states are significant for SWEPCO, as all generation units owned by SWEPCO, whether located in Louisiana, Arkansas or Texas, are needed to serve SWEPCO ratepayers across all three state jurisdictions.

The level of reduction required to be achieved in various states, including Arkansas, Louisiana and Texas changed materially from the proposed rule to the final rule. (See chart entitled *Comparison of Proposed to Final 2012 Budgets in AEP States* on p. 6 of AEP Request for Reconsideration and Stay)

The Transport Rule's proposed state reductions, based upon EPA's incorrect modeling, evaluated Louisiana's 2010 NO_x emissions based upon a three-year average at 23,172 (tons of NO_x), with an emission budget in 2012 and 2013 at 13,432, with emissions under budget of 9,740 for a required percentage change of -42%. The estimated impact

of the NOx seasonal-ozone reductions for Louisiana utilities are preliminarily estimated¹ as follows:

	3-Year Average NOx	CSAPR			
		Allocation	Percent Difference	Deficit with CSAPR	
				2012	2014
CLECO	2,760.9	1,534.2	-44.4%	(1,226.7)	(1,226.7)
ELL	6,516.0	2,609.0	-60.0%	(3,907.0)	(3,907.0)
EGSL	2,925.3	1,583.0	-45.9%	(1,342.3)	(1,342.3)
ENO	896.5	592.0	-34.0%	(304.5)	(304.5)
SWEPCO	1,150.0	630.0	-45.2%	(520.0)	(520.0)
Muni	1,637.5	806.8	-50.7%	(830.7)	(830.7)
Big Cajun 2	5,001.7	2,842.0	-43.2%	(2,159.7)	(2,159.7)
IPP	281.6	415.0	47.4%	133.4	133.4
Cogen	1,864.5	2,018.0	8.2%	153.5	153.5
Total	23,034.0	13,030.0	-43.4%	(10,004.0)	(10,004.0)

The methodology used to develop the state-by-state emission budgets is fundamentally flawed, which in turn resulted in flawed unit-by-unit allocations. SWEPCO had no notice or opportunity to comment on these key errors. For example:

1. The underlying modeling performed by EPA constrained the operation of classes of generation that are traditionally used to support periods of peak demand (that routinely occur during the ozone season, with the SWEPCO units being discussed below);
2. The model projects significant changes in coal supplies in 2012, even though most of the generating units in the Transport Rule region, including SWEPCO, have made contractual commitments to existing fuel suppliers for 2012 and beyond, so as to ensure low cost fuel and transportation;
3. The cost assumptions used in the underlying model were understated; and
4. The level of projected generation in individual states, including Louisiana, is well below levels generated in 2010. If generation were to be constrained under this false assumption, the constrained supply would affect the public health during

¹ The data set forth in the chart was presented by LPSC Staff at the September 7, 2011 Business and Executive Meeting of the LPSC. Staff also noted that Louisiana would likely run out of emission credits around July 4th, 2012 (with the ozone season running through the end of September) if the Transport Rule, as proposed, takes effect. This would result in 80 days without credits, resulting in an obvious inability to comply.

warm summer months and would further impede economic recovery and job growth.

5. As a result of the flawed model, the NO_x seasonal-ozone budget for Louisiana is significantly smaller than required for reliable electrical system operation.

EPA's modeling for unit operations is not consistent with either historical operation or expected operation under the Transport Rule requirements. As an example, within Louisiana there is over 9200 MW of generation that is assumed not to run within the Transport Rule policy case in 2012. However, most of this generation was operating during 2010 and was responsible for 26% of ozone season heat input and 43% of ozone season emissions. Many of these units are critical for grid reliability and are must-run units. Consequently, EPA has dramatically underestimated the generation requirements from within the state of Louisiana, as well as NO_x emissions.

The model includes other erroneous operating assumptions under the EPA's dispatch modeling that are specific to SWEPCO units. The EPA model assumes that the following SWEPCO Louisiana units will not run: Lieberman Units 1 through 4 and Arsenal Hill 5. These are necessary and essential peaking units, which in fact operated in 2010 and in 2011. Further, the EPA model assumes the following Texas units will not run: Knox Lee Units 2, 3, 4, and 5; Wilkes Unit 1; and Lone Star Unit 1. In fact, all of these units operated in the modeling period of 2010, as well as in the load-critical summer of 2011. Moreover, these units are projected to run again in 2012 to meet load and reliability requirements.

EPA's model also made significant erroneous assumptions concerning fuel. The model outputs incorrectly assume that Lieberman Units 3 and 4, Arsenal Hill 5, Knox Lee 4, and Wilkes 1 are fueled by oil. In fact, Arsenal Hill 5 and Knox Lee 4 are *incapable* of burning fuel oil. While some of the other units have the ability to burn oil, these units are fueled by natural gas and have been fueled by natural gas for years.

The EPA model assumed that SWEPCO will not operate the eleven (11) units identified above, representing approximately 1000 MW of capacity, which were excluded from the study. Thus, EPA must also have assumed that SWEPCO could somehow displace 1000 MW generating capacity for the 10 units by purchasing from other sources. While SWEPCO should be able to confirm a portion of the requested service by modifying redispatch requirements, some redispatch requirements would require the assistance of and contacts with unaffiliated third parties, who are under no obligation whatsoever to lend assistance to SWEPCO, a public utility with an obligation to serve. In addition, there is no study demonstrating transmission capacity will be available for delivery of this supply to SWEPCO's load or the effect transmission constraints may have on ratepayer costs.

The EPA's methodology also only allocates additional allowances to "planned" units that commence operations between January 2010 and January 2012, thus, ignoring units that will commence operations in 2012 or 2013. For example, AEP is constructing a large

ultra-supercritical coal-fired power plant, the Turk Plant in Arkansas, which is anticipated to commence operation in October 2012. Turk should have been included in the “planned” new unit allocation. Turk’s permitted NOx emissions alone are over three times the size of the total new unit set-aside, and it is expected to run as a baseload unit during ozone season, making the current set-aside grossly inadequate. Also, a new unit at the Plum Point Power Station is being constructed in Arkansas, which commenced operation during 2011, and should have been but was not included in the calculation of additional new source set-aside. In light of these under-allocations, the two newest and most efficient generators within the state of Arkansas are at risk of exceeding assurance levels due to an insufficient allocation of allowances. Thus, SWEPCO requests, as a part of the requested relief, that the allocations be increased in the affected states in which SWEPCO operates, in addition to the other relief sought herein.

There has not been sufficient time granted to conduct the precise studies necessary to determine the magnitude of the impact of the Transport Rule upon SWEPCO and its ratepayers. Thus, the modeling is substantially flawed, with the SWEPCO specific omissions and errors noted above being material. Respectfully, this alone should result in the reconsideration and stay of the effect of the Transport Rule, pending correction of the errors, followed by further study and analysis, with a request to stay the rule as it applies to Louisiana, Arkansas and Texas.

IV. SWEPCO Must Consider Compliance Issues in the Context of a Reasonable Time Frame, Meeting Reliability Requirements and the Significant Impacts Upon Its Ratepayers:

SWEPCO is a member of the Southwest Power Pool (SPP), a Federal Energy Regulatory Commission (FERC) approved Regional Transmission Organization (RTO). On September 20, 2011, the SPP corresponded with you as the Administrator of the EPA and advised that the SPP is “concerned that the Environmental Protection Agency finalized the Cross State Air Pollution Rule (CSAPR) without adequately assessing the reliability impacts of the CSAPR on the SPP region.”² (See Exhibit “A”)

In expressing its reliability concerns, Mr. Nicholas Brown, President and CEO of SPP, along with others, noted the following:

“FERC has approved mandatory and enforceable reliability standards promulgated by NERC with which the industry must comply. These standards were developed through a well-vetted industry process identifying key requirements to ensure that bulk electric systems meets an adequate level of reliability. Failure to comply with these standards can affect the ability of the power grid to operate reliably, as well as subject SPP and its members to financial penalties. These standards require that SPP’s Transmission Planners ensure that transmission lines are not overloaded and that voltage is maintained within certain prescribed limits

² The term Transport Rule is used throughout except when including specific quotations which use the acronym CSAPR.

in the event of the failure of a single element in the system. Additionally, the standards require that Transmission Operators operate in real-time within certain limits. In order to meet the demands of the system there needs to be an adequate balance of generation and transmission availability both in the short and long term. The timing of the CSAPR regulations does not provide the SPP region with enough time to ensure that adequate balance.” (Emphasis added)

Thus, there are very serious reliability issues which those with particular expertise in the area, including the SPP, have identified. The SPP goes on to explain that the result of its “reliability assessment of the CSAPR IPM generation dispatch indicates serious negative implications to the reliable operation of the electric grid in the SPP region raising the possibility of rolling black-outs or cascading outages that would likely have significant impacts on human health, public safety, and commercial activity within SPP.” The SPP further notes, and SWEPCO concurs, that the time period between “finalization of the CSAPR and its effective date is too short to allow SPP and its members/registered entities to appreciate the effects of the rule and to take actions to ensure reliability.” Reliability is not an issue with which the utilities, the FERC or hopefully, the EPA are willing to take risk, as reliability affects every individual, industry, business and ratepayer throughout the region.

NERC also establishes reliability standards, including reserve requirements, which must be considered. In its analysis, the SPP also noted, “Our reliability modeling indicates that the CSAPR Integrated Planning Model 4.1 (IMP) results, as depicted by the EPA, are likely to cause SPP to be out of compliance with the applicable NERC standards as early as 2012.” (Emphasis added) Thus, SWEPCO, and other utilities, may be in a situation where they cannot comply with NERC standards, and also comply with the Transport Rule as proposed by the agency.

SWEPCO carefully forecasts and plans many years in advance to determine generation and transmission needs. However, this planning process has been upset by the fact that SWEPCO did not receive sufficient allowances under the Transport Rule to meet its jurisdictional retail load. Given the very short time allotted for compliance, SWEPCO is considering a multi-faceted compliance approach, all of which affects reliability and increases costs to our ratepayers, and none of which was accurately predicted or taken into account by EPA in the final rule.

Our compliance plan likely will include a mix of the following:

1. Re-dispatching: We also particularly note that the coal units, such as Welsh, are designed to run as baseload units, and are not designed to run at lower levels and then ramp up where necessary. The engineers at SWEPCO, some of which have over 30 years of experience with these particular generating units, are concerned about the mechanical ability of these units to perform under these circumstances. Specifically, the long term impact in terms of additional maintenance, higher O&M costs, outages and other mechanical issues is unclear.

2. Purchased Power: The other issues to consider for compliance in such a short time-frame include the availability of power for purchase within the SPP market. However, SWEPCO cannot fully assess the market availability in view of the Transport Rule, with other companies simultaneously attempting to develop their own compliance and purchase plans, some of which may include retirement of existing capacity. Certainly, power availability is expected to be less than normal; thus, again resulting in higher costs to ratepayers. As mentioned above, technical transmission constraints may compound the decreased availability of market power, increasing prices even further.

3. Air Emissions Controls: SWEPCO is evaluating technical emission controls, which include installing low NOx burners and over-fire air systems, for example, at Flint Creek for operation in the 2013 ozone season (May to September). Further, SWEPCO and Central Louisiana Electric Company (CLECO) jointly own the Dolet Hills Power Plant in Mansfield, Louisiana, and it will be necessary to install a Selective Non-Catalytic Reduction (SNCR) system. There are timing and cost risks associated with these actions, because other companies are taking similar actions during the very short time allotted. There will be significant competition for material and labor; thus, again affecting ratepayers.

4. Allowance Purchases: SWEPCO will also be considering purchasing emission allowances as available, in order to compensate for shortfalls. There are risks associated with this strategy, in that if states exceed their assurance limits, there could be penalties associated with the purchases of allowances. Additionally, the availability of allowances is uncertain.

All of the above are compliance actions being considered solely to comply with the Transport Rule. However, compliance with the Transport Rule and the other proposed EPA rulemakings, are estimated to cost approximately \$1.3 billion dollars for SWEPCO alone, which costs will materially affect rates and our ratepayers.

V. Conclusion:

SWEPCO appreciates the opportunity to submit this Request for Reconsideration and Stay, particularly in light of the significant adverse impacts upon SWEPCO and ratepayers throughout SWEPCO's service territory in the states of Louisiana, Arkansas and Texas. SWEPCO also notes and appreciates the dialogue between the Agency and AEP, which has continued since the publication of the final Transport Rule. However, there were fundamental errors in the modeling that adversely affect the ability of SWEPCO to provide reliable and low-cost power to its ratepayers throughout the three states, and which can adversely affect every industry, business and all residents residing in SWEPCO's service territory.

SWEPCO respectfully requests that in light of the particular issues raised hereinabove, and in light of the requests, that the Administrator grant reconsideration of the issues identified herein, and that the Administrator stay the effectiveness of the final rule, while

maintaining the CAIR allowances currently in the compliance accounts for CAIR units, in order to maintain and continue the improvements in air quality achieved to date, with all appropriate remedies including those discussed hereinabove.

Respectfully submitted:

A handwritten signature in black ink that reads "Venita McCellon-Allen". The signature is written in a cursive, flowing style.

Venita McCellon-Allen
President and COO
Southwestern Electric Power Company

cc: Bobby S. Gilliam and Jonathan P. McCartney, Wilkinson, Carmody & Gilliam
Janet J. Henry, Deputy General Counsel, American Electric Power
Commissioners of the Louisiana Public Service Commission
Commissioners of the Arkansas Public Service Commission
Commissioners of the Public Utility Commission of Texas

Mississippi Public Service Commission

Lynn.Posey@psc.state.ms.us
Post Office Box 1174
201-A Woolfolk State Office Building
Jackson, Mississippi 39215-1174



(601) 961-5430
(800) 356-6430
(601) 961-5824 Facsimile

October 6, 2011

LYNN POSEY
CHAIRMAN

VIA FEDERAL EXPRESS AND ELECTRONIC MAIL

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

RECEIVED
OFFICE OF THE
EXECUTIVE SECRETARIAT
2011 OCT 11 AM 8:51

RE: Petition for Reconsideration and Stay of Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals, 76 Fed. Reg. 48, 208 (Aug. 8, 2011); Docket No. EPA-HQ-OAR-2009-0491

Dear Administrator Jackson:

Yesterday, the Mississippi Public Service Commission filed with your agency a Petition for Reconsideration and Stay of the above-styled Final Rule as it relates to the State of Mississippi. Today, as I understand it, the EPA has announced certain technical adjustments that result in a modest increase to Mississippi's emissions budget. While these upward adjustments are welcome, they do not come close to alleviating the Commission's concerns for ratepayers and the reliability of our power grid.

The Final Rule will cause Mississippi utilities to curtail local generation, possibly by as much as 46%. As noted in our Petition, such a drastic curtailment will lead to a less reliable system and will place significant upward pressure on the cost of electricity, **which Mississippi ratepayers cannot afford.** A less reliable system at a higher cost is a bad deal for Mississippi and our Country. Even with the new adjustments, I urge you to reconsider the Final Rule and to stay its implementation for the reasons presented in the Commission's Petition and in the petitions of other interested parties.

I thank you and your staff for assistance with this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lynn Posey", is written over a horizontal line.

Lynn Posey, Chairman
Mississippi Public Service Commission

cc: Governor Haley Barbour
Honorable Thad Cochran
Honorable Roger Wicker
Honorable Gregg Harper
Honorable Alan Nunnelee
Honorable Steven Palazzo
Honorable Bennie Thompson



Correspondence Management System

Control Number: AX-11-001-6863

Printing Date: October 11, 2011 04:00:51



Citizen Information

Citizen/Originator: Prager, Frank P.

Organization: Xcel Energy
Address: 1800 Larimer Street, Denver, CO 80202

Constituent: N/A

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

Control Information

Control Number: AX-11-001-6863 Alternate Number: N/A
 Status: Pending Closed Date: N/A
 Due Date: Oct 25, 2011 # of Extensions: 0
 Letter Date: Oct 5, 2011 Received Date: Oct 11, 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-NORTHERN STATES POWER COMPANY - MINNESOTA'S PETITION FOR RECONSIDERATION OF THE CROSS-STATE AIR POLLUTION RULE
 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
 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	Oct 11, 2011	Oct 25, 2011	N/A
Instruction: 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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RECEIVED
2011 OCT -6 PM 3: 42

Frank P. Prager
Vice President
Environmental Policy & Services
1800 Larimer St. Suite 1600
Denver, CO 80202
(303)294-2108

OFFICE OF THE
EXECUTIVE SECRETARIAT

October 5, 2011

Lisa P. Jackson
Office of the Administrator
Environmental Protection Agency
Room 3000, Ariel Rios Building
1200 Pennsylvania Ave. NW
Washington, DC 20004

CC:

Ms. Meg Victor
Clean Air Markets Division
Office of Atmospheric Programs
Mail Code 6204J
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Ms. Sonja Rodman
U.S. EPA Office of General Counsel
Mail Code 2344A
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

**NORTHERN STATES POWER COMPANY - MINNESOTA'S
PETITION FOR RECONSIDERATION OF
THE CROSS-STATE AIR POLLUTION RULE**

Docket No. EPA-HQ-OAR-2009-0491

I. INTRODUCTION

Northern States Power Company - Minnesota ("NSPM"), a subsidiary of Xcel Energy Inc. ("Xcel Energy") respectfully submits this petition for reconsideration of the Cross-State Air Pollution Rule ("CSAPR"), 76 Fed. Reg. 48,208 (Aug. 8, 2011). NSPM requests that EPA reconsider its methodology for calculating allowance allocations for emissions of sulfur dioxide ("SO₂") and oxides of nitrogen ("NO_x") for NSPM's High Bridge and Riverside plants, which were converted from coal to natural gas.

Reconsideration is appropriate here because EPA's final allocation methodology, which capped allocations to these plants based on their low post-conversion emissions, was presented for the first time in the final rule, denying NSPM opportunity to comment. The new approach unpredictably resulted in NSPM receiving far fewer allowances than it would have received under the previously proposed methodologies. EPA's allocation of allowances to NSPM's High Bridge and Riverside plants arbitrarily penalizes NSPM for reducing emissions at these plants before CSAPR was finalized.

In 2008 and 2009, NSPM replaced the existing coal-fired boilers at these two plants with natural gas combined-cycle units, resulting in massive emissions reductions at both power plants. In its calculation of allowances based on historical heat input, EPA utilized only the heat input after the conversion to natural gas, without providing NSPM credit for the higher historical heat input each plant had before the conversion. More important, EPA's methodology reduced the allocations to these plants to the level of emissions after the conversion, even though each plant had much higher actual emissions during EPA's 2003-2010 historical period. As a result, EPA's calculated allowance allocation is unfairly low because it does not recognize these proactive emission reduction efforts.

EPA did not explain or support this arbitrary decision. Indeed, it runs counter to the rationale EPA provides to justify its new allocation methodology:

EPA believes that existing-unit allowance allocation under the Transport Rule should not generally advantage or disadvantage units based on the selection of fuels consumed or of pollution controls installed at a given unit in anticipation of either the Clean Air Interstate Rule or the Transport Rule, *i.e., fuel or control decisions taken from 2003 onward*. An approach that does not advantage or disadvantage units in this way avoids allocating in a way that would effectively penalize units that have already invested in cleaner fuels or other pollution reduction measures that will continue to deliver important emission reductions under this rulemaking. The approach selected in the final rule generally does not penalize such units and is thus generally fuel-neutral and control-neutral in its allocation determinations.

76 Fed. Reg. at 48,288 (emphasis added). NSPM agrees with EPA's statement that early reduction projects should not be penalized, but files this petition because EPA's final allocation method did penalize NSPM's High Bridge and Riverside projects contrary to EPA's expressed policy approach.

Xcel Energy and several other parties indicated in comments on the proposed rule that actions to convert plants from coal to natural gas should get the benefit of early action taken to reduce emissions. While EPA did not directly respond to Xcel Energy's comments on this issue, EPA stated in its response to comments that "units that are repowered (e.g. switched from coal fired to natural gas fired) and *still reporting as the same unit* would continue to receive the same allocation as prior to repowering." See Transport Rule Primary Response to Comments at 2649 (emphasis added). However, as explained below, the conversions done at the High Bridge and Riverside plants resulted in an administrative reassignment of unit numbers as NSPM worked with its state environmental agency to permit and implement the projects. EPA's decision to treat High Bridge and Riverside differently than other converted units merely because they did not retain the same unit number is arbitrary.

If EPA had indicated before the final rule that it was planning to reward early action by focusing on unit numbers, NSPM could have let EPA know why that was a flawed approach in relation to the Riverside and High Bridge projects. Instead, NSPM argued for early reduction credit but was not awarded that credit in the final rule because of EPA's final methodology for crediting early reductions. EPA therefore ended up penalizing NSPM's MERP project, which is a shining example of the types of early reduction actions that EPA says it encourages.

II. NSPM's METROPOLITAN EMISSION REDUCTION PROPOSAL

The conversion of the Riverside and High Bridge plants to natural gas was done as part of NSPM's Metropolitan Emission Reduction Proposal ("MERP"), which it submitted to the Minnesota



Correspondence Management System

Control Number: AX-11-001-6868

Printing Date: October 11, 2011 01:19:14



Citizen Information

Citizen/Originator: Voigt, Gary

Organization: Alaska Electric Cooperative Corporation
Address: 1 Coopative Way Post Office Box 194208, Little Rock, AR 72219

Constituent: N/A

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

Control Information

Control Number: AX-11-001-6868 Alternate Number: 873915361277
Status: Pending Closed Date: N/A
Due Date: Oct 25, 2011 # of Extensions: 0
Letter Date: Oct 6, 2011 Received Date: Oct 11, 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-Stay of the Cross-State Air Pollution Rule-Request for Reconsideration EPA-HQ-OAR-2009-0491

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
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	Oct 11, 2011	Oct 25, 2011	N/A
Instruction: 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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Arkansas Electric Cooperative Corporation

1 Cooperative Way
P.O. Box 194208
Little Rock, Arkansas 72219-4208
(501) 570-2200

RECEIVED
2011 OCT 11 AM 8:49

OFFICE OF THE
EXECUTIVE SECRETARIAT

October 6, 2011

Administrator Lisa Jackson
USEPA Headquarters
Ariel Rios Building
1200 Pennsylvania, Avenue, N.W.
Mail Code: 1101A
Washington, DC 20460

RE: Request for Reconsideration of Cross-State Air Pollution Rule
Docket ID No. EPA-HQ-OAR-2009-0491

Dear Administrator Jackson:

Arkansas Electric Cooperative Corporation ("AECC") requests that the United States Environmental Protection Agency ("EPA") reconsider the compliance deadline of the Cross-State Air Pollution Rule ("CSAPR"). Specifically, AECC requests that the deadline be delayed by two years so that AECC has appropriate time to develop a compliance plan with the final rule that was issued.

AECC believes a reconsideration of the compliance deadline should be granted based on the following reasons:

- **Stakeholders in Arkansas were never allowed the opportunity to comment on CSAPR's true impact.** Under the proposed rule, Arkansas was to be granted 16,660 seasonal NO_x emission allowances annually – or enough to cover the ozone season NO_x emissions from EGUs in Arkansas in years 2008 and 2009. Under the final rule Arkansas will be granted 15,037 allowances annually – a 10% reduction from the proposed to final rule. Between the proposed rule and the final rule, Arkansas went from a state with a slight allowance surplus to a state with a significant allowance deficit. By not issuing the revised allowance allocations for public comment before issuing a final rule, EPA effectively denied Arkansas the opportunity to comment on the full impact of the rule.
- **The existing compliance deadline is too short.** CSAPR was signed as final on July 7, 2012 and published in the Federal Register on August 8, 2012. Electric generating units in Arkansas are subject to the seasonal NO_x trading program of CSAPR. Compliance for that program begins May 1, 2012 – less than ten months after the final rule was signed. This is simply not enough time for AECC to develop a reasonable compliance strategy for CSAPR. This is especially true if additional emission allowances are not available for purchase as many in the industry expect. Instead, AECC believes its best long-term compliance option is to install additional controls on several of its units. However, this cannot be done in time to meet a May 1, 2012 compliance

date. As a result AECC will be forced into options for 2012 and 2013 that are needlessly much more expensive. The most likely option – temporary fuel switching – will cost AECC an estimated \$22 million to \$30 million in 2012 alone. This is a cost which, if given ample time, could have instead been used to install controls with long-term benefits.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary Voigt', with a stylized flourish extending to the right.

Gary Voigt
President & CEO

xc: Arkansas Attorney General Dustin McDaniel
Commissioner Collette Honorable, Arkansas Public Service Commission
Director Teresa Marks, Arkansas Department of Environmental Quality
File



Correspondence Management System

Control Number: AX-11-001-6871

Printing Date: October 11, 2011 01:03:31



Citizen Information

Citizen/Originator: **Berry, John**

Organization: United States Office of Personnel Management

Address: 1900 E Street, NW, Washington, DC 20415

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-11-001-6871

Alternate Number: N/A

Status: For Your Information

Closed Date: N/A

Due Date: N/A

of Extensions: 0

Letter Date: Oct 3, 2011

Received Date: Oct 11, 2011

Addressee: AD-Administrator

Addressee Org: EPA

Contact Type: LTR (Letter)

Priority Code: Normal

Signature: N/A

Signature Date: N/A

File Code: 401_127_a General Correspondence Files Record copy

Subject: Daily Reading File-Thank you for adding your voice and your reputation the the Combined Federal Campaign's 50th Anniversary video.

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	OARM	Oct 11, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Control Created	Oct 11, 2011
(b) (6) Personal Privacy	OEX	Forward control to OARM	Oct 11, 2011

Comments



DAILY READING FILE

UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

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2011 OCT 11 AM 8:47

OFFICE OF THE
EXECUTIVE SECRETARIAT

The Director

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

Dear Ms. Jackson:

Thank you for adding your voice and your reputation to the Combined Federal Campaign's 50th Anniversary video. The video will be shown around the country and the globe to help the CFC carry out President Kennedy's vision and launch us successfully into the next half-century.

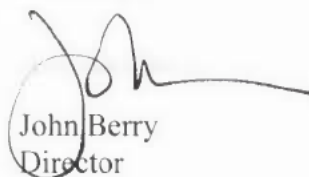
The final video is now on YouTube here: http://www.youtube.com/watch?v=zilMjS60P_k

I hope you find it as inspiring as I do. I encourage you to send the video around your agency and use it as a tool in your fundraising efforts.

As you know, we often focus on the dollar amount raised, because it marks our combined impact on the charities we support. But this year I'm asking each local CFC to also inspire new and greater numbers of donors. Please encourage your staff to use this video, and other creative methods, to reach that new pool of future donors.

Again, thank you for all that you do to assure the continued success of the Combined Federal Campaign.

Sincerely,


John Berry
Director

Warmest Thanks!



Correspondence Management System

Control Number: AX-11-001-6883

Printing Date: October 12, 2011 10:59:51



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-11-001-6883

Alternate Number: N/A

Status: For Your Information

Closed Date: N/A

Due Date: N/A

of Extensions: 0

Letter Date: Sep 19, 2011

Received Date: Oct 12, 2011

Addressee: Kay T. Hagan

Addressee Org: Executive Office of the President,
Office of Management and Budget

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 - EPA's proposed Maximum Achievable Control Technology rule for brick and structural clay processes under the Clean Air Act

Instructions: For Your Information -- No action required

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations
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	OAR	Oct 12, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OAR	Oct 12, 2011



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

DAILY READING FILE

RECEIVED

2011 OCT 11 AM 11:09

OFFICE OF THE
EXECUTIVE SECRETARIAT

THE DIRECTOR

September 19, 2011

The Honorable Kay R. Hagan
United States Senate
Washington, DC 20510

Dear Senator Hagan:

Thank you for your letter regarding the Environmental Protection Agency's (EPA) proposed Maximum Achievable Control Technology (MACT) rule for brick and structural clay processes (Brick MACT) under the Clean Air Act (CAA).

In your letter, you provided information on various options that EPA has under the CAA in drafting the Brick MACT rule. We appreciate your discussing options such as the distinction between major and area sources, subcategorization, and the health threshold standard under CAA section 112(d)(4).

Your letter will be made a part of our record, and we understand that EPA has also provided a response to your letter. Thank you again for your interest in this matter and for taking the time to communicate your views. We will consider your comments when we review the draft proposed rule.

Sincerely,

Jacob J. Lew
Director

cc: The Honorable Lisa Jackson

BOBBY JINDAL
GOVERNOR



DAILY READING FILE

PEGGY M. HATCH
SECRETARY

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY

OFFICE OF THE SECRETARY

2011 OCT 11 AM 11:09

OFFICE OF THE
EXECUTIVE SECRETARIAT

September 28, 2011

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460-2403

Re: Proposed National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production

Dear Administrator Jackson:

As you are aware, EPA's "National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production" was proposed on May 20, 2011.¹ While the Louisiana Department of Environmental Quality (LDEQ) did not submit comments on the proposed rule, I want to call your attention to several key issues raised by others during the comment period.

The first issue concerns the methodology employed by EPA to set the proposed vinyl chloride limits for stripped resin. These limits were developed from data obtained using Method 8260B; however, this method consistently underreports the vinyl chloride concentration in the resin. Yet, under the proposed rule, the PVC and copolymers industry must demonstrate compliance using Method 107, which is more sensitive and accurate. Consequently, its use will yield sampling results that exceed the proposed limits. In fact, based on this issue alone, not a single facility in the dispersion resin and "all other resin" subcategories identified by EPA can meet the proposed vinyl chloride limits.

EPA should calculate vinyl chloride concentration limits for all subcategories using Method 107 data. Continued use of Method 8260B data would violate the Clean Air Act's mandate that maximum achievable control technology (MACT) standards be based on emission levels "achieved" by the best-performing sources.²

Further, EPA has the necessary data to do so. Four years (2007 – 2010) of daily residual vinyl chloride concentration averages from 15 facilities in the PVC and copolymers industry, collected, analyzed, and reported in accordance with 40 CFR 61 Subpart F – National Emission Standard for Vinyl Chloride, were submitted to the agency as comments on the proposed rule.³ This data reflects use of Method 107 and was certified at the agency's request.

¹ 76 FR 29528

² 42 U.S.C. 7412(d)(3)

³ <http://www.regulations.gov>, Document ID EPA-HQ-OAR-2002-0037-0146

In addition, this data is more reflective of the emission levels actually achieved by the industry than the snapshot provided by the 30-day sampling data that EPA used to calculate the proposed vinyl chloride limits. Use of this information will satisfy the agency's obligation to use the best available data in setting the MACT floor for vinyl chloride, as it reflects actual operations over a multi-year period and avoids the need to apply statistical tools to estimate variability.

A second issue I would like to point out concerns what constitutes a new source. According to the proposed rule, a "new affected source" is an individual polyvinyl chloride and copolymers process unit (PVCPU) for which construction is commenced on or after May 20, 2011, regardless of the unit's potential to emit.⁴ However, other federal rules require a new unit to be a major source of hazardous air pollutants (HAP)⁵ in order to be considered a new source.

For example, according to the HON,⁶ if an additional chemical manufacturing process unit is added to an existing major source, the unit is considered a new source only if it would be a major source of HAP.⁷ A similar provision can also be found in the MON.⁸ In order to maintain consistency among MACT standards addressing chemical manufacturing facilities, EPA should consider a PVCPU added to an existing major source to be "new" only if it is a major source of HAP.

Finally, I urge you to reconsider the monitoring, testing, and sampling requirements set forth in the proposed rule, and only move forward with those requirements that are necessary to ensure compliance with the final emission limitations.

The maintenance of a healthful and safe environment for the people of Louisiana is a matter of critical concern, and LDEQ is an assertive proponent of a clean and healthy environment. Nonetheless, the Louisiana constitution does not establish environmental protection as an exclusive goal, but requires a balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social, and other factors.

LDEQ supports the development and promulgation of cost-effective MACT standards for the PVC and copolymer industry. The final rule, however, should be compliant with the mandates of the CAA; allow the PVC and copolymer industry to continue to produce the mix of products upon which its customers depend, both now and in the future; and allow Louisiana manufacturers to grow their businesses and compete in a global market. These objectives are fully consistent with President Obama's Executive Order entitled "Improving Regulation and Regulatory Review," which states our "regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation."⁹

⁴ 40 CFR 63.11870(c)

⁵ Per 40 CFR 63.2, a "major source" emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAP.

⁶ Hazardous Organic NESHAP: 40 CFR 63 Subparts F, G, H, & I – National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry

⁷ 40 CFR 63.100(l)(1)(iii)

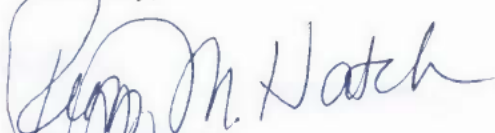
⁸ Miscellaneous Organic NESHAP: 40 CFR 63 Subpart FFFF – National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing. See specifically 40 CFR 63.2440(c)(2).

⁹ Executive Order 13563 of January 18, 2011 (76 FR 3821, January 21, 2011)

The Honorable Lisa P. Jackson
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Should you have any questions concerning this correspondence, please contact Sam Phillips,
Assistant Secretary of the Office of Environmental Services, at (225) 219-3180.

Sincerely,

A handwritten signature in blue ink that reads "Peggy M. Hatch". The signature is written in a cursive style with a large, looping initial "P".

Peggy M. Hatch
Secretary

PMH



Correspondence Management System

Control Number: AX-11-001-6893

Printing Date: October 12, 2011 11:06:31



Citizen Information

Citizen/Originator: Zeman, Christine

Organization: Office of Public Utilities

Address: 800 E Monroe Street Fl 4, Springfield, IL 62701

Constituent: N/A

Committee: N/A

Sub-Committee: N/A

Control Information

Control Number: AX-11-001-6893

Alternate Number: N/A

Status: For Your Information

Closed Date: N/A

Due Date: N/A

of Extensions: 0

Letter Date: Oct 5, 2011

Received Date: Oct 12, 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 - City Water, Light & Power's request for reconsideration/Cross-State Air Pollution Rule

Instructions: For Your Information -- No action required

Instruction Note: N/A

General Notes: N/A

CC: OCIR - Office of Congressional and Intergovernmental Relations
OEAEE - Office of External Affairs and Environmental Education
R5 - Region 5 -- Immediate Office

Lead Information

Lead Author: N/A

Lead Assignments:

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

Supporting Information

Supporting Author: N/A

Supporting Assignments:

Assigner	Office	Assignee	Assigned Date
(b) (6) Personal Privacy	OEX	OAR	Oct 12, 2011

History

Action By	Office	Action	Date
(b) (6) Personal Privacy	OEX	Forward control to OAR	Oct 12, 2011

Comments

Message Information

Date 10/05/2011 04:25 PM
From "Zeman, Christine" <Christine.Zeman@cwlp.com>
To LisaP Jackson/DC/USEPA/US@EPA
cc Gina McCarthy/DC/USEPA/US@EPA; Beth Craig/DC/USEPA/US@EPA; Sam Napolitano/DC/USEPA/US@EPA
Subject CWLP's request for reconsideration/CSAPR

Message Body

Dear Administrator Jackson,

Attached is a courtesy copy of CWLP's Petition for Reconsideration of its allocations for our new Dallman Unit 4 under the CSAPR, sent today by certified mail. We believe CWLP has a unique case for reconsideration of its allocation of allowances for Dallman Unit 4, given the operational issues during the shakedown and startup of this unit that impacted our allocation under the final methodology, and would appreciate USEPA's consideration of our unique position. Thank you for USEPA's consideration of CWLP's request for reconsideration.

Sincerely, Christine

Christine Zeman
Regulatory Affairs Manager, CWLP
800 East Monroe Street, MCE 4th floor
Springfield, IL 62757
217/789-2116 ext. 2628
217/789-2136 (fax)
christine.zeman@cwlp.com

-----Original Message-----

From: CWLPGO355@intranet.cosnet.local
[mailto:CWLPGO355@intranet.cosnet.local]
Sent: Wednesday, October 05, 2011 3:50 PM
To: Zeman, Christine
Subject: Scanned image from AR-M355N

DEVICE NAME:
DEVICE MODEL: SHARP AR-M355N
LOCATION:

FILE FORMAT: PDF MMR(G4)
RESOLUTION: 300dpi x 300dpi

Attached file is scanned image in PDF format.
This file can be read by Adobe Acrobat Reader.
The reader can be downloaded from the following URL:

<http://www.adobe.com/>

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