



# EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE: BIANNUAL REPORT

2015-2016

January, 2017

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## EXECUTIVE SUMMARY

The Local Government Advisory Committee (LGAC) is a federal advisory committee chartered to provide recommendations representing the views of local government stakeholders to the EPA Administrator for over 23 years. LGAC members are a diverse group of elected and appointed officials who represent an immense range of communities and local perspectives nationwide. Through its fruitful relationship with the LGAC, EPA is able to gain a sense of citizen concerns, the agency's obligations and how needs can be fulfilled by government. Historically, the LGAC has been instrumental in decision-making at EPA, providing local insights into some of the nation's most pressing environmental issues. The LGAC's relationship with EPA closely follows the agency's key goals of collaboration and cooperation.

During 2016 alone, the LGAC produced 17 letters of recommendations with over 300 individual recommendations to EPA, as well as three reports.

The LGAC's major accomplishments include:

- Provided EPA advice on matters effecting state, local and tribal governments
- Enhanced intergovernmental partnerships with EPA
- Provided EPA perspective on community environmental and public health issues
- Informed EPA of affordability issues confronting communities
- Enhanced intergovernmental communication between EPA and local governments

The LGAC also developed:

- National Drinking Water Action Plan Report
- Local Government Environmental Justice Best Practices Report
- Recommendations on the Proposed Clean Water Rule
- Recommendations on the Worker Protection Standard
- Supported an updated Ozone Standard
- Recommendations on a new Oil Refineries Rule
- Encouraged EPA to develop a Rural Strategy
- Provided insight on brownfields redevelopment and sustainability

The LGAC provided the EPA recommendations on what should be considered in a National Drinking Water Action Plan by gathering the views of local government stakeholders and compiling these perspectives ranging from urban to agricultural, border to central, small to large. Among the most prominent themes featured in the Report are the importance of safe, clean and affordable drinking water for all Americans; attention toward community abilities to pay for clean water; investment in education and communication; and increased methods of integrated planning under the Safe Drinking Water Act.

The LGAC also published (2015) an Environmental Justice (EJ) Best Practices Report featuring innovative practices of local government which close the gap of public health and often-overlooked communities suffering from poor infrastructure, pollution, and deteriorating environmental conditions linked to a

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changing climate. Major topics discussed in the report include lack of water infrastructure, toxic air emissions, brownfields, public health disparities and climate change adaptation strategies. This Report inspired EPA's Office of Environmental Justice to begin work on Plan EJ 2020, a strategy to advance the role of environmental justice in EPA's mission to make a visible difference in communities.

This Report covers many of the detailed findings and recommendations the Committee advanced to EPA to consider within its major programs, rules, grants and sustainability and mission objectives. The LGAC's work assisted EPA in bringing practical, strategic and pragmatic advice to its crucial mission of protecting the environment and public health for all of our citizens.



### MESSAGE FROM THE CHAIR

*The LGAC is a group of state, local and tribal officials from across this great nation who dedicate our time to help the EPA achieve their mission of environmental and public health for all of our communities. We do that by providing our practical 'on the ground' insights and sharing our best practices on what works best in our communities. In local governments, we make decisions every day that effect our communities' well-being and prosperity. We are also good stewards of our land and water. Through our ongoing advice and participation in federal decision-making we help to shape decision-making that benefits our citizens nationwide. Through our partnership we can together achieve a vision of a more prosperous tomorrow and a safer and healthier environment for our future generations.*

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## ACKNOWLEDGEMENTS

**EPA's Local Government Advisory Committee (LGAC)** would like to acknowledge the assistance of EPA's Office of Congressional and Intergovernmental Relations (OCIR) for hosting the Committee. The LGAC would also like to acknowledge the EPA senior leaders and staff that have taken time to seek our advice and to educate the committee on important policies, regulatory actions and environmental decisions that impact their communities, and seek their advice.

The acknowledgements begin with **Administrator Gina McCarthy, Acting Deputy Administrator Stan Meiburg and Chief of Staff Matt Fritz**, who have dedicated and appropriated time and commitment to seek and support the work of the LGAC. It is also important to recognize **OCIR's Associate Administrator Nichole Distefano, Principal Deputy Associate Administrator Robin Richardson, Deputy Associate Administrator of Intergovernmental Relations Mark Rupp and State and Local Director Jack Bowles**. It is through their support and advocacy that local government's advice is well placed in EPA's public decision-making.

We also acknowledge the contributions of all of the EPA Regional Administrators and their staff who have nominated, vetted and continue to engage with the LGAC in regional and local policy updates and discussions: Curt Spalding, Judith A. Enck, Shawn M. Garvin, Heather McTeer Toney, Ron Curry, Robert Kaplan (Acting), Mark Hague, Shaun McGrath, Alexis Strauss (Acting) and Dennis McLerran. Also critical has been the support of EPA's Assistant Administrators, Acting AAs and Senior EPA Advisors: Janet McCabe, Joel Beauvais, Mathy Stanislaus, Jim Jones, David Bloom and Ron Carleton.

Also, we would like to acknowledge other EPA Staff who have provided ongoing support to the Committee through their presentations, fact finding and program updates. These include: Mike Koerber (Office of Air and Radiation), Peter Grevatt (Office of Water), Eric Burneson (Office of Water), Charles Lee (Office of Environmental Justice) and Jackie Harwood (Office of Land and Emergency Management).

A special acknowledgement to all of the Team at OCIR who work tirelessly on the day-to-day committee management and support of the Committee's operations: Portia Banks, Sonya Scott and Becky Cook-Shyovitz. Also, special acknowledgements go to Demond Matthews, Designated Federal Officer for the Small Community Advisory Subcommittee (SCAS) and Frances Eargle, Designated Federal Officer for the LGAC for their contributions in managing and promoting the committee's work.

The LGAC would also like to acknowledge and thank former LGAC Members who contributed greatly to this body of work: Mayor (former) Lisa Wong; Mayor (former) Bill Finch; Supervisor (former) Salud Carbajal, Commissioner; Commissioner (former) Don Larson; Council Member Dave Richins; Mayor Kevin Faulconer; Mayor Ben McAdams; Mayor (former) Ralph Becker; County Executive Tom Hickner; County Executive Dave Somers and the late Mayor Marilyn Murrell.

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## EPA OCIR INTERNS

OCIR Interns provide a dynamic resource and educational component to the committee's work. They provide staffing for research, committee records and dialogue, and assistance with their reports. This work not only provides an experiential learning opportunity (rare in a classroom) but also provides fresh, innovative and cutting edge information from their academic experience.

We would like to acknowledge the work of these interns: Katie Pastor (2016), Marta Zeymo (2016), Ingrid Archibald (2016), Lisa Ng (2016), Amrita Spencer (2015-2016), Erik Wilke (2015), Ashwini Ganpule (2015), Robin Ye (2015), Jincy Varughese (2014-2015) and Jordyn Giannonne (2015).

### **DEDICATION:**

***We dedicate this Report to the memory of the late Mayor Marilyn Murrell, Arcadia, Oklahoma and former LGAC and SCAS Member for her leadership in public service and her dedication and contributions to the LGAC and SCAS.***



EPA- Administrator Gina McCarthy (left), Mayor Marilyn Murrell (center); and  
EPA Region 6 Administrator Ron Curry                      Photo Source: Mark Rupp, EPA

## INTRODUCTION

This report presents the Local Government Advisory Committee's (LGAC) recommendations to the agency in its role chartered by EPA and in accordance with the Federal Advisory Committee Act (FACA), which governs how the federal government seeks outside advice. The LGAC has had a significant influence in decision-making at EPA, especially in how local, state and tribal intergovernmental partners participate in EPA policy.

The LGAC has also played a unique role in educating the agency on how local governments work and bringing community values into government decision-making. This serves to improve the quality of policy decisions and increases the trust in government at all levels.

The Federal Advisory Committee Act (FACA, or the Act),<sup>1</sup> passed in 1972, governs how the federal government seeks external advice. It aims for balance in representation and transparency in determining who participates in government decision-making, when they participate, how they participate and what influence participation has on policy. It also aims to keep Congress and the public informed about the committees' activities and recommendations.

The LGAC was first chartered by EPA as a FACA in 1993 as a result of Congress' Small Town Taskforce, which passed the Small Town Environmental Planning Act of 1992. EPA later chartered a Small Community Advisory Subcommittee (SCAS) of the LGAC in 1996 to address small community concerns, originally focusing on communities under 2,500, and later (2010), less than 10,000. Today, the LGAC - with its chartered subcommittee - is a strong voice for communities of all sizes.

During the 2015 -2016 fiscal year, the LGAC produced **two (2) reports and 32 recommendation letters** to the EPA Administrator. The latest report, entitled "***Clean and Safe Drinking Water: EPA's Local Government Advisory Committee's Findings and Recommendations***" details further steps for EPA regarding clean and safe drinking water initiatives. Within these letters and reports were 300 individual recommendations for EPA to consider when promulgating regulatory and policy considerations and their implementation processes. Within the meetings of the LGAC Executive Committee and the workgroups, there continues to be discussion about ways to improve the efficacy of EPA's policies for local governments.

The LGAC has 38 current members. (See Appendix I for a list of 2016 LGAC Members.) The LGAC workgroups have also expanded their membership to include key experts in their dialogue and discussion that helps inform their work.

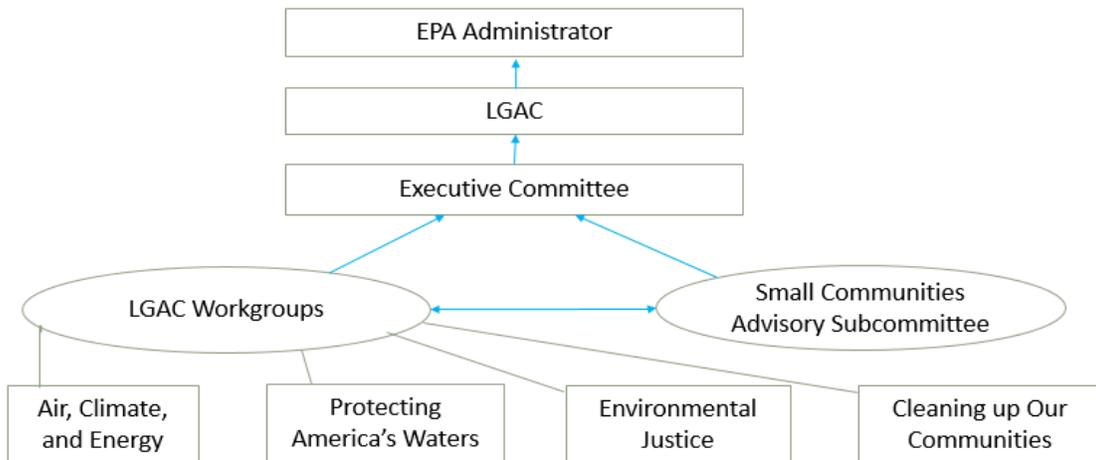
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<sup>1</sup> Federal Advisory Committee Act (FACA), Pub. L. No. 92-463, 86 Stat 770 (1972), codified at 5 U.S.C. App. §§ 1-16.

## STRUCTURE OF THE COMMITTEE

The LGAC is an advisory group chartered to provide advice to the EPA Administrator. It is comprised of a Tier 1 committee, one standing Tier II subcommittee and various workgroups. Each workgroup has a specific area of focus to which members are assigned in order to provide input on topical issues outlined in the EPA Charter. The Executive Committee (EC) is also a workgroup comprised of the subcommittee and workgroup chairs and vice-chairs.

### Structure of the LGAC



## IMPACT OF THE LGAC

The Local Government Advisory Committee (LGAC) is comprised of elected and appointed local officials of state, local and tribal governments. The policy committee has representative perspectives of mayors, county elected officials, city managers, tribal leaders, state representatives, and municipal, county and tribal government officials. The LGAC provides advice and recommendations that assist EPA in developing a stronger partnership with local governments by building state and local capacity to deliver environmental services and programs. The ultimate goal of the LGAC is to provide U.S. citizens with more efficient and effective environmental protection at the community, state and federal levels.

The LGAC is unique at EPA as the only federal advisory committee in the agency, if not the whole federal government, which consists of only elected and appointed officials of state, local and tribal governments. The Committee provides a great deal of value and has had impact on EPA decision-making through its consensus-building on important environmental and public health issues. The LGAC's advice ensures the effectiveness of EPA policies and decision-making so that it is responsive to local government and promotes the understanding of community needs. The LGAC has also served to provide a meaningful forum for local government participation and expression of community issues in the federal decision-making process, which reflects community values and goals.

Since LGAC members represent a diverse range of communities and engage with their colleagues nationwide, EPA is able to gain a sense of citizen concerns, the agency's obligations and how needs can be fulfilled by government.

Local governments are more immediately accessible to citizens. Because many local matters directly affect citizens' daily lives, the advice of local leaders is important in giving feedback to EPA about the impacts of EPA's regulations, policies, procedures and activities. This way, public interest is upheld through the advice and recommendations set forth in the LGAC's input.

The LGAC has shown value to the agency in the following ways:

- Bringing public and community values forward into decision-making;
- Providing an open forum for dialogue and consensus-building on environmental matters affecting communities;
- Improving the efficiency and efficacy of EPA in carrying out its policies and regulations;
- Increasing the quality of decisions at EPA;
- Enhancing communication and accessibility of information to local, state and tribal governments;
- Building more robust and stronger intergovernmental partnerships;
- Educating the agency and local governments on better ways to address environmental and public health concerns; and
- Improving trust in governmental agencies for openness and delivery of federal services.

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Understanding community environmental and public health needs and concerns may be particularly challenging for the federal government. LGAC members represent their communities and bring forward the perspectives of the disadvantaged, the powerless, the urban/rural, and minority groups to EPA. These unique perspectives can then be considered in EPA's rule-making, policy development and agency actions and procedures. For example, the LGAC recently brought forward the issue of lead contamination in drinking water in Flint, Michigan. The LGAC provided insight about citizens in a Hispanic community in Flint who were informed about the contamination issue but took ineffective personal actions because public health information and directives were not provided in Spanish. Rather than using bottled water, these citizens resorted to boiling water because they thought that could curb contamination issues. Local officials must address these problems, and the LGAC has been a crucial vehicle for raising these important issues to EPA with openness and transparency.

Local government leaders regularly interact with their citizens and truly understand their communities, so bringing these concerns forward to EPA offers fresh points of view and insight on particular issues, allowing the federal government to better address relevant environmental and public health challenges.

The impact of the LGAC within EPA has been profound. The EPA Administrator and Senior-level decision-makers frequently interact with the LGAC in a public setting, which has engendered respect for the special character and individuality of each community, while recognizing the interdependence of communities and promoting coordination and cooperation.

The LGAC also provides an opportunity for intergovernmental leaders to express their views and concerns. This has served as a good forum for effective exchange of information through a deliberative process. Through this process, the LGAC has also served as a valuable ally to advocate for equitable regulation and delivery of federal services, recognizing that communities are diverse, and needs and expectations for public services vary throughout the country so that 'no one size fits all.'

During 2016, the LGAC produced 17 letters of recommendations with 185 individual recommendations to EPA, as well as a detailed report regarding the development of a National Drinking Water Action Plan. The LGAC has been instrumental in providing insight into some of the most pressing environmental issues.



LGAC Member Dr. Hector Gonzalez, M.D. (2015)



LGAC Meeting, EPA Headquarters (2015)

## OVERVIEW OF SELECTED LGAC ISSUES

### EPA'S NATIONAL DRINKING WATER ACTION PLAN

On July 28, 2016, the EPA Administrator charged the LGAC to provide recommendations and input on a National Drinking Water Action Plan. The charge issues included: advancing the next generation of Safe Drinking Water Act implementation; addressing environmental justice and equity in infrastructure funding; strengthening protections against lead in drinking water; and describing strategies for emerging and unregulated contaminants. All of these issues are also considered in the context of overarching themes such as source water protection, economic development, communication and partnerships, showcasing best practices and optimizing investment of scarce resources.

The charge was assigned to the LGAC's Protecting America's Waters Workgroup, which solicited input from all LGAC workgroups, the Small Communities Advisory Subcommittee and external stakeholders.



The report includes a detailed response to the charge in consideration of the input received. However, several strong and consistent themes emerged as the workgroup heard from a multitude of diverse stakeholders. First and foremost, safe, clean and affordable drinking water is essential for all Americans. There was unanimous support that every American should have an awareness of the value of water as a driver of public health, economic prosperity and quality of life. The LGAC also found that the ability to pay for safe drinking water, on both an individual and community basis, is a growing issue and poses a significant public health threat across the nation. In order to promote success in this field, investment needs to be made in education and communication. Local and

tribal government officials are most knowledgeable about the needs of their communities, and require the tools to effectively advise their citizens. The LGAC further believes that new ways of doing business, new partnerships and novel methods of thinking are paramount in order to successfully achieve the goals set to provide clean water for all. Finally, under the Clean Water Act, methods of integrated planning have proved extremely successful. The LGAC feels that this method can be utilized even further as an effective tool under the Safe Drinking Water Act.

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EPA's Drinking Water Action Plan offers the opportunity to learn from the past and innovate in the future to bring clean, safe and affordable drinking water to all Americans. The LGAC's report provides detailed perspectives from local and tribal agencies that can assist EPA in developing effective strategies for our diverse communities. Local governments and public water systems are experienced in overcoming challenges and innovating ways to better serve their constituents. EPA's engagement of the LGAC on the development of the Drinking Water Action Plan is a commendable step towards strengthening the federal-local partnerships needed to succeed in delivering on the commitment to safe, clean and affordable drinking water across the nation.

Because drinking water providers, systems, water sources and customers are so diverse, the EPA Administrator charged the LGAC's Protecting America's Waters workgroup with outreach and collaboration initiatives in developing recommendations for the National Drinking Water Action Plan. This report is a compilation of perspectives representing urban areas, agricultural communities, special districts, border communities, low-income communities, communities advancing best practices and many others. Many common themes regarding local problems, as well as innovative ideas, emerged through our work.

### ENVIRONMENTAL JUSTICE (EJ) BEST PRACTICES FOR LOCAL GOVERNMENTS

Many urban and rural communities across the United States are suffering from poor infrastructure, pollution and deteriorating environmental conditions linked to a changing climate. Issues in these communities are often overlooked by state and federal governments, leaving local governments without funds and tools to alleviate these pressing problems. The LGAC's Environmental Justice Best Practices Report sheds light on major environmental issues that disproportionately affect low-income and minority communities. Topics discussed in the report include lack of water infrastructure, toxic air emissions, brownfields, public health disparities and climate change adaptation strategies.



LGAC Member Mayor Johnny DuPree and Mark Rupp, Associate Administrator for Intergovernmental Relations, Atlanta, GA (2016)

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Photo Source: City of Laredo, Public Health Dept. Website

Also included in the report is an appendix of community case studies put forward by LGAC members. These case studies highlight best practices that LGAC members have used as local government officials, and have effectively addressed environmental justice issues in their communities. This appendix is meant to be a living document, and the LGAC encourages the addition of new case studies to the document as new best practices are discovered.

The EJ Best Practices report has allowed for great strides in EPA's environmental justice strategies. In the report, the LGAC recommended that EPA develop a blueprint to further its consideration to address environmental justice. This recommendation pushed EPA's Office of Environmental Justice to start work on the EJ 2020 Action Agenda. This comprehensive strategy builds on the ideals of Plan EJ 2014 to further advance the role of environmental justice in EPA's mission to make a visible difference in communities.

### EPA'S PROPOSED CLEAN WATER RULE

The Clean Water Act (CWA) was signed into law in 1972 to protect America's "traditionally navigable" waters (oceans, rivers, streams, lakes and wetlands) from pollution and runoff. The rule, however, contained highly technical language that was difficult for state and local officials to effectively follow. This unclear communication created confusion and discrepancy as to which waters were actually covered under the Clean Water Act. After three Supreme Court determinations, in April 2014, EPA decided to make revisions to the rule clarifying the waters that are subject to regulation under the Clean Water Act.

In May 2014, the Administrator issued a charge to the LGAC to provide local government input and recommendations for EPA's proposed revisions to the Clean Water Act. Members of the LGAC drew on their experiences in state, local and tribal positions to put together a set of recommendations that would make the proposed rule viable at smaller levels of government. Some of these recommendations offered revised definitions to some of the major waterways discussed in the rule.

On May 27, 2015, EPA and the U.S. Army Corps of Engineers jointly released a final rule to clarify protection under the Clean Water Act for streams and wetlands that form the foundation of the nation's water

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resources. The LGAC Protecting America's Waters workgroup provided input to be considered for the final rule through Administrator McCarthy's charge. After the final Clean Water Rule was published, the Administrator again charged the LGAC with providing a new set of recommendations and advice on implementation of the Clean Water Rule. This charge was issued in the face of strong opposition to the rule by several states. A common complaint was that the rule was overreaching and did not effectively clarify "Waters of the United States" criteria.

The LGAC concluded that the importance of clarity in the rule regarding Waters of the United States is paramount to achieving clean water objectives for commerce, recreation and health in our communities. One of the primary recurring themes heard at the public outreach meetings was that the proposed rule, as written, does not achieve the intended level of clarity.

The LGAC also heard extensive concerns about the current permitting process, as well as a strong consensus that the proposed rule could further degrade an already-inefficient permitting process while placing excessive economic burden on local government.

The LGAC recommended that EPA and the U.S. Army Corps of Engineers continue to evolve the rule so that it addresses the concerns and incorporates the recommendations of local government.

### SUMMARY OF RECOMMENDATIONS

The LGAC discussed the various options for EPA to consider in releasing a final rule. The final rule was modified, perhaps substantially, as a result of public comments and the LGAC public outreach process. The APA required that EPA provide detailed responses to comments, but did not allow for an additional public comment period if the rule is substantially revised. Whether a revised rule warrants additional public comment was debated by the LGAC. Some members felt that EPA's detailed response to comments would demonstrate to participants that they were heard. Other members felt that the public, and especially those involved in the LGAC public outreach should have the opportunity to comment on a substantially revised rule before it goes final. Regardless of the approach EPA takes, the LGAC put forward that it is important for EPA's credibility to be highly responsive to the concerns expressed through the public outreach process. EPA stands behind a message of partnership and collaboration. Its work on the final rule to date has clearly been controversial and has been challenged by many parties. However, EPA's process demonstrated their commitment of public engagement.

The LGAC and the Protecting America's Water Workgroup, in cooperation with the Small Communities Advisory Subcommittee and the Environmental Justice Workgroup, have developed a series of findings and recommendations regarding the proposed rule that encourage further refinement. The LGAC finds that the Clean Water Act has been, and remains, a critical law that protects one of the most precious resources that this country enjoys. While all agree that clean water is vitally important to the nation, the LGAC believes that a rule supporting the act works best when,

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A rule is:

- Clear, and enforceable;
- Workable and understandable definitions;
- Clearly delineated exemptions;
- Predictable and consistent in implementation; and
- Controls costs to localities already under severe resource constraints.

In late August 2015, a district court North Dakota judge granted an injunction to stay the Clean Water rule section 404 to thirteen states that filed a joint lawsuit. During this time, the LGAC recommended that some additional independent information be disseminated to leaven what several senators called “considerable and potentially costly confusion” (Sens. Donnelly, Barrasso, Heitkamp, Inhofe) that occurred due to the rule.<sup>2</sup>



Image Source: [http://3.bp.blogspot.com/-s7RHE59fKMY/UA1-iPwQjCI/AAAAAAAAAZs/MXha4NmV28A/s640/Yukon\\_Delta\\_20020922\\_Landsat7\\_150dpi.jpg](http://3.bp.blogspot.com/-s7RHE59fKMY/UA1-iPwQjCI/AAAAAAAAAZs/MXha4NmV28A/s640/Yukon_Delta_20020922_Landsat7_150dpi.jpg)

The LGAC stressed the need for direct and simple **communication** directly between EPA, Regional offices, scientists, farmers and landowners. The LGAC further recommended that an easily usable telephone application could also increase **efficiency**, providing information directly in the hands of individuals who can use these tools as a starting point for their own understanding and compliance with the Clean Water Act. With LANDSAT imagery, geographic weighting and data layering, individuals can learn about the land around them and their own property. Lastly, a resource like an app that the LGAC recommends provides another layer of **transparency** between the government and its citizens, allowing everyone to see the same data and how policy should be worked to protect public and environmental health for everyone.

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<sup>2</sup> Associated Press. Daly, Matthew <http://www.bigstory.ap.org/article/5c7320f52ffd44d69657c6b7a096228a/epa-clean-water-rule-effect-despite-court-ruling>

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## WORKER PROTECTION STANDARD

Established in 1992, the original Worker Protection Standard (WPS) was created to ensure that agricultural workers remained safe and healthy in their workplace. Due to the scope and importance of the issue, EPA



Image Source: [http://farm6.staticflickr.com/5169/5277669243\\_a73cc1bba2.jpg](http://farm6.staticflickr.com/5169/5277669243_a73cc1bba2.jpg)

put the WPS out for review to the public, interest groups, affected industries and the LGAC. When the LGAC reviewed the rule, it was immediately apparent that there were major health concerns about agricultural pesticides – namely, the exemption of farmworkers from the Right to Know Act and the subsequent lack of protection for agricultural workers spraying the fields. The importance of this issue was highlighted as one of the LGAC members had personal experience with this situation. He recalled the summers he would work alongside his father in the fields, sometimes eating

unwashed fruit without understanding the health implications of the pesticides on it. With the knowledge that the issue was cross-cutting, disproportionately affecting minority populations and small communities, the LGAC recommended that EPA, for the first time ever, raise the minimum age requirement of field workers to 18, that farmworkers be trained annually on pesticide safety information and that wash down facilities be required and made available to workers. Now, with these significant recommendations of the LGAC accounted for in the final rule, the revised WPS is being implemented across the country. The diligence of the partnership between LGAC and EPA has led to tremendous changes in the protection of farmworkers.

- ✓ **EPA Response: On September 28, 2015, EPA expanded its rule for worker protection standards, considering and implementing LGAC recommendations about age restrictions, whistleblower rights and protections and safety training.**

## OZONE STANDARD

*“The LGAC supports EPA’s proposal to strengthen the level of both primary and secondary ozone standards to improve public health protection for millions of Americans.”*

In 2008, EPA made revisions to the Ozone National Ambient Air Quality Standards (NAAQs), setting the primary ozone standard to the current level of 75 parts per billion (ppb). The revisions also set the

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secondary ozone standard equal to the new primary standard. Litigation followed these revisions, in which the Supreme Court accepted the revised primary standard and remanded the secondary standard. Since the 2008 revisions, new scientific literature has led EPA to determine that the 75 ppb standard is not adequate in protecting public health or public welfare. This determination was confirmed through the findings of the Clean Air Scientific Advisory Committee, an independent committee made up of scientists who advise the EPA Administrator on scientific aspects of environmental issues. With this in mind, EPA proposed new revisions to ozone NAAQS, with the suggestion to set the primary ozone standard and the secondary ozone standard at a range between 65-70 ppb. The final rule was released on October 1, 2015.



Image Source:  
<https://kienforcefidele.files.wordpress.com/2009/01/ozone-layer-ji-001.jpg>

LGAC's Air, Climate and Energy Workgroup (ACE) received a briefing on the proposed ozone standards early in 2015. The workgroup brought the issue back to the collective LGAC, which led to a recommendation letter on the proposed ozone NAAQS revision. The LGAC supported the 65-70 ppb primary and secondary standards.

- ✓ **EPA Response: The LGAC supported the lowering of acceptable ozone content, primarily from emissions of power plants and electric utilities, to EPA's new standard range of 70-65 ppb, which was released on October 1, 2015.**

### OIL REFINERIES

*"The LGAC recommends that EPA provide a more detailed economic analysis that outlines each of the impacted regions and each community's share of the burden."*

*"The LGAC recommends that EPA expand the geographic scope of public meetings."*

With the implementation of a new rule for oil refineries, active as of September 29, 2015, a group of 150 oil refineries across the nation will be required to monitor toxic emissions to prevent poisoning in surrounding communities, many of which are comprised of minority groups and which are low-income. The rule requires continuous monitoring of the carcinogen benzene at the refinery's borders and in the community, cutting emissions after a certain level of benzene pollution is reached. The LGAC recommended that EPA provide analysis to support the rule, which will head off complaints and prevent possible impediments to the rule. The American Petroleum



Image Source:  
[http://pixabay.com/static/uploads/photo/2013/05/05/23/36/refinery-109024\\_640.jpg](http://pixabay.com/static/uploads/photo/2013/05/05/23/36/refinery-109024_640.jpg)

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Institute has already issued a complaint<sup>3</sup>, and without clear communication, especially at the state and local level, citizens may be misinformed and angered. For that reason especially, it is important to include voices from across the nation. To that end, the LGAC recommended that the geographic scope of public meetings on the topic be expanded, to inform and to include diverse perspectives.

- ✓ **EPA Response: The LGAC's recommendations were considered for the new EPA Oil Refineries rule on "fence-line" monitoring which was announced September 29. Sites across the country were targeted in this effort.**

### RURAL STRATEGY

*"There is a fundamental need to have a consistent and clear definition of 'rural' across all EPA programs and ultimately all federal agencies."*

The LGAC, through the input of the Small Communities Advisory Subcommittee (SCAS), submitted an additional response letter in March 2015 to respond to EPA's Strategic Plan for 2014-2018. This new letter, titled the "Rural Strategies Letter," applauded the Administrator on her goal to "make a visible difference in communities," but highlighted the ever-present gaps in small and rural communities. These communities make up a significantly large portion of America's communities, but often do not have the resources to finance and maintain adequate infrastructure. The LGAC specifically endeavored to address small and rural community concerns in the Rural Strategies Letter. One highly emphasized recommendation was the need to have a clear, consistent definition of "rural" across all federal agencies. Because each federal agency has different criteria to classify rural communities, it is confusing and often difficult for small and rural communities to receive grant funding and technical assistance. In turn, this compromises the ability for these communities to increase capacity building. If all federal agencies are able to standardize the criteria to classify rural development communities, it will be easier for state and federal governments to collaborate with local governments to identify grant opportunities and technical assistance programs. Only with these resources can communities create sound infrastructure that will ultimately help them thrive.



Image Source:

<http://res.freestockphotos.biz/pictures/10/10203-ranchers-rounding-up-cattle-in-a-field-pv.jpg>

<sup>3</sup> [http://www.upi.com/Top\\_News/US/2015/09/30/EPA-sets-strict-limits-on-oil-refinery-emissions-into-nearby-communities/2921443620411/](http://www.upi.com/Top_News/US/2015/09/30/EPA-sets-strict-limits-on-oil-refinery-emissions-into-nearby-communities/2921443620411/)

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## BROWNFIELDS

*“Brownfields development is a source of economic opportunity for communities across the nation, especially small, rural and environmental justice (EJ) communities.”*



Image Source:  
<http://blog.epa.gov/blog/wpcontent/uploads/2015/09/construction>.

The LGAC, through the input of the Cleaning Up Our Communities Workgroup, submitted another letter in December 2015 on the topic of Brownfields re-authorization and support. Through EPA's brownfields program, communities are able to clean up previously contaminated sites and recapture spaces that can be used for public greenspaces, neighborhoods and businesses. This bolsters a community's vitality – both socially and economically. Engagement in the brownfields program has shown to attract investors to a community, where it may often be direly needed. Further, funding and job-training opportunities through the brownfields programs enables communities to hire from within – thus bolstering

their internal economy. EPA's Area-Wide Planning Program enables communities and their brownfield projects to engage in a wide variety of sustainable efforts that promote policies benefitting the environment, public health and the economy. Finally, the LGAC found that there are liability issues in regards to brownfields programs through their clean up and revitalization, which makes some communities hesitant to engage. To these ends, the LGAC put forth in this letter a number of recommendations, including EPA case studies on the impact of brownfield programs on community investment; continued funding and support for brownfields job training programs; expansion of the Area-Wide Planning Program to assist in long-term sustainable planning; working alongside small communities for brownfields implementation; provision of brownfield information sessions directly targeted at local governments along with targeted assistance; and working alongside the Federal Deposit Insurance Corporation (FDIC) to address financial strategies to encourage brownfield project implementation. The LGAC stands in firm support of the brownfields program, and encourages EPA to continue its funding and promotion of this practice.

EPA's Office of Land Emergency and Management (OLEM) Assistant Administrator Mathy Stanislaus responded to the LGAC's December 2015 advice with an official letter himself. On behalf of EPA, he expressed agreement with many of the LGAC's recommendations and noted EPA's Office of Brownfields and Land Revitalization's current work on many related projects – including the development of a series of case studies to highlight community revitalization success stories nationwide. EPA stated that it plans to continue the Brownfields Area-Wide Planning Program and brownfields job training programs. EPA is also working to identify opportunities to expand technical assistance to communities facing brownfields-related challenges during Fiscal Year 2016.

## MOVING FORWARD

The LGAC is a vital source of valuable relevant information about communities, and a source of alternative innovations not previously considered. Negotiations and policy dialogues for regulatory actions are usually not consensus-based, but through the LGAC's input for local governments, substantive output is created through agreement among diverse and balanced representation of parties. Even if members only tentatively agree, they typically recognize subsequent decisions as superior to those that would have been made without the input of the committee.

One of the greatest accomplishments of the LGAC is increasing the trust of the agency. One of the most important goals of public participation is to strengthen the intergovernmental partnership and *to build trust*. For the LGAC, this trust is established not solely by EPA deliverance of a desirable outcome, but also by ensuring that decisions are the result of a fair process. Through their public deliberations, many interested parties are able to gain access to the discussions and materials provided by EPA program senior leaders and programmatic experts through which the LGAC's policy recommendations are based.

In summary, the 2015-2016 year has certainly been a tremendous and productive time for the LGAC. The committee was on the front lines of milestone EPA actions. The LGAC has focused efforts to bring forward the many local initiatives and projects that are improving the environment and public health. The LGAC has also been a part and will continue to bring a participatory culture of integrating local government and community stakeholder interests for the most effective policies and lessons learned. What cities, local governments, states and tribes are also doing is deciding our future sustainability. And the LGAC looks forward to working with the EPA to map out our future path for stewardship and sustainability for all of our communities.

## APPENDIX I: LIST OF CURRENT LGAC MEMBERS

### REGION 1

**\*Rodney Bartlett (SCAS)**  
Town Administrator  
Peterborough, NH

**The Honorable Kim Driscoll**  
Mayor  
Salem, MA

**The Honorable Jill Duson**  
Council Member  
Portland, ME

**The Honorable Miro Weinberger**  
Mayor  
Burlington, VT

### REGION 2

**\*The Honorable Carolyn Peterson**  
Commissioner (Former) Tompkins County, NY  
Former Mayor  
Ithaca, NY

**The Honorable Manna Jo Greene**  
Legislator  
Ulster County, New York

**Samara Swanston, Esq.**  
Council to NYC Council Environmental  
Protection Committee  
New York, NY

**The Honorable Dawn Zimmer**  
Mayor  
Hoboken, NJ

### REGION 3

**\*The Honorable Jacqueline Goodall**  
Mayor  
Forest Heights, MD

**The Honorable Sal Panto**  
Mayor  
Easton, PA

**The Honorable Stephen 'Steve' T. Williams**  
Mayor  
Huntington, WV

### REGION 4

**The Honorable Kitty Barnes**  
Commissioner  
Catawba County, NC

**The Honorable Hardie Davis**  
Mayor  
Augusta, GA

**\*The Honorable Johnny DuPree**  
Mayor  
Hattiesburg, MS

**Susan Hann**  
Director, Planning  
Brevard County School Board  
Malabar, FL

**The Honorable Merceria Ludgood**  
Commissioner  
Mobile County, AL

# EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

## REGION 5

The Honorable Stephanie Chang  
State Representative - House District 6  
State of Michigan

The Honorable Elizabeth Kautz  
Mayor  
Burnsville, MN

The Honorable Victoria Reinhardt  
Commissioner  
Ramsey County, MN

Kevin Shafer  
Executive Director  
Milwaukee Metropolitan Sewerage District  
Milwaukee, WI

The Honorable Karen Freeman-Wilson  
Mayor  
Gary, IN

Terri Goodmann  
Assistant City Manager  
Dubuque, IA

## REGION 6

The Honorable Norm Archibald  
Mayor  
Abilene, TX

Dr. Hector Gonzalez, M.D.  
Director, Health Department  
City of Laredo, Texas

The Honorable Mark Stodola  
Mayor  
Little Rock, AR

\*Jeff Witte  
Secretary of Agriculture  
State of New Mexico

## REGION 7

\*The Honorable Bob Dixson, Chairman  
Mayor  
Greensburg, KS

The Honorable Tom Sloan  
State House Representative  
State of Kansas

## REGION 8

\*The Honorable Andy Beerman  
City Councilor  
Park City, UT

The Honorable Brad Pierce  
City Council Member  
Aurora, CO

\*Jeffrey Tiberi  
Director of Planning  
Montana Association of Conservation Districts  
Soil and Water Conservation Districts of  
Montana, Inc.  
Helena, MT

## REGION 9

The Honorable David Bobzien  
City Council Member - At Large  
Reno, NV

Scott Bouchie  
Director, Environmental Management and  
Sustainability  
Mesa, AZ

# EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

**The Honorable Cynthia Koehler**  
**Board of Directors**  
**Marin County, CA**

**The Honorable Mary Casillas Salas**  
**Mayor**  
**Chula Vista, CA**

**\*The Honorable Ryan Sundberg**  
**Supervisor**  
**Humboldt County, CA**

## **REGION 10**

**\*The Honorable Robert Cope**  
**SCAS Chair**  
**Former Commissioner Lemhi County**  
**Planning Commission**  
**Salmon, ID**

**Susan Anderson**  
**Director**  
**Portland Bureau of Planning and Sustainability**  
**Portland, OR**

**The Honorable Jeff Morris**  
**State Representative**  
**State of Washington**

**\*The Honorable Shawn Yanity**  
**Chairman**  
**Stillaguamish Tribe**

**\*SCAS Members**

## APPENDIX II: SUMMARY OF LGAC RECOMMENDATIONS

### INTERGOVERNMENTAL COMMUNICATION

- The EPA should develop a comprehensive strategic plan for communication and information transfer across all program offices and EPA Regions aimed at effective communication and information sharing. One example where the LGAC found this most effective was Plan EJ 2014 (and the newly released Plan EJ 2020) and how it clearly communicated the aims and articulated outcomes. This method can also be used and adopted by all levels of government.
- The EPA should look at ways to serve as a facilitator to assist the intergovernmental partnership to be more effective through information sharing, tools, and resources.
- The EPA should form partnership agreements with states and tribes that include communication and outreach components.
- EPA Regional offices should be charged and empowered to work with their intergovernmental partnerships to increase the dialogue and information exchange with states, local governments and tribes in their regions.
- The EPA Administrator and Senior leaders should continue to make site visits with local/tribal representatives, state representatives and federal representatives in the case of environmental/ecological disasters or emergency situations.
- The EPA should continue to work on the Local Government Portal and explore other means of communication, such as a forum or blog where relevant parties can post information and updates. This will increase transparency in governmental processes between both the government and the general public. This can also serve as a database for information relevant to the issue, and holds individual parties accountable for their actions. To remain updated, people may sign up for email alerts every time someone posts to this site. To keep the site organized, only pre-approved members (members of governments – the EPA included) would be allowed to post, but everyone is allowed to view and comment. The site could be maintained by the regional offices of the EPA, who will ensure there is constant and active communication among the various governmental agencies.
- The EPA should provide direct means of communication with local governments concerning new regulations, guidance for monitoring and information on risk factors.
- The EPA should work with State Municipal Leagues and other intergovernmental information to distribute communication materials for local governments.

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

- In its annual or biannual meetings with State Environmental Commissioners, State Public Health Directors and State Agricultural Directors, the EPA should convene a special session on drinking water and ways to assist local governments, EJ communities and rural communities.

### RISK MANAGEMENT PROGRAM RULE

- In order to fully modernize risk management in our country, the EPA's emphasis should prioritize a renewed guidance on the "Right to Know," which states that citizens, employees, and first responders have the right to know the chemicals to which they may be exposed. These should be presented in a manner that is understood by all.
- The Administrator's direction on this rule contains a Chemical Exposure Standard, which should be made public and to which an individual will have access upon request. Companies' Risk Management plans should protect everyone conducting business. Further, companies should be obligated to ensure their employees, contractors and visitors are not exposed to contaminants at levels above the workplace Chemical Exposure Standard.
- The LGAC urges that the rule advances educational outreach to local and surrounding communities, so that citizens are aware of different chemicals, their associated risks and how to respond, if needed.
- Communities need to know how to respond to any release, spill, or exposure through training simulations, community awareness, communication to understand the potential hazardous chemical risks and to prepare and respond in the event. All information should be provided in a manner that is understood by the user and should be multi-lingual.
- Focus should be placed on reducing the risks associated with hazardous chemicals to owners and operators, workers and communities by enhancing the training, safety and security of these chemicals at their facilities.
- The EPA should work with industry to provide and assist local communities with action guides to safeguard the environment (water, land and air) in case of any release, spill or exposure.
- The EPA should continue to coordinate with the Department of Homeland Security, Centers for Disease Control and Prevention, Assistant Secretary for Preparedness and Response and other appropriate agencies for implementing of regulations by each agency.

# EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

## DRINKING WATER

### COMMUNICATION & DRINKING WATER

- The EPA should develop a comprehensive Communication Strategy as part of a National Drinking Water Action Plan which aims to assist local governments in communicating messaging for local governments especially in understanding the value of water, citizen actions, and a better understanding of Health Advisories.
- The EPA should take the lead to develop a compendium of best practices, highlighting those communities whose citizens have a strong understanding of the cost of delivering safe, clean drinking water as well as the cost of effectively treating wastewater.
- The EPA should include actions to work closely with health and environmental agency partners to improve data sharing capabilities and technology. This should also include working with states, tribes, and local governments to provide best practices for communicating risks.
- The EPA should provide clear and actionable public service communication rather than intimidating and bureaucratic legalese. A good example was provided to the Workgroup in which a community posted a sign that indicated "unsafe to fish" in a temporarily contaminated waterway.
- The EPA should help communities provide information in multilingual formats and should use universally-understood symbols and graphics.
- The EPA Administrator and Senior leaders should continue to make site visits with local, tribal, state and federal representatives where public health, environmental and ecological disasters or emergency situations in which drinking water systems are endangered.
- The EPA should take a more active role in immediately communicating to local officials on how to respond to any release, spill, exposure or threats to drinking water supplies.
- The EPA should work in partnership with FEMA, on conducting training simulations, community awareness, communication to understand the potential hazardous chemical risks to drinking water and to prepare and respond in such an event. All information should be provided in a manner that is understood by the user and should be multilingual.
- The EPA should communicate regularly with state and local governments who are pursuing stricter lead and copper standards in their areas.

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

- The EPA should develop a comprehensive strategic plan for communication and information transfer across all program offices and EPA Regions aimed at effective communication and information sharing. One example where the LGAC found this most effective was Plan EJ 2014 (and the newly released Plan EJ 2020) and how it clearly communicated the aims and articulated outcomes. This method can also be used and adopted by all levels of government.
- The EPA should form partnership agreements with states and tribes to develop communication and outreach materials on the health effects of contaminants and best practices communication when there is a water contamination threat.
- EPA Regional offices should be charged and empowered to work with their intergovernmental partnerships to increase the dialogue and information exchange with states, local governments, and tribes in their regions.
- The EPA find the most effective way to get important information regarding safe drinking water, such as health advisories and new safety standards, directly to local governments and tribes as well as best practices for local governments to disseminate information to community members in a timely manner. The LGAC fully agrees that finding best practices of communication amongst local and state governments is crucial for the health of our communities.
- Because many local governments have part-time administrative and professional staff, they may not often review EPA websites. Working with intergovernmental partners may be more effective. Examples include league of municipalities, associations of counties and rural water associations. Such organizations are more accustomed to communicating with local and tribal governments than are state agencies. Local and tribal governments may be more accustomed to reading and acting upon communications from third party agencies.
- It is important that local governments and tribes receive any notifications, advisories, and resources concerning drinking water. We believe that documents such as the aforementioned memorandum and the "*Suggested Directions for Homeowner Tap Sample Collection Procedures*" should be disseminated to local governments, so that local officials can use it as a resource for citizens and their public water systems.<sup>4</sup> We recommend that EPA regional offices send out these above-mentioned documents directly to local governments as soon as possible. EPA Regions may also work with state-municipal leagues and other intergovernmental organizations to help get the word out immediately.
- Health advisories about emerging contaminants, such as the one concerning PFOA and PFOS, should be sent directly to local governments and tribes. Again, this gives local governments the

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<sup>4</sup> [https://www.epa.gov/sites/production/files/documents/LCR\\_Sample\\_Form.pdf](https://www.epa.gov/sites/production/files/documents/LCR_Sample_Form.pdf)

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

chance to act in a timely manner. Local governments can inform citizens directly and can work collaboratively with the local PWS to address any issues.

- The EPA should continue to work on the Local Government Portal and explore other means of communication to be proactive, such as a forum or blog where relevant parties can post information and updates. This will increase transparency in governmental processes between both the government and the general public. This can also serve as a database for information relevant to the issue, and holds individual parties accountable for their actions. To remain updated, people may sign up for email alerts every time someone posts to this site. To keep the site organized, only pre-approved members (members of governments – EPA included) would be allowed to post, but everyone would be allowed to view and comment. The site could be maintained by the Regional offices of the EPA, which will ensure there is constant and active communication among the various governmental agencies.
- The EPA should develop outreach materials for local governments to better understand how to use water quality standards to protect the designated uses of their communities' waters. Such tools should include multimedia communication strategies, webinars and multilingual materials, as well as intergovernmental and public-private partnerships, and funding programs.

### MANAGEMENT, PROTOCOL & DRINKING WATER

- The EPA should continue its efforts with the Science Advisory Board (SAB) to fully investigate the health impacts of hydraulic fracturing on drinking water quality and quantity. This should also include cumulative risk analysis.
- The EPA should work with military installations to identify potential areas of contamination and work on plans to identify these areas of potential contamination on military facilities; identify potential areas for source water protection; and identify impact areas where federal 'good neighbor' policies should be implemented to protect drinking water.
- The EPA should work with municipalities and communities where violations have occurred to work on agreements to find solutions instead of leveraging fines.
- The EPA should develop new guidance on the "Right to Know," which addresses citizens', employees', and first responders' right to know the chemicals to which they may be exposed. These should be presented in a manner that is clearly understood by all and in languages necessary to reach all populations.
- A Chemical Exposure Standard should be made public and accessible upon request, especially when drinking water systems have been compromised. Furthermore, companies should be obligated to

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

ensure their employees, contractors and visitors are not exposed to contaminants at levels above the workplace Chemical Exposure Standard.

- Focus should be placed on reducing the risks associated with hazardous chemicals to water operators and owners, workers, and communities by enhancing the training, safety, and security of threats to chemicals at their facilities.

### INFRASTRUCTURE & TOOLS FOR DRINKING WATER

- The EPA should provide coordinators in the Regions to help communities with compliance, monitoring, and identifying funding opportunities to address drinking water issues.
- The EPA should identify ways in the Plan to enhance water reuse through use of treated stormwater, constructed wetlands for treatment, and other means of reuse.
- The DWSRF provides needed funding for water infrastructure. The EPA should include actions for improvements to:
  - Give states guidance to target underserved and EJ communities;
  - Promote ease of the application process;
  - Streamline the process;
  - Standardize practices across states; and
  - Highlight case studies where DWSRF has provided needed resources for communities. The EPA should make these studies easily available and promote them through all forms of media.
- The EPA should continue its work to assist local officials to better understand responsibilities and compliance with drinking water programs. This will help local officials better plan and integrate local tools such as codes, ordinances, and incentives for better water quality protection.
- The EPA should provide tools for local governments about how to communicate health advisories and risks to citizens effectively, so that risk of exposure can be minimized.
- It is equally important to consider the protection of water treatment and conveyance infrastructure to ensure the supply of clean and potable water to our communities. While water security nexus issues are not immediately apparent in the charge, the EPA should take serious consideration of water infrastructure security factors (including cybersecurity) and they should be underlying elements in any future discussions on water protection and water rights issues. The EPA should include a plan to strengthen security and cybersecurity of our nation's water infrastructure.
- The LGAC recommends that local governments be provided an EPA checklist and guidance for decision-making regarding source water changes. The EPA or a state agency should be advised

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

whenever a source change is being considered to make sure that a check and balance is in place. There should also be an opportunity for public engagement prior to a decision regarding a source change. This can be a helpful tool for a municipality, tribal government or small community in making a water source change.

### INTEGRATED PLANNING & PARTNERSHIPS IN DRINKING WATER

- The LGAC further recommends that the EPA continue to promote the use of Integrated Planning so that local governments can coordinate efforts at the local level for highest efficiency to reach water quality goals at the regional and local level.
- The EPA should assist states, tribes, and local governments in identifying ways they could work together to protect source water through regional partnerships.
- The EPA should expand the work it is doing through integrated planning for compliance with Clean Water Act programs to also include Safe Drinking Water Act programs. The LGAC believes that this approach will lead to more comprehensive and sustainable solutions.
- The EPA should create a program to pilot municipalities, tribes and small communities to add drinking water in integrated planning (IP) and to develop model IP programs.
- The EPA should continue to coordinate with the Department of Homeland Security, Centers for Disease Control and Prevention, Assistant Secretary for Preparedness and Response, and other appropriate agencies for implementing regulations by each agency.
- The EPA should pilot Integrated Planning in EJ communities and there should include a public engagement component in the process.
- The EPA should work with the Center of Disease Control (CDC) and other health agencies to evaluate the public health impact of mass water shut offs and identify strategies and policies to ensure residents have access to water regardless of household income.
- The EPA should create an interagency taskforce and identify actions to be taken across all federal agencies. It should also engage states, tribes and local governments in development of key actions.
- The EPA should continue to work in partnership with other federal agencies on the issue of clean and safe drinking water. This work should expand to include agencies such as the National Institute of Health, the Center for Disease Control and the Bureau of Indian Affairs.

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

- The EPA should also work to expand the partnerships to include the US Army Corps of Engineers as a high priority for local governments to ensure concurrent and collaborative relationships rather than those that are sequential and conflicting.
- The EPA should work to develop non-traditional partners such as Realty associations and National Homebuilders Association on ways to address lead and copper in residential homes. Effectively addressing the problem will require non-traditional partners such as local realtors to ensure that residents are not only aware of the problem, but aware of ways they can reduce their risks even if they cannot afford to replace lead service lines in their homes.
- The EPA should create an Interagency Taskforce to work across all agencies in order to identify where actions can be identified, prioritized and implemented. This Taskforce should prioritize communities at the greatest risks; identify tools and data-sharing mechanisms; and identify new resources for communities to utilize.
- The EPA should look at ways to serve as a facilitator to assist the intergovernmental partnership to be more effective through information sharing, tools, and resources.
- The EPA should work with small businesses and water dependent businesses to help with marketing clean and safe water as a business practice. It could potentially even develop or expand EPA programs like WaterSense to register businesses that support clean, safe water and water conservation.
- The EPA should continue to work with local watershed groups to build their capacity to assist in monitoring source water, raising awareness of emerging contaminations and communication of drinking water information.

### **AFFORDABILITY, FUNDING & TRAINING IN DRINKING WATER**

- The EPA should work with Supplemental Funds where businesses, industries and others are fined for environmental damages to address drinking water funding issues.
- The EPA must accelerate and widen grant programs for recruiting and training operators. The EPA can also compile best practices where local governments have already developed creative and collaborative programs.
- The EPA should work with community college systems to develop pilot training programs to recruit and train water operators.
- The EPA should expand the Brownfields Job Training program to hire and train water operators, especially in disadvantaged and low income communities.

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

- As a starting point, the EPA could convene a collaborative “think tank” to focus on financing issue of drinking water in the coming years.
- In the Plan, the EPA should include work with the Federal Deposit Insurance Corporation to identify and provide incentives for private investments in water infrastructure.
- The EPA should continue to promote awareness of the Water Infrastructure and Resiliency Finance Center as a resource for local officials and community members.
- The EPA should work with the utility sector and public water systems to design strategies to reduce energy costs of water treatment and delivery. This could substantially lower costs that could be used for treatment technologies.
- Small communities may not have access to licensed professionals or they may be inaccessible due to high costs. The EPA can facilitate regionalization in those communities that desire a cooperative approach to small system management to share resources and reduce costs.
- The EPA should work collaboratively with state regulators to reduce punitive approaches and increase facilitative solutions. Generally, communities facing fines and citations are already struggling with compliance. Fines rarely increase water quality; fines only reduce the local resources available to achieve compliance. A collaborative approach can be most effective in reaching water quality goals.
- Local governments will need more financial and technical resources to effectively implement the Lead and Copper Rule.
- The EPA should explore ways to create jobs in the field of drinking water monitoring that could create economic opportunities especially in environmental justice communities.
- The EPA should work to identify potential opportunities to provide alternative energy sources for utilities to offset costs of water treatment. This could include capture of methane and heat from landfills or wastewater sludge to fuel water treatment plants. Solar power could also be used at these facilities. Energy cost savings can provide reasonable financial offsets for water treatment and delivery costs.

### **CLEANUP MANAGEMENT & DRINKING WATER**

- The EPA, in coordination with the Bureau of Land Management (BLM), should identify and monitor the estimated 500,000 abandoned mines and prioritize those most hazardous to negatively impact source water and wells. Abandoned uranium mines are also an issue.

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

- The EPA should work with industry to provide and assist local communities with action guides to safeguard the environment (water, land and air) in case of any release, spill, or exposure.

### ENVIRONMENTAL JUSTICE

- The EPA should work with the states, local governments and tribes to use tools like EJ Screen to identify and map potential contamination issues where landfill leaching into groundwater, abandoned mines, chemical plants, Superfund sites could potentially impact community water sources and especially communities dependent on private wells.
- Small, rural and EJ communities may lack infrastructure for sharing data. The EPA should provide assistance in EJ communities where the threats and risks are greatest by assisting with data-sharing, translating data and risk communication.
- The EPA should encourage state and local governments to use the Environmental Justice (EJ) Screen tool to identify areas of concern for drinking water and EJ communities.
- The EPA should actively pursue more funding opportunities for EJ communities, both within the Agency and in collaboration with other federal agencies. If EJ communities run successful programs using a grant, that funding should be continued for a period after that to strengthen the program and to ensure its sustainability, especially when such programs could be replicated in other communities. EJ communities often lack the administrative capabilities to identify funding sources, manage grants, and monitor grant status. They need assistance in building this capacity, which can lead to greater resiliency, and improved human and environmental health of these communities. This is especially effective when partnered with clear communication in a user-friendly format offered in multiple languages.
- To promote health equity and environmental justice, the LGAC supports a consistent set of drinking water standards for the protection of all Americans. The EPA must work to provide the same level of protection for all communities to have assurance of reliable and safe drinking water.
- Although there is no federal law authorizing the EPA to regulate private wells, the EPA should work with state, local and tribal governments in providing water quality information to residents served by private wells. Migrant, border, tribal and rural communities may be particularly vulnerable - especially those that do not have access to a regulated public water system.
- The EPA should provide compliance assistance for small systems. This is especially needed in EJ and rural communities.

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

- The EPA should consider using tools like EJ Screen to target areas of lead and copper contamination and focus resources to address these areas of concern.

### SCHOOLS & DRINKING WATER

- All schools should routinely test for lead in their drinking water. Schools should also contact their local health department for appropriate testing protocols.
- School officials and custodial staff should be made aware of state and local plumbing codes, laws and regulations, safe operating procedures, and regulations that support water fluoridation.
- The EPA should partner with the Department of Education and other health agencies to launch a public health campaign to educate school officials and students on the importance of drinking water. (This is evidenced by news articles regarding school athletes dying from lack of water and heat.)
- School systems fall under local government jurisdiction but many are private. The EPA should include, in their guidance, making water more accessible to students throughout the school day and insurance that such access points (such as water fountains) are clean.
- The EPA should collaborate with education-provider associations as well as state, local and tribal governments to determine best practices and resources needed to more comprehensively and consistently ensure children's access to safe drinking water. Testing and monitoring protocols may be a good starting point for the discussion.
- The EPA should update and widely distribute the guidance document entitled "*Drinking Water Best Management Practices - For Schools and Child Care Facilities With Their Own Drinking Water Source*."<sup>5</sup> The EPA should also offer training to implement the guidance.
- The EPA should make it its highest priority to address lead testing, monitoring and remediation in schools, daycare facilities, hospitals, nursing homes, prisons and public housing.

### SOURCE WATER PROTECTION & DRINKING WATER

- The State Source Water Assessment programs need to be updated. The EPA should provide guidance on protective measures necessary to protect and promote clean drinking water.

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<sup>5</sup> Drinking Water Best Management Practices-For Schools and Child Care Facilities With Their Own Drinking Water Source <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockkey=P100GOT8.txt>

## EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

- The EPA should identify and highlight best practices where local governments and communities have protected source water through local actions, should identify tools and resources and should also provide appropriate contact information.
- The EPA should fully implement the Pharmaceutical rule and Waste Generator rule so that water sources can be protected from improper disposal of pharmaceuticals.
- The EPA should include work to develop a Memorandum of Agreement with the U.S. Department of Agriculture to work with the states and agricultural communities to protect source water and drinking water by reducing agricultural runoff, implementing water quality best practices, and fully utilizing precision agriculture.
- The EPA should coordinate with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) concerning their Soil Health programs that are intended to reduce agricultural runoff. Evidence has shown that healthy soil retains and transforms nutrients preventing water quality problems.
- The EPA should continue work to reduce the harmful impacts of pharmaceuticals in source water and drinking water. The LGAC provided recommendations to the EPA regarding the pharmaceutical rule designed to aid in reducing the impacts of unused pharmaceuticals.<sup>6</sup>

### ALGAL BLOOMS & DRINKING WATER

- Lessons learned on nutrient reduction through the Gulf Hypoxia Taskforce efforts be identified and shared with other regions where toxic algal blooms are identified as an issue.
- The EPA should work with states to develop nutrient reduction strategies in areas where harmful algal blooms are most prevalent and threaten drinking water sources.
- The Clean Water Act Section 319 program guidance should be used as a tool to address toxic algal bloom and prevent harmful runoff contributing to water quality problems.
- The EPA should distribute information on best practices of local, state and tribal governments that have effectively protected source water, and addressed toxic algal blooms through source water protection.

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<sup>6</sup> <https://www.epa.gov/sites/production/files/2016-02/documents/lgac-pharmaceuticals-dec-9-2015.pdf>

# EPA'S LOCAL GOVERNMENT ADVISORY COMMITTEE 2015-2016

## EMERGING CONTAMINANTS & DRINKING WATER

- The EPA should continue to work on the Toxic Substances Control Act (TSCA) so that chemicals can be listed and monitored, especially focusing on identifying chemicals that impact drinking water.
- The EPA should continue to identify the public health concerns of emerging contaminants especially cumulative risk of these contaminants. The EPA should also provide resources to mitigate the impacts of arsenic and other contaminants to tribal communities.
- The EPA should continue to work closely with the Science Advisory Board to not only address individual contaminants but also evaluate cumulative risk impacts. Collaboration with local governments and public water systems is critical in order to develop a balanced, comprehensive, science-based approach to this evolving issue.
- The EPA should continue to advance the science and technologies needed to address emerging contaminants. The EPA should develop more comprehensive science on the health effects of lead, copper and asbestos as well as other emerging contaminants.
- Water treatment technologies should be developed ideally to address multiple contaminants.
- The EPA, in setting standards for emerging contaminants, should utilize sound science and risk assessment. However, those standards should be set where treatment technologies are commensurate with detection limits.
- Standards for emerging contaminants are important. However, monitoring at the tap is not necessarily an adequate measure and is a poor proxy for the managerial, operational or enforcement aspects of infrastructure. Drinking water quality is highly dependent on the contaminant level in the source water, the treatment train and even the monitoring locations and frequency. Other monitoring techniques need to be developed for emerging contaminants that show, for example, differences in contaminant concentration; when the water did meet standards, and other indicators.
- The EPA should strongly encourage states and tribes to update their water quality standards, especially to address emerging contaminants and promote a more robust set of public health criteria. Small communities and at-risk populations should also be considered in future rulemaking.

## SAFE DRINKING WATER ACT, CLEAN WATER ACT & DRINKING WATER

- The current Safe Drinking Water Act does not authorize the EPA to regulate private wells. The EPA should work with states to achieve the same levels of drinking water protection from

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contamination for the approximately 15 million U.S. households that rely on private water wells for drinking water and to develop standards for these wells.

- The EPA should work with local communities to utilize the regulatory tools that the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA) provide in order to protect source water, especially for low-income, minority, rural and tribal communities where this threat remains.
- The EPA should continue to explore how the SDWA and the CWA could be coordinated to better protect source water and our nation's water resources. In addition, the LGAC recommends that the EPA coordinate a Memorandum of Agreement with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) to explore ways to reduce agricultural runoff and improve soil health.

### HYDRAULIC FRACTURING

- The EPA should provide support and guidance to the states, local governments, and tribes to ensure hydraulic fracturing does not negatively impact the health, safety and welfare of the community.
- The EPA should enter into a focused dialogue with states, tribes and local governments to hear and discuss concerns, advance a greater intergovernmental understanding of the complexity of the issues, and promote greater cooperation at all levels of government concerning hydraulic fracturing
- The EPA should continue its efforts to gain a better understanding of the risks of hydraulic fracturing and continue efforts to develop better management tools.
- The LGAC asserts that the EPA is in a good position to advance these efforts at the state, tribal and local levels. Therefore, we urge the EPA to incorporate cumulative risk and its health impacts in any health assessment and provide guidance on these health impacts, especially for small, rural and EJ communities that already face critical health disparities.
- The EPA should provide states, tribes and local governments with the ongoing support to protect the environment and its watersheds when they identify concerns regarding hydraulic fracturing.
- The EPA should avail itself of the best practices related to hydraulic fracturing that have already been compiled – and continue to be compiled – by national associations representing state and local governments, including but not limited to the Groundwater Protection Council, the National Governors' Association Center for Best Practices, the National League of Cities, the National Conference of State Legislatures and the Interstate Oil and Gas Compact Commission.
- The EPA should help to identify opportunities to share emerging best practices with other stakeholders, including citizens, non-profit organizations, businesses and federal agencies.

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## THE ANIMAS RIVER SPILL & ABANDONED MINES

- The EPA should continue to vigorously pursue broad intergovernmental dialogue aimed toward identifying partnerships and regaining trust among the tribal, local and state governmental agencies with the EPA to address the issue of these legacy abandoned mines and explore cooperative local-based solutions to effectively address clean up and avoid future harm. For example, the New Mexico Association of Conservation Districts (NMACD) has a multi-year agreement with the Bureau of Land Management (BLM) to clean up mine sites on BLM managed lands. The NMACD is quite nimble and efficient in carrying out the administrative needs in finding contractors to clean up the smaller mine sites on BLM properties, while meeting the deliverables dictated by federal requirements.
- The EPA Regions would be a good convener for this dialogue to explore with state, local and tribal governments further definition of the issues of concern and to explore local based solutions to address these environmental and public health concerns. The EPA should work with the Department of Agriculture, the Extension Service and other agricultural stakeholders to look at the impacts to water supplies and eventually the food chain.
- The EPA should conduct a thorough 'After Action Report' to their response which includes EPA Regions 6, 8 and 9, and the local, state and tribal governmental emergency response teams to help provide an analysis of the planning, prevention, response, and recovery regarding the Gold King Mine toxic spill and create an implementation plan to address areas identified.

## BROWNFIELDS

### BROWNFIELDS & PLANNING PROGRAMS

- The EPA should continue to assemble and provide case studies where the brownfield program has provided substantial resources to leverage local and regional clean-up initiative, and given economic incentives to support action on community environmental clean-up priorities.
- The EPA should continue and expand this program to provide training and jobs to do community renovation projects; assist in disaster relief efforts; help construct green infrastructure; conduct environmental monitoring and assessments, as well as other community investment projects.
- The EPA should continue to look at brownfields liability concerns and the EPA's role in enforcement. In terms of financial liability, the EPA should work with the Federal Deposit Insurance Corporation (FDIC) to work out innovative approaches to address financial and other strategies to encourage brownfields investments and redevelopment.
- The EPA should continue to support and expand the opportunities and incentives of the EPA's Area-wide Planning Program to assist communities in long-term planning for sustainability and to build climate resiliency utilizing brownfields clean-up projects and plans. Furthermore, the LGAC

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recommends that EJ, rural and small communities be provided with opportunities to have this type of assistance afforded to them to fully utilize the environmental and public health benefits.

- The EPA should continue to promote the area-wide planning program. This program allows local governments to take up brownfields cleanup and redevelopment by incorporating area plans into their existing citywide plans. This can prove to be a valuable tool for local governments, as the cleaned up land can then be developed to bring recaptured value to the community by providing more greenspace or more space for businesses.

### ENVIRONMENTAL JUSTICE, INCLUSIVITY & BROWNFIELDS

- The EPA should continue to work with small communities to successfully develop brownfields sites. The Aurora case state above is just one example of how brownfields revitalization can positively impact communities. Communities all over the country, including small rural and disadvantaged communities could also stand to benefit from the increased access to greenspace and increased commercial presence that is offered by brownfields redevelopment.
- The EPA should continue to provide brownfields information targeted at local governments, especially small, rural, and EJ-challenged communities. Although there are so many grant opportunities available to finance brownfields redevelopment, many of the communities who are in most need of these programs are not aware or lack access to the benefits of these programs.
- Targeted assistance to the more vulnerable communities will go a long way to ensure that all communities will these opportunities to redevelop brownfields and help their communities thrive. The LGAC urges the EPA to work with local communities to integrate the best local known means for information sharing and information dissemination.

### EPA RESPONSE

- ✓ The EPA agrees with many of your recommendations, and in the case of several, the Office of Brownfields and Land Revitalization (OBLR) currently is working toward implementing projects that will address them. For example, OBLR and staff from our regional offices are developing additional case studies that highlight community revitalization success stories throughout the country.
- ✓ We appreciate the LGAC's support of both the brownfields area-wide planning grant program and the job training and environmental workforce development grant program. We understand the importance of these grant programs to communities that are struggling to recover from economic downturns that result in multiple brownfields sites and significant employment impacts. The EPA plans to continue both programs. The guidelines requesting grant proposals for our next round of brownfields area-wide planning grants will be available in the early spring of 2016.
- ✓ EPA will be identifying opportunities to expand our technical assistance to communities facing the challenges of assessing, cleaning up, and redeveloping brownfields. We share

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your concerns regarding small, rural and environmental justice communities, and we will target these communities within our technical assistance and outreach efforts.

### EPA-CORPS COORDINATION ON CLEAN WATER RULE

- The EPA and the Corps should continue their efforts underway to jointly maintain the comprehensive "Questions and Answers" regarding the status of the CWR. This is even more essential to identify issues and provide answers on the status of jurisdictional determinations.
- The tracking system of CWA permits should contain a user-friendly mapping function and that it also contains the length of time for the permitting process for each permit applied under CWA Section 404.
- The LGAC strongly believes that the workgroup as articulated in the MOU should go forward to help identify pathways forward for CWA permitting. Furthermore, the LGAC could be of assistance to the workgroup through our prior and continuing advisory role.
- The LGAC also further recommends that the EPA consider further the LGAC recommendation to provide a user-friendly phone application for providing a predictable tool for jurisdictional determinations. The outcomes can be as simple as a response, "yes", and "no" and "maybe" with a geospatial link to all reviewers, applicants and local governments in real time. The LGAC also notes that this may be more problematic given the complexity of the status of the CWR; however, the tool will be useful and helpful to improve government transparency and help communicate outcomes to permittees trying to obtain a permit.

### PHARMACEUTICAL RULE

- The LGAC recommends moving forward with the proposed rule as it will have beneficial impacts on local, state and tribal governments by creating consistent regulations to ban flushing by healthcare facilities with generate large volumes of pharmaceutical waste. The proposed rule will also provide for a greater level of protection from risks to the environment and public health.
- The EPA should seek ways to further incorporate Extended Producer Responsibility and product stewardship principles in the proposed rule. Furthermore, the LGAC recommends that the EPA should incentivize EPR and medical institutions business practices to reduce pharmaceutical waste, especially those considered hazardous. The proposed rule should aim to prevent pharmaceutical waste and contamination at all stages in the process.
- The EPA should develop a communication strategy for the final rule targeted at state, local and tribal governments. The strategy should highlight various methods of communication to achieve coordination with state and local governments as well as target pharmacies, reverse distributors, and healthcare facilities. Multi-lingual literature and a simple, direct question-and-answer format could also be helpful, as it is already being demonstrated by a LGAC community, in Tompkins County, New York, with its 'New Med Return' Program providing information and collection for safe

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drop boxes throughout the county for the opportunity for citizens to safely dispose of unwanted household pharmaceuticals.

- The communication strategy should be made available in a user-friendly format for our nation's diverse, rural and disadvantaged communities to better understand the standards and to empower citizens to take action to reduce flushing of household pharmaceuticals.

### EPA RESPONSE

- ✓ As the EPA does with all comments received during the comment period, we will evaluate and consider your input as part of our development of the final rule. In addition, if LGAC's comments are not already in the docket, we will ensure that they are added.
- ✓ The EPA will summarize and respond to major comments in the preamble of the rule and explain how the final rule has changed from the proposed rule based on those comments. Further, we will post to the final rule docket a "Response to Comment" document where the EPA responds to each comment that was received.
- ✓ We appreciate the LGAC's offer to work with us in providing outreach and implementation assistance on the final rule. We fully intend to conduct outreach to the states and regulated community once the rule is final. Partners, such as the LGAC, will help further this outreach.

### OZONE

- The LGAC supports EPA's proposal to strengthen the level of both primary and secondary ozone standards to improve public health protection for millions of Americans.
- The LGAC supports actions, including light-duty vehicle standards, the Clean Power Plan, Mercury and Air Toxics Standards and other proposed and final regulations to help lessen the burden on states and local communities in meeting lower ozone NAAQS standard.
- The LGAC also calls attention to the importance of prescribed wildfires in controlling air pollution. Prescribed burns are an integral part of the National Cohesive Wildland Fire Management Strategy, and we urge the EPA to work closely with the U.S. Department of Agriculture and Department of Interior to ensure that federal agencies are working together toward a common goal-cleaner, healthier air.

### OIL REFINERIES

- The LGAC is generally supportive of the proposed rule and recommends EPA pursue a regulatory framework to reduce air toxics and to prevent harmful pollution from impacting our citizens' health.

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- The LGAC agrees that fence-line monitoring is critical for data gathering to minimize the risk and exposure of toxic emissions on communities adjacent to and nearby refineries.
- The LGAC recommends that the EPA provide outreach materials that translate the more technical aspects of the rule into layperson terms so that the general public and citizens at risk can understand, and then lend support to the proposed rule.
- The LGAC agrees with the intent and focus of the proposed rule, especially in regard to Executive Order 12898 which directs federal agencies to include environmental justice in their missions.
- The LGAC recommends that the EPA provide a more detailed economic analysis that outlines each of the impacted regions and each community's share of the burden.
- The LGAC believes that communities need to understand these issues and the intent of the proposed rule should be clear in communicating the scientific issues to local communities. It is critical to explain the discrete impacts of local communities, as well as what the refineries will mean to industry and local governments. This can include further explanation of definitions and impacts, as well as more public outreach, particularly to the communities that most rely on petroleum refineries.
- The LGAC also recommends that the EPA expand the scope of the public outreach and meetings beyond just the states of California and Texas.

### EJ 2020 ACTION AGENDA

- Integrate cumulative risks and impacts as critical public health concerns when considering pollution in particular for communities with EJ concerns, particularly small, rural and tribal communities. The EPA should continue to examine cumulative risks and impacts related to health disparities in communities with EJ concerns such as with establishing air quality standards, emission standards for refineries and other issues.

#### EPA RESPONSE

- ✓ The EPA is conducting or supporting a number of studies that are evaluating the issue of cumulative risks and impacts in various communities across the country. For example, in collaboration with the National Institutes of Health, the agency is co-funding studies that are evaluating the interactions between chemical and non-chemical stressors that may result in disproportionate impacts among various disadvantaged population groups and communities.
- ✓ Research is also being conducted with several tribes to examine the factors conferring increased environmental public health risk in their communities. The EPA has supported work on community stressors and susceptibility to air pollution in urban environments, assessments for cumulative risks in a low-income urban community near a Superfund site, decision support

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tools for evaluating cumulative impacts, and a wide range of other topics examining cumulative risks and impacts. The *EJ 2020 Action Agenda* incorporates these and other important actions through its science effort and the implementation of EPA's *Environmental Justice Research Roadmap*.

- The LGAC recommends that the EPA consider that new EPA employees receive mandatory EJ training and that all employees participate in annual training regarding updates and/or new developments in EJ issues. Having a workforce that is aware of the environmental justice issues faced in communities allows for EPA's active participation in helping alleviate EJ concerns.

### EPA RESPONSE

- ✓ In 2015, the EPA's Office of Environmental Justice achieved a major milestone when it launched a mandatory training program on the basic foundations and fundamentals of environmental justice for the agency. In that year, over 17,000 staff and contractors within the agency successfully completed the training. We have recently ensured that all future EPA employees also receive the training as part of a package of mandatory trainings during their first months at the agency.
- ✓ The Office of Environmental Justice is also constantly leading and/or participating in the creation of new trainings for agency personnel, particularly those with direct contact with or responsibilities related to working with overburdened and vulnerable communities. Much of this activity has been centered on the further development of an agency-wide community of practice for such staff – the Community Resources Network (CRN).
- ✓ The EPA will also continue to further refine such training, education and outreach within the agency to develop the practice of environmental justice as a long term endeavor, investment, and focus for the EPA.
- The LGAC supports the EPA to continue to actively consider EJ impacts in rulemaking. For example, the LGAC recommended, among other recommendations at its March 2015 meeting, that the EPA consider and use an EJ Analysis on proposed future rule-makings.

### EPA RESPONSE

- ✓ In May 2015, the agency issued *Final Guidance on Considering Environmental Justice During the Development of a Regulatory Action (EJ Process Guide)*. This guidance helps agency rule-writers and decision-makers determine when they should consider environmental justice concerns during the development of actions, such as rules. In addition to providing key concepts related to environmental justice and rulemaking, the EJ Process Guide identifies key steps throughout the action development process where environmental justice should be considered.
- ✓ The EPA also issued *Draft Technical Guidance for Assessing Environmental Justice in Regulatory Analysis (EJ Technical Guide)*. This guidance addresses the issue of how to consider environmental justice concerns in an analytical fashion. It presents key analytic principles and

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definitions, best practices, and analytic questions to frame the consideration of environmental justice in regulatory actions. The guidance is expected to be finalized in 2016.

- ✓ During the past several years, there has been an increase in the number of EPA rules that consider environmental justice. Some notable examples of rules include the Definition of Solid Waste 2015, Mercury and Air Toxics Standards, National Ambient Air Quality Standards for Particulate Matter, Revisions to Agricultural Workers Protection Standards, and the Clean Power Plan. Through EJ 2020, the EPA will build on these efforts to institutionalize environmental justice in the rulemaking process.
- The EPA should always collaborate with local governments on tools and mechanisms to aid EJ communication, in particular emphasizing culturally appropriate materials to improve levels of communication and outreach, such as bilingual literature and translations of rules for the affected communities.
- The EPA should also actively pursue more funding opportunities for EJ communities, both within the Agency and in collaboration with other federal agencies. Also, if EJ communities run successful programs using a grant, that funding should be continued for a period after that to strengthen the program, and to ensure its sustainability, especially when such programs could be replicated in other communities. Environmental justice communities often lack the administrative capabilities to identify funding sources, managing grants, and reporting and monitoring of grants. They need assistance in building this capacity, which can lead to greater resiliency and improved human and environmental health of these communities. This is especially effective when partnered with clear communication to EJ communities in a user-friendly format such as multi-lingual options.

### EPA RESPONSE

- ✓ At the EPA, such considerations are a central part of our decisions and planning on how to best use our community focused financial resources. For instance, in recent years both the EPA's Office of Environmental Justice and Office of Sustainable Communities have either greatly modified their competition announcements or completely switched to new funding instruments which provide ease of applying, managing, and reporting on the funding.
- ✓ Leveraging the direct support we provide to communities has also been a driving consideration of our *Making a Visible Difference in Communities* initiative and strategic plan as well as the creation of an agency-wide Communities Resource Network. The CRN in particular will be a sustained effort across the agency to continue to implement best practices of how we work with communities, support their efforts, use our community-focused resources, and leverage those resources with additional opportunities and investments to sustain and build upon progress made by communities. At the EPA, we see this as a long-term change in how we do business at the agency to centrally integrate a community-focused work practice across programs and resources. We have already seen this changes pay dividends for our involvement

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and application of resources in 50 *Making a Visible Difference* community projects in the past year and a half.

- The EPA should continue to seek partnerships with state and local agricultural committees. For example, in addition to EPA EJ tools such as E-enterprise and EJ screen, the New York City Department of Health Environmental Health and Quality Community Online Portal is a useful resource that has the capability of reaching an additional 8.5 million people.

### EPA RESPONSE

- ✓ The EPA will increase communications and better coordinate with agricultural partners through the Environmental Justice Interagency Working Group's Rural Communities Focus Area. This body will meet regularly to support efforts to: ensure equity and collaboration between federal agencies and rural environmental justice communities, develop economic opportunities so rural overburdened communities are self-sustaining and economically thriving, and coordinate federal agency investments to further holistic community-based solutions that reduce environmental justice issues. The Rural Focus Committee will undertake several outreach and collaboration efforts including exploring new mechanisms to communicate with rural communities and Tribal Governments to educate and inform them on agency activities and resources to enlist their input on community issues and needs.
- ✓ The EPA is now preparing to release a stronger environmental justice strategy framework, the *EJ 2020 Action Agenda*. We look forward to local governments' input on the improved strategy and efforts to develop measures that show progress in addressing environmental justice issues at the community level.

### TOXIC ALGAL BLOOMS

- The EPA should work with local communities to utilize the regulatory tools that the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA) provide in order to protect source water, especially for low-income, minority, rural and tribal communities where this threat remains.
- The EPA should continue to explore how the SDWA and the CWA could be coordinated to better protect source water and our nation's water resources. In addition, the LGAC recommends that EPA coordinate with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) concerning their Soil Health programs that are intended to reduce agricultural runoff.
- The EPA should continue to promote the use of Integrated Planning so that local governments can coordinate efforts at the local level for highest efficiency to reach water quality goals at the regional and local level.
- The EPA should focus the efforts of the newly announced EPA Water Finance Centers to provide technical assistance and funding resources to assist communities in preventing toxic algal blooms;

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identification of threats; treatment options; and notifications to the public as well as developing a safe drinking water standard when impacts by HABs.

- The EPA should distribute information on best practices of local, state and tribal governments that have effectively protected source water, and addressed toxic algal blooms through source water protection.
- The EPA should utilize its CWA 319 program guidance to address toxic algal bloom and prevent harmful run-off contributing to water quality problems.
- Clear and effective community based communication collaborating with local community strategies should be emphasized to ensure that the public and water providers are aware of the dangers of the algal blooms. If cyanotoxins are detected in the water, providers should test their water supplies and the public should be informed immediately with appropriate preventive actions and alternative water source and food actions. Timely notification is essential to protecting public health.
- The EPA Source Water Collaborative, a partnership with as many as 20 active partnering organizations which focus on source water protection, could be a valuable partnership to help the EPA develop and distribute outreach materials to state, tribal and local governments.
- The LGAC recommends that further monitoring and testing be done on toxins of algal blooms in drinking water, recreational water, and source water. If the source water is contaminated, this increases the probability that the wildlife in the water will have ingested the toxins, and poses other potential pathways of contamination and risk to public health. In addition, the LGAC recommends that health impacts and preventive measures be further reviewed, that research continue on health effects, and containment and that cumulative risk analysis and impacts be integrated into this assessment.
- To increase the effectiveness of communication, the LGAC recommends that the EPA work closely with environmental justice stakeholders, rural and small community leaders and tribal leaders to determine the best modes and strategies of communicating within their communities so that they are able to get easily accessible, understandable, culturally appropriate and readable information on how to avoid ingesting or exposure to contaminated water or fish.

### EPA RESPONSE

- ✓ The Agency agrees with your recommendations that it is essential to continue building partnerships with and leveraging resources from other federal agencies, including conservation initiatives at USDA. To that end, the EPA is working alongside state and utility associations, non-governmental organizations, federal agencies like the USDA and other partners in the national Source Water Collaborative (SWC), a group of 26 organizations dedicated to protecting sources of drinking water. The SWC provides planning resources and technical support for local, state and regional source water partnerships, with a focus

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on reducing nutrient pollution. These resources include online guides and toolkits such as those for understanding conservation programs that can protect source water, and options for how public water systems can use the strengths of the CWA and SDWA programs to protect drinking water.

- ✓ The EPA's Office of Water has invested significantly in recent years to strengthen relationships with USDA conservation programs, both at the federal level and at the state level where these programs are implemented. This includes regular meetings among senior agency leadership, coordinated via the National Water Quality Initiative and facilitating state-level dialogue between water quality agencies and the Natural Resources Conservation Service. These efforts will continue into the future.
- ✓ Additionally, the Agency has recently worked with states to create and update Nonpoint Source Management Plans and Watershed-Based Plans. Tribes that receive Section 319 funding must also have a Nonpoint Source Management Plan. Nonpoint Source Management Plans outline state or tribal priorities and efforts to restore impaired waters and protect healthy waters against nonpoint source pollution; many of these plans include an emphasis on controlling excess nutrients. Nonpoint Source Management Plans often form the basis for state and/or tribal regulatory and voluntary initiatives to curb nutrient pollution. Watershed-Based Plans are required for Section 319 watershed projects and provide a roadmap at the local watershed level to guide cost-effective, well-informed restoration and projection efforts with the greatest chance at protecting source waters from excess nutrients that can lead to HABs.
- ✓ The Agency has brought more attention in its programs to the protection of unimpaired (or healthy) waters. In Fall 2015, the EPA awarded the Healthy Watershed Consortium Grant, which will sponsor local projects to protect healthy watersheds. The Section 303(d) (or TMDL) program enables states to identify protection of unimpaired waters as a priority, and the EPA's Section 319 program similarly allows 319 funds to go to protection projects when they are identified as a priority in a Nonpoint Source Management Plan.
- ✓ This month (March 2016), the EPA released the Drinking Water Mapping Application for Protecting Source Waters. The application is a GIS-based mapping tool that can be used to identify 1) watersheds critical to drinking water and 2) the impairment status of those critical watersheds, so that states can easily locate impaired source waters and take protective action (e.g., TMBL development): it also allows users to easily inventory potential sources of contamination to water supplies. This tool can help identify areas that are vulnerable to HABs in order to target resources to those watersheds. This type of information is important in order to focus limited resources on watershed cleanup activities or nutrient reduction strategies at the local level.
- ✓ In 2015, the Agency released health advisories for microcystins and cylindrospermopsin. To help utilities and others manage and communicate the health risk from these two toxins

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in drinking water, the EPA released recommendations for public water systems, including recommended language for public communication that can be found in the 2015 document, "Recommendations for Public Water Systems to Manage Cyanotoxins in Drinking Water".

- ✓ Currently, the Agency is also working with the Centers for Disease Control and Prevention and other stakeholders on updating the Drinking Water Advisory Communication Toolkit to include cyanotoxin-specific information. The Agency will continue to invest resources in developing cyanotoxin risk communication tools, including updating the "recommendations" document mentioned above, evaluating the health risks from exposure to other cyanotoxins in drinking water and preparing other materials, or working with states and public water systems, as appropriate.
- ✓ Currently, the Agency is coordinating with the Northwest Indian Fisheries Commission and their technical workgroups and will also coordinate with the Native American Fish and Wildlife Society and the Bureau of Indian Affairs to facilitate the communication to tribal members about the human health risks from ingestion or other exposure to algal toxin-contaminated water and fish. The Agency will also partner with the Northern Arizona University Institute for Tribal Environmental Professionals and will provide information through their Tribes and Climate Change website, which has proven effective in the past for wide distribution of training and outreach materials.
- ✓ Additionally, the Agency is developing recreational ambient water quality criteria for the protection of human health during recreational activities. Recognizing that tribal members may have differing risks associated with the recreational exposure to toxins than the general population, the Agency is reaching out to other federal agencies and tribal organizations, including regional leaders at the Native American Fish and Wildlife Society to understand tribal consumption patterns of fish and other aquatic subsistence resources.
- ✓ The Agency is also investing resources through grants to build tribal environmental capacity and to reduce the risk of exposure to toxin-contaminated water or subsistence fish and shellfish. Programs such as the EPA Star Grant and the EPA's Indian General Environmental Assistance Program, and partnerships, including those with the Sitka Tribe of Alaska in the South East Alaska Tribal Toxins Network, and examples of how the Agency is working with the tribes to aid in toxin analysis in subsistence food and water and tribe-specific risk toxin exposure analysis, as well as training workshops for toxin monitoring.

### WASTE GENERATOR RULE

- The EPA should provide outreach material to local governments, citizens and businesses to help them better understand the rule and how to protect their community and prevent contamination.

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- The LGAC realizes that coordination at all levels of government at the state, local and tribal governments are important, especially in implementation of the final rule. Therefore, the LGAC recommends that intergovernmental feedback on implementation should be closely monitored.
- The LGAC recommends that multi-lingual literature and clear, concise “plain English” communication materials should be provided especially for materials and labeling of waste.

### WATER QUALITY STANDARDS

- The EPA should strongly encourage states and tribes to update their water quality standards, especially to address emerging contaminants and promote a more robust set of public health criteria for water quality standards. Communities and at-risk populations should also be considered for future rulemaking.
- The EPA should develop outreach materials for local governments to better understand how to use water quality standards to protect the designated uses of their communities' waters. Such tools should include multi-media communication strategies, webinars and multi-lingual materials, as well as intergovernmental and public-private partnerships, and funding programs.