2.00 Environmental Quality

A. Problem

Environmental degradation respects no political boundaries; therefore a coordinated national environmental quality policy is vital to our nation. Without such a policy, no city or town can accomplish the most basic goals of protecting the health, welfare, and safety of its citizens.

B. Goals

A national environmental quality policy must:

- Improve the quality of the total environment while protecting the environment from further degradation; and
- Assess both current and long term environmental impacts, ensuring that the needs of the present are met without compromising the ability of future generations to meet their own needs.

C. Federal Policies

1. National Environmental Policy Act

NLC believes that the National Environmental Policy Act (NEPA) has encouraged the federal government to consider alternatives and mitigation options to proposed federal projects, and that the implementation of NEPA supports NLC's goals of environmental quality.

To reduce unnecessary project delays, NLC urges the federal government, in cooperation with local elected officials, to improve the NEPA process. NLC believes any attempts to improve NEPA must also:

- Mandate concurrent reviews among all federal agencies involved in the NEPA process for a project;
- Develop clearly defined procedures for resolving disputes among those federal agencies;
- Eliminate duplicative reviews by substituting more stringent or equal state environmental reviews for the federal review process;
- Require all agencies to determine appropriate time frames to complete their reviews, and penalize agencies that do not meet the deadlines; and
- Ensure adequate opportunity for public involvement.

To encourage public participation, NLC also recommends that NEPA documents include glossaries, bylines and phone numbers of the federal officials responsible for each document.

2. Federal Mandates

To meet national environmental quality goals, NLC recognizes that federal mandates are necessary. Where federal standards are established, the federal government must assure local government adequate capacity, resources, and time to achieve those standards. In addition, the federal government should renew its financial partnership to assist municipalities in complying with these mandates. Moreover, local governments must have the flexibility to determine their own methods to achieve federal mandates.

D. Principles

1. Regional Approaches

The impact of federal environmental programs must be evaluated in terms of the total environment, and coordinated with local and area wide planning efforts. Regional approaches to resolve environmental issues that cross-jurisdictional boundaries should be encouraged.

2. Sustainability

NLC is committed to the concept of sustainability, that as a society we must find ways to meet the needs of the present without compromising the ability of future generations to meet their needs. This is especially significant when considering the environment and natural resources. From a municipal perspective, protecting and rebuilding existing communities are vital components of a national environmental protection program. Vast amounts of natural resources already have been committed to and by urban communities. Restoring and strengthening existing communities contributes toward ensuring a sustainable future.

3. Climate Change

NLC believes that the solution to reducing greenhouse gas emissions lies in balancing a commitment to conserving energy, protecting the environment, developing new technologies, and strengthening the economy.

4. *Climate Change Adaptation*

A successful national climate protection strategy must focus on mitigating the effects of climate change and on adaptation measures that are necessary to prepare cities and residents for those changes that may be unavoidable. The range of adaptation issues must be uniquely addressed by each local government. The increasing threats related to climate change include, but are not limited to, sea-level rise, extreme weather events, such as heat waves, wildfires, droughts, floods, heavy precipitation and strong storms, pest infestations, and disease, all of which can threaten human health, cause damage to local infrastructure, jeopardize water quality and availability, and lead to energy and food shortages.

The breadth and severity of these threats require the assistance and resources of the federal government.

NLC urges the federal government to:

- Comprehensively study the effects of climate change on the nation's cities, as well as different regional climate change impacts, and identify solutions to address current and future threats;
- Provide federal funding for local adaptation projects;
- Ensure that local governments have the information, resources and tools to adequately plan for and respond to climate change effects; and
- Establish a national climate service to communicate changes and impacts, and provide critical time-sensitive information to local governments and the public, as well as long-term climate change information.

5. Environmental Justice

Recent studies have suggested that the impacts of pollution fall disproportionately on poor and minority communities, an issue of special concern to the nation's cities and towns.

To mitigate these unacceptable impacts, NLC supports federal legislation that would require the Environmental Protection Agency (EPA) to:

- Identify those areas with the largest concentrations of toxic chemicals in air, land, and water;
- Assess the human health in the areas of highest impact;
- Provide opportunities and resources that will allow them to participate in determining adverse health effects and economic impacts;
- Identify activities that have significant effects on human health and develop plans that will result in net reductions in pollution;
- Include environmental justice as an integral component of all federal planning, programs, and statutes; and
- Enhance opportunities for early public and local government participation, including access to accurate, objective information about the consequences of permit issuance.

NLC opposes any federal regulations that place restrictions on state and local government actions regulating private property or that require additional compensation beyond current interpretations of the Fifth Amendment of the U. S. Constitution.

2.01 Energy

A. Problem

Fluctuations in the cost of energy, disruptions in supply from various energy sources, environmental degradation as a result of energy production, and the lack of a national conservation policy, all threaten to dismantle the financial security of our nation's cities and our national economy.

B. Goals

NLC urges the federal government to work with local governments to develop and implement a sustainable energy policy that is reliable, equitable, environmentally responsible and evidence-based and that will:

- Promote the most efficient and affordable use of all sources of energy while protecting the environment;
- Protect the supply of energy by promoting the use of renewable sources and alternative fuels, while developing techniques to reduce the environmental impact of the use of conventional fossil fuels;
- Protect our economic and national security by reducing our dependence on foreign oil and encouraging environmentally responsible domestic production of conventional and renewable energy sources;
- Ensure a national energy supply, from all sources, which will decrease greenhouse gas emissions;
- Encourage conservation and increased energy efficiency among all geographic regions of the nation and sectors of the economy;
- Encourage the use of both distributed and utility scale generation of renewable energy; and
- Create a renewable portfolio standard that increases the share of electricity from renewable sources.

C. Federal Policies

1. Research and Development

NLC believes that the federal government should:

- Continue to assess the future of our nation's energy requirements to ensure that our energy policy adequately addresses the future needs of the country;
- Increase funding for research and development to implement the use of renewable energy sources, such as solar, wind, geothermal, biomass, tidal and hydro power;
- Increase funding to research and develop alternative fuels such as the use of hydrogen, ethanol, and coal bed methane;
- Continue its climate research to provide a better understanding of global warming;
- Assess conservation programs that most effectively reduce the use of energy and provide technical assistance to cities to implement such programs;
- Create standards for and evaluate the effectiveness of renewable energy products; and
- Promote and support improvements to the electrical grid, including capabilities and incentive for smart metering, support for large-scale distributed generation, and construction of long-distance renewable energy transmission capabilities.

2. Energy Emergencies
NLC urges the federal government to enhance energy emergency preparedness and include local elected officials in the planning process.

In the event that allocation controls are employed, the federal government must give priority to essential public health and safety services in every city. Regulations should be adjusted so that cities that have already reduced consumption are given proportional credit.

During times of energy stability, financial and technical assistance should be made available to cities to prepare for an energy emergency.

3. Tax Policy and Financial Incentives
a. Conservation and Energy Efficiency
NLC encourages the federal government to develop regulations and tax incentives that would improve the efficiency of home appliances and encourage energy efficiency for industrial, agricultural, commercial and residential consumers. An increase in efficiency in energy consumption could result from a carefully researched and implemented tax policy. Incentives also should be established for new and renovated buildings that meet or exceed nationally recognized energy efficiency standards.

b. Alternative and Renewable Fuels
Federal tax policies shall promote the development and use of alternative and renewable fuels. NLC supports long-term extensions of the investment tax credit and the production tax credit for renewable energy as an incentive for their development and deployment. NLC supports policies and financial mechanisms that lower the cost and eliminate financial and regulatory barriers to development and procurement of alternative and renewable energy sources by residential, commercial and municipal entities, as well as producers. The Department of Energy (DOE) should continue to offer grants to cities for the procurement of these non-conventional energy sources for use in municipal buildings.

c. Demand Management
NLC urges the federal government to establish tax incentives promoting demand-side management of energy, in such areas as distributed co-generation systems and electricity production, which reduces base load demand.

4. Energy Assistance to Low Income Households
Fluctuating energy prices disproportionately burden low-income households. NLC urges the federal government to continue to fund programs that address this issue, such as the Low Income Home Energy Assistance Program and the Weatherization Assistance program. Sustained periods of hot or cold weather, or higher than normal wholesale energy prices, can create unusually high demand for these programs. NLC urges the federal government to create an emergency assistance fund to address abnormal weather conditions or price fluctuations.

5. Infrastructure Siting
The nation's cities recognize the need for an effective network of energy infrastructure. NLC urges the federal government to partner and consult with local governments to determine the area for infrastructure siting that would best meet the needs of the community. NLC strongly opposes any legislation that preempts local decision-making authority on the siting and permitting of oil refineries, pipelines, electric transmission lines, and nuclear and other energy-related facilities. This type of action would threaten to dismantle longstanding environmental laws that protect the health and welfare of the public, and constrain the ability of local residents to participate through their locally elected officials to tailor policies to meet their needs.

6. Federal Energy Regulatory Commission
NLC believes that the Federal Energy Regulatory Commission (FERC) should continue to review all purchased gas costs and wholesale electricity prices to ensure that they are "just and reasonable," to make public all requests for rate increases, and to shift the burden of proof to any pipeline or transmission company requesting a rate increase. NLC encourages the federal government to ensure that FERC has adequate resources to accomplish these goals. NLC opposes any attempts to grant eminent domain authority to any federal energy regulatory agency, including FERC. NLC opposes any legislation or regulations that would bring municipally owned utilities under FERC's jurisdiction.

7. Public Awareness and Education
The federal government should promote, and assist local governments and public utilities to promote, energy efficiency to the public.

D. Energy Efficiency
The federal government should support all cost-effective energy efficiency measures in order to reduce the use and production of energy. To promote energy efficiency, the federal government should:

- Develop and promulgate a model building rating system;
- Offer training and financial assistance to state and local governments to adopt and enforce building codes that implement energy efficiency gains;
- Promote financing mechanisms that take into account the reduced costs of operating energy efficient buildings;
- Provide incentives for retrofitting existing buildings to optimize their energy efficiency;
- Ensure that all new and existing federal facilities are energy efficient; and

- Promulgate and implement new national energy and water efficiency standards for appliances and equipment.

E. Energy Sources

1. Natural Gas

The federal government should encourage the domestic production of natural gas in an environmentally responsible manner.

The federal government should:

- Ensure that water quality and water resources are protected;
- Require the disclosure of chemicals used in hydraulic fracturing; and
- Study the relationship of hydraulic fracturing on drinking water resources and air quality, the impacts on land and aquatic ecosystems, seismic risks and public safety.

2. Nuclear

In the exploration of nuclear power options, the federal government should require the development of design and safety features that will maximize the safety of nuclear energy. The federal government should improve existing licensing and regulatory procedures for new and existing nuclear power plants. In particular, Congress should strengthen the Nuclear Regulatory Commission's (NRC) protection of the public by prohibiting "revolving door" employment between industry and the NRC. Final siting approval of nuclear facilities should be a shared responsibility among federal, state and local governments, subject to appropriate federal environmental laws and regulations.

Federal agencies providing review of emergency preparedness, response and evacuation plans must include cities in the development and review of the plans. These plans should include a protocol for educating communities, particularly those who reside within the evacuation zone, on radioactivity and radiological hazards before an incident occurs. Federal funding should be available to local governments as first responders for emergency preparedness and response for nuclear events. *(Specific policies for disaster preparedness and response are contained in Section 6.03 of the PSCP chapter.)*

3. Petroleum

The federal government should promote the production of domestic petroleum in an environmentally responsible manner.

In the event of a supply disruption, there should be no action by the federal government that causes the depletion of the Strategic Petroleum Reserve simply to mitigate oil prices. The federal government should not reinstate price controls on domestically produced crude oil.

4. Coal

The use of clean coal technology (as defined by DOE standards) will help decrease emissions while helping cities affected by such emissions to reach and maintain attainment of air quality standards. Therefore, NLC urges the federal government to:

- Support research programs to develop the most efficient, environmentally responsible methods to extract, transport, and utilize coal for energy production;
- Streamline requirements for development and retention of leases for coal reserves on federal land in an environmentally responsible manner;
- Research the use and storage of coal byproducts, such as methane, as a future energy source;
- Develop incentives for the use of clean coal technology and Best Available Control Technologies for new and existing plants; and
- Increase research and development for carbon capture and storage technology and fund large-scale integrated demonstration projects for carbon capture, transportation and storage that reduce emissions from existing coal plants.

5. Hydroelectric

The pricing of hydroelectric power generated at federal projects should be as low as possible, while ensuring that all costs to the federal government are fully recovered including the cost of federal capital. The federal government should continue to own and operate the federal power marketing agencies and should not sell, transfer, exchange or otherwise dispose of them. NLC supports the protection of municipal utility purchases of hydroelectric power through federal contracts.

6. Solar

The federal government should support research programs to develop innovative and practical solar technology. Additionally, the federal government should promote financing mechanisms that stimulates and incentivizes the adoption and installation of solar technologies for residential, commercial and municipal use.

7. Wind

The federal government should support research programs to develop wind technology for commercial and residential use, clarify regulations related to its implementation, and provide incentives to promote its use.

8. Promising New Energy Sources

The federal government should support research and development efforts related to promising new energy sources that help meet goals of an efficient, economical, and environmentally responsible energy supply

F. Electricity

1. Infrastructure

NLC supports federal incentives for all generators and transmission grid owners to create new infrastructure, consistent with current environmental regulations and laws.

To ensure that the nation has an adequate and reliable national transmission grid, the federal government should coordinate with state and local governments. NLC opposes any attempts to preempt local authority in siting energy producing facilities or transmission grids.

2. Smart Grid

Smart grid technology will increase the capacity, quality and reliability of the electric power grid, increase the grid's energy and operational efficiencies, and enable significant increases in distributed renewable and stored energy. NLC supports federal programs that:

- Conduct research into smart grid technology and help promote its commercialization;
- Create standards for interoperability and security;
- Fund pilot programs to study techniques that reduce energy demand by giving customers more direct and automated control over their energy use, evaluate rate structures that more accurately reflect energy costs, and investigate the integration of renewable energy sources onto the local grid;
- Provide consumer education and workforce training; and
- Facilitate an accelerated implementation of smart grid technology across the distribution and transmission networks.

3. Electric Utility Restructuring

NLC believes that state and local governments, traditional regulators of the electric utility industry, should continue to be the primary decision makers in restructuring the electric utility industry. Congress and the Administration must work with state and local elected officials in any attempt to restructure the electric utility industry. Restructuring should not interfere with or reduce services provided by municipally owned utilities.

NLC supports the following principles in all attempts to restructure the delivery of electricity:

- Preemption: NLC opposes any federal action that preempts municipal authority to issue franchises, tax, aggregate, regulate use of rights-of-way, or interfere in any way with municipal revenue authority. NLC opposes any federal preemption of the rights of state utility commissions to regulate retail electricity rates. NLC opposes the preemption of any existing environmental policies in any restructuring proposal.
- Affordability: Any restructuring program must ensure that the system remains affordable for all communities and ratepayers.
- Equitable Benefits: Any restructuring program should result in all ratepayers – large and small, residential and commercial – equitably sharing in the benefits of a restructured environment.
- Social and Environmental Impacts: All market participants should contribute equitably to accomplish the following public policy goals: support for lifeline rates; energy efficiency and conservation; environmental programs; renewable energy sources; and alternative energy efforts. All generators should be held to applicable environmental regulations. NLC opposes less expensive electricity if it comes at the expense of environmental degradation.
- Municipal Utilities: Any restructuring must maintain the existing powers of municipalities, including the concept of municipal utilities; must not abridge the existing authority of municipal utilities to operate; and must not abridge the ability of cities to form municipal utilities or to compete in the future.
- Rights-of-Way: NLC opposes attempts to preempt local government authority to manage rights-of-way and to receive just compensation for their use.
- Aggregation: Cities must have the opportunity, either individually or on a regional basis, to become aggregators, to consider combining the electric loads of various users, and to negotiate the purchase of electricity on behalf of those consumers.
- Market Power: The federal government must closely examine any mergers or acquisitions in the deregulated electric industry, and prevent all mergers that are found to threaten competition. The federal government must exercise current regulatory authority through the Department of Justice to prevent anticompetitive behavior in order to protect the interests of all ratepayers in the deregulated electric industry.
- True Access to Transmission: State and local governments must maintain the exclusive authority to identify places for expansion of the transmission system. The federal government must:
  1) Ensure that transmission capacity is not a barrier to competition by requiring accurate and timely Actual Transmission Capacity postings;

2) Facilitate retail access to transmission on a pro rata basis; and
3) Not take other actions which affect fair access to transmission by all competitors.

- Regional Transmission Organizations (RTOs): To ensure fair compliance with transmission rates, efficient and reliable grid utilization, and enforcement of reliability standards, the federal government should require the formation of regional Independent System Operators.

4. Distributed Generation

The federal government shall develop a strategy for a comprehensive research, development, demonstration, and application program to promote the implementation of hybrid distributed energy systems.

G. Transportation and Energy

NLC supports federal programs that:

- Reduce dependence on fossil fuels used for transportation;
- Increase funding for federal research and development of alternative sources of energy for transportation;
- Pursue a national distribution system for alternative fuels for transportation use;
- Offer incentives for acquisition of zero- or low-emission vehicles, such as natural gas or electric vehicles. Incentives should be available for cities to purchase these vehicles for use in public transportation systems and municipal fleets and to public and private entities to install electric vehicle infrastructure;
- Minimize environmental harm associated with the extraction, processing, and disposal of metals used in electric vehicle batteries, and encourage development of alternatives; and
- Ensure that the air quality benefits of using zero and low emission vehicles are quantified and credited toward meeting national air quality goals.

NLC opposes a federally mandated phase-in of a fixed number of alternative fueled vehicles for fleets, in the absence of federal funding for this purpose.

2.02 Clean Air

A. Problem

Air pollution continues to be a serious threat to the health of citizens and the welfare of many communities.

The federal government must coordinate air quality regulations with local governments as well as federal agencies.

B. Goals

A national strategy must:

- Protect human health from the harmful effects of air emissions;
- Target sources responsible for current air emissions;
- Recognize regional problems and emphasize regional solutions;
- Emphasize air shed solutions to problems from the transport of air pollution across political boundaries;
- Coordinate policies of all federal agencies regulating air quality to avoid conflicting regulations, such as imposing stricter air standards while simultaneously cutting funding for mass transit;
- Anticipate and address the effects of climate change;
- Support local government efforts to partner with other local governments as a means of improving air quality on a regional scale;
- Encourage and give credit for voluntary reductions in air pollution; and
- Not adversely affect other environmental media, such as soil and water.

C. Federal Policies

1. Local Role

Authority to conduct air quality planning should be vested with general-purpose local governments and/or regional policy making organizations. State and local governments should continue to have the authority to establish stricter standards than those set by the federal government.

2. State Implementation Plans

EPA must continue to review the development of the basic elements of State Implementation Plans (SIP), which outline measures that will reduce pollution from stationary and mobile sources. However, EPA's oversight of every aspect of SIP development and implementation is duplicative, time-consuming, and unnecessary, and actually inhibits the rapid achievement of cost-effective emission reductions.

Increased federal assistance to local governments is needed. Federal funds should go directly to local agencies with SIP responsibilities.

State and local governments should generally be allowed to grant or alter permits without the need for

federal approval so long as such actions are consistent with EPA-approved generic permit rules.

NLC supports the imposition of sanctions on regions that fail to submit an SIP, revise the SIP in accordance with EPA specifications, or implement the measures identified in the SIP. Where the SIP cannot be developed in accordance with requirements to "demonstrate attainment" because there are no known strategies available to accomplish the objectives of the Clean Air Act, EPA should be given the flexibility to refrain from imposing sanctions. Where sanctions remain the only tool to assure timely compliance, they should be imposed on the government whose actions were inadequate or inconsistent with the requirements of the law. Where a state has failed to develop and enforce its SIP, it is the state that should be sanctioned. In no case should the state be authorized to transfer any sanctions to its local governments absent a demonstration of that local government's culpability.

3. *Air Quality Control Strategy for Generation of Electricity and Production of Petroleum Products*

NLC believes that a comprehensive approach to emissions reduction from the generation of electricity and the production of petroleum products is essential to protect the health of our citizens and our communities. NLC supports a streamlined air quality control strategy that:

- Establishes an integrated approach for regulating air emissions from all electric power plants and petroleum production facilities;
- Addresses all significant emissions from electric power generation and petroleum production facilities;
- Augments the existing Clean Air Act without weakening it;
- Caps emissions from power plants to establish stringent, feasible, and enforceable national emissions reduction goals;
- Requires the installation of technology no less stringent than the best available controls on all existing power plants by a compliance deadline;
- Includes a national emissions trading program, which equitably allocates any emissions allowances to all existing utilities, so long as specific sources credited are not allowed to increase their emissions;
- Encourages and credits utilities for early compliance, while enforcing deadlines to ensure steady progress;
- Offers flexibility to utilities to meet required emissions reductions; and
- Retains the authority of regions, states, and local governments to adopt and implement more stringent measures than those required by the federal government.

NLC believes that the implementation of such a multi-pollutant strategy will achieve greater environmental gains than those achieved by existing programs.

Strict emission control requirements must be maintained on all new sources. New source permits should continue to be required for all "major" sources that result in significant emission increases. However, once a permit has been issued for a source, it should be exempt from additional requirements for a reasonable period of time.

4. Climate Change

The federal government must develop policies to reduce greenhouse gas emissions in order to halt potentially irreversible effects on the global environment. NLC believes that a multi-pollutant strategy to reduce emissions from power plants, mobile sources and other major sources will provide significant reductions in greenhouse gas emissions that cause climate change. NLC supports this approach because it is flexible, predictable, and market based.

However, the federal government should continue to assess the potential economic and environmental consequences of proposed policies to reduce greenhouse gas emissions and ensure that the nation's cities are part of that process. Care must be taken to ensure that reductions in greenhouse gas emissions are justified and fair to our local governments. This is a global problem that demands a global solution; developing countries must be part of the solution and not exempted.

5. Acid Rain Program

The acid rain control program should be continued and require substantial reductions in sulfur dioxide and nitrogen oxide emissions from both stationary and all mobile sources.

6. Air Quality Standards

Primary air quality standards should be based on the protection of public health. The federal government should continue to evaluate the National Ambient Air Quality Standards (NAAQS) to ensure they are necessary and attainable. When revising the NAAQS, the federal government must ensure that:

- New standards are based on peer-reviewed science;

- Adequate technology is or will be made available to attain the revised standards; and
- Sufficient time is provided for areas to come into compliance.

Recognizing that climate, geography, and the transport phenomenon play critical roles in persistent non-attainment areas, the federal government should assure that research is undertaken to develop new control strategies and that control measures result in progress toward attainment.

However, to encourage innovation and private and public research, federal air quality standards must focus on measurable results and must not mandate the use of specific technologies to reach attainment.

Congress must assure that EPA is not forced to promulgate new and costly standards prematurely because of arbitrary court-ordered deadlines.

EPA should continue to set secondary ambient air quality standards to protect non-health related values.

7. Mobile Source Emissions

Where pollution is caused by mobile sources, the primary means for abatement of such pollution should be direct and stringent controls related to mobile source emissions, including emissions controls on currently exempt sources, such as airplanes, trains, and ships.

NLC supports federal efforts to strengthen or establish corporate average fuel economy (CAFE) standards for all mobile sources, while taking into consideration mobile source safety. In particular, the EPA should reevaluate CAFE standards in an effort to expand the number and classes of vehicles regulated. NLC opposes any relaxation of current vehicle emission regulations that would lead to significant increases in emissions.

NLC supports federal efforts to promulgate and enforce standards for diesel fuel burning vehicles. Because the turnover rate for diesel fleets can be as long as 30 years, NLC encourages the federal government to expand its existing voluntary retrofit program by increasing available funding, providing incentives, and marketing of the program. The federal government should also provide grants to cities to support local government efforts to retrofit their fleets.

Where mobile source emissions standards are unattainable because of inadequate existing control technology, the federal government should commit itself to supporting the development of new or improved technology.

8. Transportation Control Measures

In areas projecting attainment and making projected yearly progress toward attainment by the statutory deadlines, implementation of transportation control measures should not be a mandatory federal requirement. Where reductions in vehicle miles traveled are needed to meet emission reduction targets, strategies such as economic incentives and transportation pricing should be permitted in place of mandated transportation control measures if it can be demonstrated that such strategies will provide equal or greater benefits.

9. Hazardous Air Pollutants

Congress should continue to require EPA to identify and set standards for hazardous air pollutants which protect public health by an ample margin of safety and which preserve the environment. EPA should be directed to impose controls on sources of hazardous air pollutants that are stricter than technology-based standards where necessary to protect public health and the environment. Congress should establish deadlines for the determination of those substances that are hazardous and should require mandatory listing of substances where EPA fails to meet the deadlines.

10. Transport of Air Pollution across Boundaries

The federal government should recognize that the trans-boundary nature of air pollutants calls for solutions that transcend the jurisdiction of any one local, state or national government.

NLC supports EPA designation of major pollution transportation regions consisting of attainment and adjacent non-attainment areas. Non-attainment areas should be required to install reasonably available controls on stationary sources of pollution.

2.03 Solid and Hazardous Waste

A. Problem

The disposal of solid and hazardous wastes and the conservation of resources are two of the most challenging issues currently facing local governments.

Improper disposal of hazardous wastes, including nuclear and radioactive waste, and spills of chemicals, oils, and other hazardous substances can

endanger public health and pollute our nation's air, water, and land resources.

B. Goals

Waste management must be addressed through an aggressive program of source reduction, volume reduction, resource recovery, and minimizing the need for disposal. These actions must be compatible with protecting the environment.

C. Solid Waste Policies

A national solid waste management policy should take an integrated approach to provide the following options to best meet local needs:

1. Source Reduction

The federal government should:

- Limit generation of non-recyclable and excess trash;
- Support research and development on conversion technology, packaging materials, biodegradability and techniques to minimize solid waste;
- Promote public participation in reducing the volume of solid waste; and
- Support public participation and education programs to provide a better understanding of source reduction (reduce, reuse, recycle) and disposal options.

2. Product Stewardship

More than 75 percent of consumer waste consists of products and packaging which contain, for example, acids, plastics, petroleum by-products, mercury and other heavy metals, that undermine public health and the environment when not properly disposed. Manufacturers and others along the product chain are able to reduce the environmental impact of their products and the amount of trash directed to landfills by reducing packaging, designing products to be less toxic, easier to recycle, and creating and financing take-back programs.

Congress should protect and support the ability of local and state governments to establish producer responsibility legislation.

The federal government should adopt the following principles of product stewardship to guide federal policy and support local governments in their efforts to protect the public health and the environment:

- Producer Responsibility: The responsibility for reducing product environmental impacts should be shared by all segments of the industry, including designers, manufacturers, importers, retailers, and conveyors of products and product components. Manufacturers, however, have the greatest ability to minimize product lifecycle impacts and consequently bear the greatest responsibility for addressing those impacts.
- Internalize Costs: All product lifecycle costs should be included in the total product cost. The environmental costs of product manufacture, use, and disposal should be minimized to the greatest extent possible and ultimately assumed by the manufacturers and consumers of products. Local governments and tax payers should be relieved of the financial burden of product and packaging management.
- Incentives for Cleaner Products and Sustainable Management Practices: Policies that promote and implement product stewardship principles should create incentives for manufacturers to design and produce "cleaner" products that are created using less energy, materials, and toxics. These policies should create incentives for the development of sustainable and environmentally-sound producer-led systems to collect, compost, reuse, and recycle products.
- Flexible Management Strategies: Those responsible for reducing the health and environmental impacts of products should have the flexibility to determine the most cost effective means of doing so. Performance measures are critical to determining the success and effectiveness of these programs.
- Roles and Relationships: Industry must take the lead in achieving these goals, but all levels of government and consumers must also play a role. Government should promote product stewardship through procurement practices, technical assistance, market development, and agency coordination. Government should also remove regulatory barriers that impede product stewardship and provide incentives and disincentives when necessary. To the greatest extent possible, these product stewardship principles should apply to those industries and vendors located in any country who sell their products in the United States.

3. Electronic Waste

NLC supports federal efforts to educate the public on electronic stewardship to minimize electronic waste and associated risks to health and the environment. NLC urges Congress to develop a system to maximize the reuse and responsible recycling of used electronics and create a viable financing mechanism. Congress should investigate the use of appropriate incentives to:

- Design products that facilitate source reduction, reduce environmental impact, and encourage reuse, recycling, product take back, and responsible reclamation of components;
- Ensure that used electronics are recycled in an environmentally sound manner, such as through an accredited third-party certification program;
- Promote green electronics as a source selection preference;
- Reduce toxicity by limiting the use of hazardous materials in electronics manufacture; and
- Increase recycled content and improve efficiency in all phases of development and operation of electronic products.

NLC urges Congress and the Administration to ensure that all exported electronics are handled and disposed of safely in a manner that does not harm health or the environment.

4. Recycling

To support municipal recycling initiatives, EPA should develop a clearinghouse and website to enhance the exchange of information on recycling programs among cities.

Congress should encourage development of long-term stable markets for waste and recycled products.

In addition, federal funding should:

- Support research and development and pilot programs to assist local governments in the demonstration of new recycling techniques;
- Fund research and development for conversion technology for recycled materials, including products from tires and batteries; and
- Develop fair and appropriate tax incentives to target problematic waste streams from recycling processing centers.

5. Environmental Labeling

NLC supports development of a national program to assure that environmental labels are based on a set of clear and verifiable definitions and standards.

6. Resource Recovery

Federal legislation and regulatory action must address environmental concerns about resource recovery and the disposal of incinerator ash. Specifically, the federal government must provide that the term of permits for new incinerators is for an adequate duration with periodic monitoring to ensure compliance with permit conditions. The federal government should also assist in the development of appropriate siting criteria and develop training and certification programs for operators of municipal incinerators. The federal government should exempt resource recovery facilities from any construction ban under the Clean Air Act.

7. Incinerator Ash

The federal government should designate incinerator ash as a "special" waste and establish new and appropriate testing and treatment requirements. No federal law or regulation that presumes ash from resource recovery plants is toxic should be adopted or become effective unless Congress and EPA have scientific evidence of such toxicity. Federal regulations should provide for flexibility in disposal practices for ash. The federal government should also establish minimum design criteria for ash monofills, for disposal of ash that is not treated or tested or which fails toxicity tests. Federal legislation is needed to support and encourage the beneficial use of ash.

8. Landfills

New federal mandates that retroactively reclassify specific segments of waste, thus requiring new and more costly disposal methods and/or retrofitting of existing and closed disposal facilities, must be accompanied by financing to comply.

9. Waste Flow Control

Recent federal court decisions have found local flow control ordinances to be an unconstitutional restraint on interstate commerce. The legal status of waste flow control ordinances must be settled by Congress to assure that local governments can lawfully and effectively finance and implement municipal solid waste management plans.

Congress should specifically authorize local governments to direct or otherwise regulate the movement of municipal solid waste generated within or imported into their boundaries. In addition, Congress must uphold local authority to designate the facilities at which municipal solid waste will be managed. Congress should adopt legislation declaring such local action, if consistent with state approved solid waste management plans, is lawful and not an interference with or an unreasonable burden on interstate commerce.

10. Interstate Transport of Municipal Solid Waste

Congress should authorize states that develop approvable, comprehensive solid waste management plans, which include long-term capacity assurance for disposal of waste generated in-state, to restrict out-of-state use of their facilities unless there is planned capacity for out-of-state wastes. Municipal or

regional authorities within states with approved plans must have the right to accept or reject solid waste from out-of-state. Congress should also authorize the imposition of phased-in differential, i.e., higher, disposal fees which must be equal for out-of-state solid waste at facilities in states with approved plans.

Municipalities accepting out-of-jurisdiction waste must be authorized by Congress to impose their standards on the importing jurisdiction.

11. Backhauling
Congress should prohibit the hauling of solid and/or hazardous waste in vehicles used for transporting food.

D. Nuclear Waste Management Policies

1. Local Participation in Site Selection
Federal policy related to nuclear and radioactive waste disposal should be amended to give local governments the authority to directly participate in the site selection process for permanent repositories for high-level nuclear and intermediate and low-level radioactive waste. The permanent disposal or storage of nuclear and radioactive waste, within any populated area, is completely unacceptable. Further, sufficient technical assistance funding from the Nuclear Waste Trust Fund should be provided to local governments to enable them to conduct technical studies of potential repository sites, to provide technical comments on federal siting-related documents, and to monitor the site selection process. This should apply to sites identified on federal property or reservations in close proximity to a municipal boundary.

2. High-Level Nuclear Waste Storage
Congress should adopt legislation to establish an integrated spent nuclear fuel management program to:

- Construct and operate a safe, permanent geologic disposal facility; and
- Create a federal budget mechanism to allow the Nuclear Waste Trust Fund to be used for the purpose for which the funds were contractually paid for by users of nuclear generated electricity.

Congress should also research additional options for managing nuclear waste.

3. Nuclear Waste Management
DOE, the federal agency that manages nuclear weapons complexes, should be required to clean up contaminated areas.

If DOE proposes waste disposal facilities on site, the agency should be required to obtain the approval of the affected local governments. Such facilities should be located in isolated areas, and must meet EPA and Nuclear Regulatory Agency standards.

Restoration and Long-Term Stewardship: NLC urges DOE to restore all contaminated lands at nuclear sites to an environmental standard negotiated with and approved by affected local governments for future use. In cases where full restoration is not currently possible, Congress must acknowledge and provide the long-term (thousands of years) stewardship costs associated with leaving nuclear and other hazardous waste contamination on site. Congress should continue to support research to develop necessary technology for consolidated nuclear waste disposal and cleanup.

Economic Aid and Restoration of Jobs: Transfer of uncontaminated lands to the surrounding communities for economic or public use should be a high DOE priority. Such lands should be indemnified for future use from any contamination that may not be known at the time of transfer. DOE should continue to work with local governments to create and attract new jobs and to replace industries lost through the closure and changing missions of nuclear facilities.

4. Cask Testing
Full scale testing of any prototype containers and equipment used for the transportation of high level radioactive waste should be required by the federal government.

5. Routing
Local governments should be consulted in the designation of routes for transportation of high level radioactive waste and spent fuel through their jurisdictions. Where state governments seek the designation of alternative routing to the Interstate system, they should be required by federal law to create a review and comment process that provides affected local jurisdictions with the opportunity to participate in the alternative routing decision.

Guidelines for the routing of high level radioactive waste should be established for the movement of such waste by all modes of transportation.

6. Notification
The federal government should be required to give general, not shipment-by-shipment, notification to affected local governments of the routes used and

approximate frequency of shipments of high level radioactive waste through their jurisdictions.

7. Liability
The total financial pool that provides compensation for losses in case of a nuclear accident must be increased by raising the ceiling on each nuclear power plant's liability.

Furthermore, Congress should guarantee that federal compensation be provided if costs to victims exceed the available financial pool. Compensation for losses resulting from accidents at nuclear waste repositories and those involving transportation of nuclear waste should be provided in a manner similar to compensation for losses at nuclear power generation facilities. Furthermore, state and local governments should be compensated for the costs which they incur in preparing for and responding to a nuclear accident. In order to encourage state and local participation in emergency response efforts, and to minimize the potential for lawsuits against these governments, state and local governmental liability should, under the Price-Anderson Act, be explicitly waived in the event of a nuclear accident. Further, Congress should give consideration to amending the Price-Anderson Act so as to create a federal tort system for nuclear accidents. This approach would allow a victim to recover for damages without having to prove that the defendant was responsible for causing the damage.

8. Federal Compliance
Federal facilities should continue to comply with federal and state environmental, health and safety laws and should be subject to their enforcement provisions.

E. Hazardous Waste Management Policies
1. Landfill Regulations
The federal government should provide state and local governments with financial and technical assistance to evaluate potential new sites for hazardous waste disposal facilities. Hazardous waste landfill regulations should be a combination of technology based design and operating standards and should include minimum landfill location standards.

Class 4 injection wells, if found to pose a potential human health or environmental threat, should be banned.

EPA should require liners and leachate collection systems for existing hazardous waste land disposal facilities, with exemptions granted in those cases found not to pose a threat to human health or the environment, or where alternatives for preventing groundwater contamination can be demonstrated by the facility.

The federal government should also develop and implement techniques for assuring local governments that prompt and responsible emergency and long term action will be taken to protect public health and the environment in the case of spills or leakage at newly sited disposal facilities and in the transportation of hazardous materials to and from newly sited facilities.

2. Incinerator and Impoundment Requirements
EPA should retain existing incinerator and impoundment rules and enforce them. EPA should begin final permitting as soon as possible.

Incinerators whose primary purpose is the "beneficial recovery of heat" should not be exempt from Resource Conservation and Recovery Act (RCRA) regulations. Additionally, facilities which burn or blend hazardous materials for fuel or energy recovery purposes should be required to report these activities to EPA and authorized states. These facilities should also be required to label such fuel as containing hazardous wastes before marketing and distributing the fuel product.

NLC opposes the incineration of hazardous materials at sea until it is demonstrated through a pilot project that the safety and efficiency of this method causes less harm to human health and the environment than other practical alternative means of disposal.

3. Kilns, Boilers and Industrial Furnaces
In order for these facilities to continue burning liquid hazardous waste as fuel, they must first obtain a use change permit to assure they are sited appropriately and in an environmentally protective manner to proceed with the burning of hazardous waste. Any facility burning hazardous waste must be a permitted facility in full compliance with both federal air emission control standards and monitoring requirements for the incineration of hazardous waste and with the requirements of Subtitle C (hazardous waste) of the RCRA. Operators of facilities using hazardous waste as a fuel must be trained and certified to insure proper operation of the facility.

4. Permit Requirements
All major expansions or additions to existing hazardous waste facilities should be treated as "new" facilities for permitting purposes. Once permitted, they should be allowed to expand according to their final permit requirements.

The permitting process should be standardized among cement kilns, boilers and industrial furnaces that recycle hazardous waste and incinerators.

EPA-issued permits should require the use of "best available technologies" and be effective for a fixed term.
Any by-products derived through the recycling process must comply with the RCRA "derived-from" labeling requirements if such by-products are offered to the public. EPA should propose a modified permit procedure for those facility modifications that the regional EPA Administrator deems to be minor. The modified permit procedure should not, however, eliminate notice to local officials and the public, and if sufficient interest is generated, the modification should go through normal permit procedures.

5. Underground Injection
Underground injection of hazardous chemicals or wastes above, below or into an aquifer that is a potential source of drinking water should be prohibited.

6. Leaking Underground Storage Tanks
EPA should expeditiously promulgate guidelines or regulations governing such areas as: leak detection, spill cleanup, financial responsibility, and performance standards for new tanks.

EPA should establish a public education program to inform owners and/or operators of underground storage tanks, including governments, of responsibilities for identifying underground tanks, for replacing leaking tanks, for cleaning up any leaks or spills, and for properly installing new tanks. EPA should work with NLC, other public interest groups and other trade associations to disseminate information about the underground tanks regulations as soon after promulgation as possible.

7. Research
The federal government should expand its research and development program in hazardous waste and materials management to:

- Develop industrial process modifications and raw materials substitution in order to reduce hazardous waste generation;
- Develop processes to recover resources from hazardous wastes and materials and improve existing treatment, long term storage and disposal techniques; and
- Prepare a comprehensive evaluation of the role of federal, state and local governments in the prevention of hazardous materials accidents. The study should identify the mechanisms for integrating existing governmental programs and activities into a single, integrated national prevention program.

A national clearinghouse for hazardous waste and materials information should be established as a repository for research results.

8. Insurance
Congress should assure that owners and operators of hazardous waste disposal facilities are financially insured to provide for the safe operation and closure of those facilities as well as any emergency response and liability that may occur as a result of a leak or spill.

9. Closure of Facilities
Upon the opening of a new hazardous waste or materials disposal facility, the federal government should require that a covenant restrict the use of each site for a period of 20 years after closure. Further, the covenant should require all future owners of each property to take the property subject to such restrictions including the continued, regular monitoring, inspection, and maintenance of the property as well as responsibility for any remedial action that may be necessary due to the hazardous wastes or materials disposed on such property.

10. Brownfields
NLC calls on the federal government to develop a program of economic revitalization and environmental restoration in coordination with states and local governments to assure that these currently unused resources can again serve a viable economic purpose, while ensuring that the public's health is protected.

Congress should enact legislation addressing and resolving the disincentives created by potential liability to facilitate reuse of those properties. Such legislation should provide for a waiver or a definitive limitation or elimination of liability for non-contributing current or future owners, developers, lenders, operators and tenants of previously contaminated sites which have been certified as "clean." Congress should provide financial assistance for environmental cleanup of these areas. Cleanup standards for these areas should be based on the level and type of contamination and the purposes for which the area is intended to be reused, as outlined in the local land use plan.

11. Federal Facility/Site Conversion
With the downsizing of the nation's military structure and its conversion to civilian use, NLC believes

Congress and the Administration should adopt the following environmental cleanup policies:

- Develop standards sufficiently stringent to permit reuse of the facility or site in accordance with locally generated land use plans and to obviate the need for additional cleanup costs by the affected local governments or the private sector. Cleanup standards for these areas should be based on the level and type of contamination and the purposes for which the area is intended to be reused;
- Ensure the active involvement of local government officials in all phases of the environmental cleanup, including site evaluation and selection and implementation of cleanup remedies;
- Allow parcelization of federal facilities or sites, where feasible, to permit prompt redevelopment of uncontaminated portions of the property;
- Coordinate timetables for environmental impact statement, parcelization, and prioritization with civilian reuse plans; and
- Provide full and timely funding and appropriation for the cleanup of federally owned or operated contaminated facilities and sites.

F. Superfund Policies

1. Superfund Trust Fund

Congress should reauthorize the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as Superfund) so that existing hazardous waste disposal sites can continue to be identified, evaluated and controlled.

Congress should increase the size of the Hazardous Substance Response Trust Fund that supports the Superfund program so it will be adequate to clean up sites already on the National Priority List (NPL) as well as any additional sites added to the list. Trust Fund revenues should be derived from the following sources:

- doubling fees imposed on feedstocks used in the production of hazardous materials and used by hazardous waste-generating industries or importers of hazardous materials;
- eliminating some current exemptions from the fee;
- levying feedstock fees on some new chemicals deemed by EPA to be hazardous;
- establishing a broad-based tax (such as an ad valorem tax, excise tax, or corporate surcharge); and
- maintaining the current contribution of general revenue to the Trust Fund.

2. Standards and Deadlines

The federal government should mandate that Superfund sites be cleaned up to standards sufficiently stringent to permit reuse of the facility or site in accordance with locally generated land use plans and to obviate the need for additional cleanup costs by the affected local governments or the private sector.

In order to ensure expeditious cleanup of Superfund sites, Congress should establish timetables for cleanup of sites already on the NPL and separate deadlines for the identification, evaluation and cleanup of new sites added to the NPL.

EPA and other federal agencies involved in hazardous waste site cleanup should increase their economic and administrative commitments to the problem, and make better and more rapid use of the money already available for cleanup.

3. State and Local Roles in Superfund

The Superfund program can be made more efficient if state and local governments are given greater decision-making responsibilities under the program. State and local governments should have the option to assume full responsibility for planning and implementing Superfund response actions.

Furthermore, state and local governments that are engaged in Superfund site cleanup should be exempted from oversight cost responsibilities to EPA. Such costs are more properly borne by those parties who are liable at a site but have chosen not to participate in remediation.

CERCLA should require that EPA enter into agreements with local governments that give lead responsibility for site remediation and for cost recovery and other enforcement activities to qualified and willing local governments. Such agreements should recognize the local government's unique qualifications to effectively administer longer term land use restrictions and other institutional controls.

Furthermore, the definition of the term "state" under CERCLA should be amended to include local governments. The law is unclear whether local governments engaged in the same type of cleanup work have the same special cost recovery status.

4. Liability

Municipal liability for cleanup costs under the federal Superfund statute must be clarified. EPA recognizes that municipal solid waste (including both garbage and sewage sludge) contains only insignificant

amounts of hazardous constituents and in its Interim Municipal Settlements Policy provides that EPA will identify local governments as potentially responsible parties (PRPs) at hazardous waste sites only in exceptional circumstances.

The Interim Municipal Settlements Policy, while a laudable first step, is an inadequate response to the concerns of municipalities. First, the Policy applies only to (public and private) transporters and generators of municipal solid waste, but not to municipal owners and operators of Superfund sites. Second, the Policy does not protect transporters and generators of municipal solid waste from lawsuits by private parties for cost recovery and contribution to the clean up costs at these sites.

To assure that municipalities will not be held responsible, through private party litigation or otherwise, to assume full financial responsibility for clean up costs, NLC supports enactment of legislation which would:

- Eliminate local government liability under Superfund for the disposal of ordinary municipal waste, both garbage and sewage sludge;
- Provide expedited de minimus settlements for hazardous materials generated by local government operations;
- Exempt municipalities (as defined in the Clean Water Act) from cleanup liability resulting from ownership and/or operation of a facility in fulfillment of a public responsibility;
- Cap cleanup liability for municipal transporters and generators of municipal solid waste; and
- Strengthen local governments' ability to protect and restore the environment by enabling them to recover response costs and costs for damages to natural resources.

NLC recognizes the need to expedite the cleanup process, reduce transaction costs, and increase funds for cleanup while maintaining a level of fairness. Any effort to limit the retroactivity of these standards and to relieve responsible parties from liability for past activities could leave the cleanup of older hazardous waste sites funded at state and municipal expenses, funded through substantially increased Superfund taxes, or unfunded entirely (and therefore not cleaned up).

5. State Response Funds

Congress should amend CERCLA to repeal the current preemption of state authority to develop state hazardous response funds.

6. State and Local Matching Share

NLC believes the current state matching requirements under CERCLA are too burdensome, hampering intergovernmental agreements and cooperative efforts that would speed up and improve cleanup efforts. Congress should require states to pay only 10 percent of total cleanup costs at publicly owned and/or operated Superfund sites.

Additionally, Congress should liberalize conditions under which states may generate credits that can be used to offset the state matching requirements. This could be accomplished by crediting states for past cleanup actions, reimbursing states that have already expended more than 10 percent of costs at Superfund sites they owned and/or operated, or crediting a state's administrative expenses toward its matching share.

7. Maintenance and Operating Costs

Funds from the Hazardous Response Trust Fund should be used to support long-term operation and maintenance activities, such as cleanup of groundwater contamination at Superfund sites, after cleanup actions have been taken. This could be accomplished by requiring that state and local governments pay a matching share for maintenance and operating expenditures that is comparable to the matching share required for cleanup actions.

8. Post-Closure Liability

Congress should reauthorize the Post-Closure Liability Fund, which was established to provide assistance for monitoring, maintenance, and long-term care at RCRA-permitted hazardous waste sites. The fund should continue to be supported by a tax on hazardous wastes that are disposed of in RCRA-permitted facilities. However, in order to adequately finance post-closure activities, Congress should remove the $200 million ceiling on the Fund's unobligated balance so that more revenues can accrue in the Fund. Additionally, Congress should amend current law to extend the liability period for owners or operators from five to 15 years after closure in order to ensure that RCRA sites are properly maintained in the post-closure period.

9. Environmental Impairment Liability Insurance

Congress should continue to examine the nature, scope and causes of the problem of scarce environmental impairment liability insurance and should take action to improve the availability of that insurance. As a first step, Congress should amend the Products Liability Risk Retention Act to facilitate the creation of interstate risk sharing pools. Congress

should change the liability standards of CERCLA only with great caution.

10. Right-to-Know
Congress should enact federal community right-to-know legislation in order to establish a more uniform means of planning for and responding to emergencies caused by the release of hazardous substances that may present an imminent and substantial danger to public health. The legislation should require the owner/operator to report to designated state and local agencies annually on the type of hazardous substances on-site, the present and anticipated amounts of the substances during a given year, and the location of the waste inventory.

Additionally, legislation should require each state to develop a statewide emergency response plan. Participation by local government representatives in developing the plan should be mandatory. The costs of developing state and local emergency response plans should be borne by the federal government.

The federal legislation should also preempt different or conflicting state and local right-to-know and emergency response requirements. However, states and localities should be allowed to seek a waiver from the preemption if they can demonstrate that they have a unique safety or health circumstance which necessitates passage of a right-to-know or emergency response requirement inconsistent with the federal requirements.

11. Deferred Listing
Congress should carefully examine the impact of a deferred listing approach as a means of better managing Superfund sites.

States, with the concurrence of local governments, should be allowed to petition EPA to defer certain sites. State petitions should be required to show that the state has consulted with and secured the concurrence of local governments involved in the site, and has provided reasonable notice to the public of its intent to petition. Provisions should be made for public participation in the remedy selection process.

12. Accounting Procedures and Cost Study
To ensure that adequate accounting data is obtained and reported, EPA and other federal agencies should be required to provide detailed accounting data as to the costs they have incurred under CERCLA. Further the Comptroller General should undertake a "costs study" to carefully examine the efficiency and efficacy of the current EPA oversight process.

13. Alternative Dispute Resolution
The use of alternative or non-litigation dispute resolution procedures, excluding the use of binding arbitration for local governments, should be examined and incorporated more effectively into CERCLA.

2.04 Water Quality and Supply

A. Problem
The nation continues to experience problems with the quality of our waters, as well as the adequate supply of sources of water to sustain our population.

The nation's cities face a crisis in funding their water infrastructure needs. EPA has estimated a funding gap approaching $23 billion annually between current local investments in aging and failing water infrastructure and meeting new and more costly federal mandates.

Federal assistance in meeting these needs has declined by 75 percent over the past 20 years, while municipal costs for operation and maintenance of their systems are escalating by 6 percent per year above the rate of inflation. Financing the gap with rate increases would result in a doubling or tripling of rates across the nation – making water and sewer bills unaffordable for a significant number of Americans.

A. Goals
The ability of municipalities to comply with any clean water program must be recognized as contingent upon adequate funds.

Given the inter-jurisdictional nature of waterbodies, NLC supports national standards and requirements as an appropriate mechanism for addressing the adverse effects of pollutants. While it is clearly necessary and appropriate that variations in climate, hydrology, and other unique regional circumstances be the foundation on which such national standards are built, any clean water goal must be applied on a uniform, national basis to prevent movement of industry in search of loosely enforced standards.

The nation's drinking water should be as safe as technologically feasible at reasonable cost. It is imperative for the continued health and welfare of the nation that local governments have the financial resources and technical expertise needed to provide adequate and safe drinking water to their citizens.

B. Funding

Federal financing of the requirements it mandates is critical to the ultimate achievement of national water quality goals and the availability of safe drinking water. This participation must be both substantial and a reliable long-term source of capital to accommodate the gap between current expenditures and anticipated needs to enhance and maintain critical water infrastructure.

Federal funding for clean water purposes must be made available to meet all clean water mandates imposed on municipalities. Under no circumstances should the federal government look to traditional local sources of revenues (e.g., a federal tax on water and sewer user charges or a federal tax on industrial dischargers to Publicly Owned Treatment Works, or POTW) as the federal contribution to financing water mandates.

Congress should remove current restrictions on the availability of federal tax incentives for private financing of wastewater treatment facility needs.

1. State Revolving Loan Funds

NLC supports state revolving loan programs (SRF) that include requirements for a portion of such funds to be made available as grants. The federal government should continue to authorize and appropriate funds annually which are distributed to the states according to a specified formula.

The federal government should reauthorize and fully fund both the Drinking Water State Revolving Loan Fund and the Clean Water State Revolving Loan Fund to ensure adequate resources for drinking water and wastewater treatment facilities.

Congress should prohibit states from charging loan origination fees on SRF funds or from using the interest on SRF loans to local governments to meet state matching requirements.

NLC supports set-asides in the SRFs that benefit municipalities and local ratepayers and that are targeted to such purposes as:

- State program administration;
- Research;
- Development of new, cost-effective technologies;
- Programs to train and certify operators of public water supply systems;
- Programs to assist economically-disadvantaged communities with mandated monitoring and compliance requirements; and
- Direct grants to economically disadvantaged cities for drinking water treatment and purification plants where deemed necessary to meet federal drinking water standards.

2. Grants and Loans

NLC calls on Congress to restore grant funding to assist cities. Cities should be eligible for any combination of federal loans and grants to meet their water pollution control and drinking water supply needs. The use of loans and/or grants should be tailored to the specific needs and capacity of each municipal applicant. Allocation of funds to municipalities should take into consideration a community's ability to pay and past local efforts to address the problem.

The federal government must support comprehensive research on all wastewater and drinking water-related issues.

Congress should provide funding to assure adequate resources for water treatment facilities in small, rural communities and to assist all cities in remediating their aging, deteriorating water infrastructure.

3. Local Financing

Federal law should allow local governments to choose between the ad valorem property tax, metered user charges, and any other mechanism for recouping construction and operating costs. Federally mandated sewer user charges should be deductible from federal income taxes.

C. Watershed Planning and Management

Recently, municipalities have been encouraged to invest in upstream pollution abatement as a lower-cost alternative to local treatment. Remediation or prevention of pollution from non-municipal sources is not, nor should it become, the responsibility of municipal ratepayers.

Municipalities cannot control pollution from sources outside their jurisdiction and must not be required to absorb the costs – either directly through subsidies to upstream polluters or indirectly through more stringent pollution reduction requirements on municipal point sources – of addressing these pollution sources.

The federal government should support and provide incentives for the development of a national system of watershed planning based on a process of local decision-making. Regional watershed management strategies and plans should be encouraged to involve all stakeholders to jointly prioritize the allocation of

resources and participate in finding solutions to achieve water quality objectives. Implementation of watershed management plans must assure equity between point and non-point sources of pollution, and should not place one region at an economic disadvantage as compared to neighboring areas. Upon completion of watershed management plans, the National Pollutant Discharge Elimination System (NPDES) terms, conditions and limits should be modified to achieve the objectives of the plan in the most cost-effective way.

Local elected officials should be given a determining role in guiding federal investments in any new projects, and in reevaluation of presently authorized projects.

D. Water Pollution Control

1. Level of Treatment

The statutory requirement of "secondary treatment" should be defined as a desired level of water quality and not restricted to any one particular process. This desired treatment level required of municipalities should be defined to prevent expenditures for unnecessary and expensive facilities. Moreover, the least expensive solution should be favored.

2. Conservation and Reuse

Federal policies should encourage expanded conservation and reuse of water pollution control by-products when feasible. For example:

- Beneficial Use of Municipal Sewage Sludge: reasonably anticipated adverse effects associated with potential sewage sludge exposure and local geographical and climactic conditions must be considered in the safe disposal of sludge. If reasonable risk assessment analyses demonstrate sludge disposal to be environmentally sound, then federal regulations should permit the practice.
- Agricultural Conservation: NLC supports best management practices for agriculture uses, such as conservation buffers.

3. Pretreatment

EPA should establish national categorical pretreatment standards only for those industries that it has classified as major polluters and only for those classes of toxic pollutants which are known to be widespread and which may be causing human health and aquatic life problems.

Local governments should be allowed to devise methods to satisfy national standards that not only assure protection of water quality but which are also cost effective under the conditions of their particular jurisdiction. Therefore, as an alternative to federally mandated implementation of the national categorical pretreatment standards, Congress should authorize states to approve local pollutant elimination programs.

To qualify for the alternative local program, POTWs should be required to demonstrate to an authorized state agency that (a) the POTW is in compliance with the requirements of its permit under the NPDES; (b) it has developed and implemented a local pollutant elimination program that, in the aggregate, is equivalent to implementation of the national categorical pretreatment standards; and (c) it is maintaining a local monitoring and reporting program which is adequate to disclose the quality of the receiving waters.

4. State Water Quality Standards

Under no circumstances should a state be allowed to downgrade or revise its water quality standards where the designated uses have already been attained. States should be encouraged to revise their water quality standards if it can be demonstrated that: (a) the existing designated use is unattainable because of irretrievable conditions; or (b) attainment of the designated use would result in substantial and widespread adverse economic and social impact.

5. Total Maximum Daily Loads

NLC believes that the Total Maximum Daily Loads (TMDL) program should be reviewed and revised to ensure that attainment of national water quality objectives requires the participation of all contributors to stream degradation.

NLC believes the federal TMDL program and any directives or guidance from EPA or its regional offices must include:

- Enforceable mechanisms to ensure that non-point sources are required to reduce pollutants commensurate with their contributions in the same manner and to the same extent as is expected of cities in addressing urban stormwater runoff;
- Recognition of the vital role of cities in protecting water quality and maintaining green space;
- Provisions which foster sensible growth in urbanized areas by encouraging, not penalizing, development and redevelopment; and
- Deference to the exclusive authority of local governments with respect to local land use planning involved in regulating and/or controlling flows.

6. Effluent Trading

It is the responsibility of all who contribute to stream degradation, not just those from regulated point sources, to ensure that the nation's water bodies meet their designated uses and attain water quality standards. Where water quality standards may be attained more cost effectively by reductions from unregulated sources outside of a municipality, arrangements to finance such pollution control or mitigation activities from local revenues (effluent trading) must be entirely voluntary on the part of the affected local government. Where an affected local government is either unwilling or unable to participate in effluent trading, it should under no circumstances become the responsibility of the local government to offset from its own sources, the contributions of non-municipal entities to stream degradation.

7. Toxicity Testing

NLC supports the use of Whole Effluent Toxicity Testing for the assessment of the potential toxicity of wastewater discharges; however, legislation should be adopted to prohibit the use of such tests as "pass/fail" NPDES permit conditions imposing strict liability on POTWs.

8. Pollution Prevention

In addition to treatment policies, the federal government should develop, advocate, and institute pollution prevention measures for all contributors to degradation of the nation's water bodies. Products containing chemical levels which constitute a significant percentage of the total loading should be restricted as to their composition and/or use.

The federal government should adopt strict regulations to limit the placement of hazardous liquid pipelines. Where such pipelines already exist, or where there is no alternative to their placement, regulations should be adopted to protect environmentally sensitive areas and public water supplies from pipeline accidents, and strong enforcement action should be taken against repeat polluters.

9. Legal Remedies

No municipality injured by a willful or negligent violation of federal or state law should be deprived a remedy if one exists under the federal Clean Water Act and other appropriate laws. However, EPA must be made a party where the defendant can demonstrate it has acted in good faith.Municipalities should be granted the authority and sole discretion to bring environmental law enforcement actions against polluters within the municipal jurisdiction or when pollution from outside its boundaries poses a potential threat to the health, safety, or welfare of those living in the municipality.

10. Wet Weather

b. Separate Storm Sewer Requirements

NLC supports a more simplified and flexible approach to management of municipal stormwater run-off which would allow for orderly and cost effective development of information and program design.

Congress should amend the Clean Water Act to establish an alternative to the NPDES program for regulating urban stormwater that is more appropriately tailored to the nature of stormwater. Such legislation should require implementation of Best Management Practices (BMPs) to the Maximum Extent Practicable (MEP) with a legislative prohibition on requirements for end-of-the-pipe treatment for all cities subject to such requirements.

Until such legislation is enacted, EPA should continue its current policy of recommending against inclusion of end-of-pipe requirements in stormwater permits. Management of run-off from municipal industrial facilities should be incorporated as part of a system- or jurisdiction-wide stormwater management program.

The federal government should appropriate funds for research and for the development of pilot projects on stormwater management.

c. Combined Sewer Overflow

NLC supports EPA's Combined Sewer Overflow (CSO) control policy. In particular, NLC supports the following components of the policy:

- Implementation of the minimum CSO controls;
- Selection of a long-term CSO control plan that will ultimately result in compliance with Clean Water Act requirements. CSO control plans should give high priority to controlling overflows to sensitive areas. Cost-performance analysis of alternative levels of control should be considered. Permittees should have the flexibility to select a long-term CSO control plan using either of the following approaches:
  1) The presumption approach: a program meeting technology-based criteria in EPA policy would be presumed to provide an adequate level of control to meet Clean Water Act requirements; and
  2) The demonstration approach: a program that does not meet the presumption approach criteria may be selected if the permittee

demonstrates that the program is adequate to meet Clean Water Act requirements.

- An implementation schedule for the selected long-term control plan may be phased in based on the relative importance of adverse CSO impacts and on the permittee's financial capability; and
- A provision to exempt permittees that have constructed CSOs designed to meet water quality standards from planning and construction requirements of the policy.

NLC supports provisions in the EPA policy that encourage states and EPA regional offices to adapt water quality standards and implementation procedures to reflect wet weather events and site-specific conditions.

d. Sanitary Sewer Overflows

NLC supports the development of national guidance and, where appropriate, regulations to address Sanitary Sewer Overflows (SSOs). Any such guidance and/or regulations must, however, be developed with the understanding that sewer systems leak regardless of how well the wastewater treatment facilities and collection system are constructed and for reasons that may well be beyond the control of sewer system operators.

Federal policies to address SSOs should be developed in a manner that facilitates the reduction and/or elimination of SSOs. Furthermore, while NLC concurs with a ban on dry weather overflows, no policy should impose unachievable objectives—which foster new or expanded opportunities for litigation or public outrage—on municipal wastewater treatment facilities. At a minimum, federal policies should provide for:

- An affirmative defense mechanism that, under specified circumstances, holds cities harmless (i.e., not liable) for an SSO. Such a defense would include occurrences that are or were beyond the ability of the city to predict or prevent;
- Authority to use wet weather facilities in the collection system where expansion of the pipes or treatment plant is infeasible. Even where expansion of pipes and/or plants is feasible, it may take considerable time. Wet weather facilities should be allowed on a temporary basis while remediation is underway; and
- Priority remediation of SSOs that affect sources of drinking water or bathing beaches in season.

e. Blending in Wet Weather Conditions

NLC supports EPA's blending policy that permits municipalities to blend excess flow in wet weather conditions when:

- The effluent meets all permit requirements;
- The permit application outlines how the plant will be operated under wet weather conditions and the operation of the plant follows this outline;
- All flows receive primary treatment;
- The permit requires monitoring to ensure compliance with the water quality-based requirements; and
- The permit requires the ongoing maintenance of the plant.

NLC concurs with a ban on the practice of blending during dry weather conditions or when a feasibility study has not been conducted and supports EPA's policy to define such blending as an illegal bypass.

E. Drinking Water Policies

1. Standard Setting

NLC supports provisions in the 1996 Amendments to the Safe Drinking Water Act (SDWA) which mandate that drinking water standards be based on sound science, public health protection, occurrence of the contaminant(s) in drinking water supplies at levels of public health concern, risk reduction and cost, as well as provisions authorizing EPA to issue health advisories for contaminants for which there is insufficient information to promulgate a standard.

Where the contaminant is naturally occurring, monitoring should be required, but EPA should be required to demonstrate that any proposed remedial treatment would ensure greater health protection. For introduced materials, a risk-based standard should be developed.

2. Lead

The National Primary Drinking Water Regulation for lead, and any legislative initiatives addressing lead in drinking water, should give municipal water systems options for reducing drinking water lead levels.

Corrosion control should be considered the optimal tool for reducing exposure to lead through the drinking water supplies. Municipal water systems should be allowed to utilize the least expensive, yet effective, methods for reducing human exposure to lead in drinking water.

NLC supports measuring the level for lead in the public water system at the point where the water leaves the distribution system and enters the user's

property. NLC also supports programs for public education regarding safe drinking water.

3. Protection of Drinking Water Resources
Greater emphasis must be placed on preventing contamination of our drinking water resources from both point and non-point sources of pollution.

Initiatives in the SDWA, like those which protect underground sources of drinking water (the wellhead protection program) and sole source aquifers, should be adopted to ensure protection of surface drinking water supplies. Such efforts should complement and enhance non-point pollution control and watershed management provisions in other federal statutes such as the Clean Water Act and the Coastal Zone Management Act. In addition, Congress should authorize municipal water supply systems to develop and implement approved source water protection programs upstream of the drinking water source as an alternative to contaminant removal initiatives where appropriate.

4. Monitoring
NLC supports SDWA provisions which authorize monitoring flexibility for non-microbial contaminants when such contaminants have not been found at levels of public health concern.

5. Notification
NLC supports SDWA provisions authorizing the EPA Administrator to differentiate between those public notice requirements for minor and intermittent violations and those required for health related and persistent violations of all kinds.

6. Sole Source Aquifer
A cooperative federal, state, and local government approach should be established for preparing and carrying out plans to protect critical groundwater recharge areas.

F. Ground Water Policies

1. Regulation
Ground water protection can best be implemented through current federal environmental laws. The states should continue to have primary responsibility for developing and implementing groundwater protection programs. Such programs should emphasize management of ground water and environmental resources rather than complete elimination of known pollutants or restoration of all aquifers to drinking water quality.

2. Financing
State and local governments should be encouraged to develop ground water protection strategies. EPA grant assistance should be made available to implement these strategies.

3. Enforcement
Enforcement responsibility for ground water protection strategies should be the province of state governments, with additional limited enforcement provided by current federal legislation.

4. Federal Evaluation
Federal agencies seeking authorization for a federal water project should, on a uniform and timely basis, describe and evaluate ground water management programs in the area. Federal agencies with responsibility for water resources planning, development, and research should include assessments of ground water resources and appropriate management programs.

G. Water Supply Policies

1. Data Collection
Solutions to supply problems in river basins must be based on the best possible estimates of the amounts of water available, the amount being used, and the amount needed for future use.

2. Federal Participation
Where a significant portion of a region's land or water resources are controlled by the federal government, affected state and local governments should be full participants in water management decision-making.

3. Water Project Evaluation
Specific federal water development projects should be authorized and constructed to take advantage of those water supplies which studies have shown to be available. Such decisions should also be guided by these specific criteria:

- Final reviews and decisions to build projects should be based on up-to-date information;
- New water projects should be subject to uniform cost/benefit criteria. As part of these analyses, the discount rate should reflect the real cost to the government of borrowing money;
- Whenever appropriate, nonstructural alternatives should be given equal weight with structural solutions to water supply problems. Federal financing provisions should not bias choice in favor of one alternative over another;

- The environmental value of natural wetlands and marshes should be included in any analysis of costs and benefits of water projects; and
- New federal water projects must be assessed for their impact on patterns of urban development and should be consistent with national urban policy based on values of urban conservation.

4. Water Conservation

Conservation should be made the cornerstone of federal policies and programs for water. All federal decisions to expand water supplies should recognize that there are limitations on water resources. Federal feasibility studies should include rigorously developed demand forecasts and consider, as precisely as possible, all environmental costs. Wherever possible, less costly, nontraditional alternatives, especially conservation measures, should be fully evaluated as options. Federal water projects funds should support and encourage water management, conservation, and pollution control programs in all types of water use.

5. Agricultural Conservation

Federal programs should help to eliminate institutional barriers to efficient water use, such as those that discourage resale of water from irrigation districts.

6. Municipal Water Uses

Federal programs to promote conservation in municipal water use should recognize the conservational value of improving and rehabilitating existing municipal delivery and storage systems and the differences in conservation strategies for local and regional situations. The federal government should not adopt uniform conservation requirements, but should promote and cooperate with state and local water conservation programs and authorities.

Where national objectives are sought through local governments, any additional costs of federal mandates should be met with federal funds. Where local governments seek to develop new and/or innovative conservation programs in keeping with national interests and objectives, the federal government should make available an appropriate combination of technical and financial assistance for environmentally sound and safe local solutions.

7. Pricing and Economic Policies

The federal government should clearly identify the beneficiaries of federal water projects and see that they are required to pay a reasonable share of the costs. More specifically, NLC believes that all federal agencies supplying water to users should adopt a uniform policy of cost-based pricing in all future contracts. Whenever practicable, federal agencies should extend the same policy to classes of users that are not now charged.

Some social goals will not be realized simply by relying on price mechanisms, i.e. land use protection, or water quality. These goals must be achieved with other policy tools, including the appropriate mix of regulations and financial incentives. It is in these limited and precisely identifiable cases that subsidies are justified.

Federal research capabilities and resources should be committed to analyzing the consequences of municipal rate structures and to proposing alternatives. However, the authority for adopting such alternatives must continue to rest with local officials.

8. Planning at the Federal Level

Federal river basin commissions should be given a stronger role in regional water resource planning. This should be coupled with mechanisms for effective participation by local governments.

An effective dispute resolution process must be established so that all affected parties are represented and decisions are made on scientific bases. The federal government should develop such a dispute resolution process as quickly as possible.

9. Desalination

As freshwater and imported water supplies near exhaustion in some regions, finding alternative sources of water has become a critical issue for growing cities. Removal of dissolved minerals or "salts" from seawater, brackish groundwater, recycled water, and other high-salinity sources will be an important tool as the demand for high quality water increases with the population.

Although technological advances continue to expand options for salt removal, further efforts are needed. To improve the efficiency of this process, NLC urges the federal government to:

- Engage locally elected officials, stakeholders, and the public in education and outreach strategies about the need to conserve, preserve and enhance water supplies; and
- Provide financial incentives to expand research and development for water production, including cost-effective and environmentally-sound means to control salinity, desalt water, and manage the brine associated with these processes, but not at the expense of other water infrastructure programs.

2.05 National Wetlands

Wetlands have significant and irreplaceable value, and therefore Congress should establish a comprehensive national wetlands policy. Wetlands protection should occur not by memoranda of understanding between agencies, but rather through a public process that involves broad public debate over risks, costs and benefits, and the development of a national consensus.

The Administration should implement that policy by adhering to the traditional rulemaking process.

A classification plan should be developed for the nation's wetlands that recognizes relative differences in the ecological value of individual wetlands areas, classifies them accordingly and treats them differently relative to their preservation, protection or development. A sound wetlands classification plan must also recognize the differential presence of wetlands among regions of the country and the need to exercise different policy choices relative to their treatment for development purposes.

Coastal wetlands, which provide protection from rough weather and seas and support fisheries and other commerce, endangered plants and animals, energy supplies and navigation routes, must be protected, and where appropriate, restored. Congress should develop a programmatic plan based on the best available science to restore coastal wetlands and provide federal funding for implementation.

2.06 Endangered Species

NLC supports the protection of endangered species. In efforts to maintain the integrity and original intent of the Endangered Species Act (ESA), NLC supports federal policies that:

- Exercise reasonable judgment to prevent unintended consequences that adversely affect human health and safety or other aspects of the environment.
- Streamline federal permitting activities affected by federal endangered species regulations;
- Provide more opportunities for local governments to comment and participate in the federal decision-making process;
- Create a system of incentives to encourage state and local governments to develop comprehensive land-use and development plans that balance habitat preservation and environmental concerns with necessary development and economic growth;
- Focus more on protection of multiple species and the habitats upon which they depend, and give priority to conservation of the species and habitats that, if protected, are most likely to reduce the need to list other species dependent on the same ecosystem;
- Encourage, provide incentives for, and where appropriate, compensate landowners to engage in habitat conservation activities;
- Allow "safe harbor" agreements, through which landowners protect and/or improve habitats without compromising the use of their land;
- Provide a clear methodology for delisting recovered species; and
- Ensure ESA actions are based on scientific data.

2.07 Invasive Species and Harmful Infestations

Invasive species and harmful infestations include aquatic and non-aquatic plants, insects, pathogens and other species whose introduction does or is likely to cause economic or environmental harm or harm to human health. Invasive species and harmful infestations degrade, change or displace native habitats and compete with native wildlife and are thus harmful to fish, wildlife and plant resources.

NLC urges Congress and the Administration to:

- Prevent the introduction of invasive species and harmful infestations;
- Detect, respond rapidly to, and control populations of such species in a cost-effective and environmentally sound manner;
- Monitor invasive species populations accurately and reliably;
- Provide for restoration of native species and habitat conditions in ecosystems that have been invaded;
- Fund and conduct research on the best practices for eradication of invasive species and harmful infestations, develop technologies to prevent introduction, and provide for environmentally sound control;
- Provide direct financial assistance to communities facing emergency situations with invasive species and harmful infestations; and
- Promote public education on invasive species and harmful infestations and the means to address them.

2.08 Noise Control

The federal government should, using the best available technologies, concentrate regulatory activities on establishing and monitoring noise limits for major surface and air transportation vehicles.

There should be ongoing federal research on noise mitigation, particularly on developing more sophisticated noise measurement devices. A program of direct federal technical and financial assistance should be maintained to assist local governments in managing local noise control programs and agencies. Sufficient federal assistance should be made available and targeted to severely noise distressed cities to help develop strategies to lessen noise impact. (*See also TIS Section 5.04, Air Transportation*)

A. Local Regulatory Responsibility

The federal government should permit state and local governments to establish more stringent noise standards, except in instances of safety. Cities must be free to achieve locally determined environmental noise standards for the protection of public health and safety.

B. Airport Noise Policies

NLC supports the work undertaken by the Federal Aviation Administration (FAA) to implement an airport noise policy through implementation of noise emission standards. The following policies should be pursued:

- The FAA should enforce target dates to further reduce noise emissions from aircraft; and
- The FAA should expand its noise abatement program to include the development of standards for the mitigation of low frequency sound level impacts.

The federal government should assist local airports in landing, take off, and climb and descent rate procedures to minimize noise impact.

The federal government should provide technical assistance to local communities for land use planning for airport development. A federal program supporting advance acquisition of property schedules to be incorporated into airport development under comprehensive airport plans must be initiated. This program must support acquisition of property outside airport property boundaries to minimize aircraft noise impact in existence as of the date of implementation. *(See also CED Section 3.05, Land Use)*

Local governments must have the authority and flexibility to establish more stringent or additional requirements on noise generators to achieve noise level relief. The federal government, because it has significant responsibility for control of aircraft noise and aircraft, must work closely with local governments to mitigate damage claims resulting from aircraft pollution.

Local governments should be eligible to receive federal Airport Improvement Program grants for noise compatibility planning and for the implementation of approved plans.

C. Federal Airbases

The federal government should ensure that environmental degradation will not occur before permitting operations and overflights by supersonic transport aircraft.

The right of local airport operators and governments to determine whether supersonic operations should be permitted at their facilities must be preserved.

Military and Air National Guard aircraft and operations located in populated areas should be compatible with local noise plans. In instances when it is not possible to transfer military and Air National Guard operations from an urban airport, the federal government should accept full responsibility for mitigation of damage.

D. Highway Noise Policies

The federal government should establish noise emission standards for trucks, buses, automobiles and motorcycles. State and local governments must have the authority to establish more stringent standards.

Interstate construction and other federally funded highway construction in urban areas should continue to include a provision for sound barriers or buffer zones to be constructed as an integral part of the highway as required by local governments.

E. Railroad Noise Policies

The federal government should establish minimum noise emission standards for railroad operating equipment. Local governments should be able to adopt local rail noise control standards which are stricter than federal standards

F. Planning for Noise Abatement
The federal government should develop and disseminate noise standards and criteria which could be used by cities in noise planning and abatement efforts.

G. Buy Quiet Program
The federal government and their contractors should, to the greatest extent practicable, use their purchasing power to ensure that new equipment and replacements incorporate noise control features.

2.09 Public Lands

Public lands are held and managed by the federal government for the benefit of the entire nation. Due to the economic, social, and environmental impacts of the use of these lands on cities, the federal government must engage locally elected officials and consider the needs of nearby communities and the public when developing management plans for public land.

The federal government should offer the right of first-refusal, at no more than fair market value, to state and local governments to preserve land for public purposes. When considering the sale of public lands, the local impacts of those sales must be considered. In the rare instances that it is deemed necessary to sell parcels of public land, the income derived from those sales should be held in a trust for the benefit or improvement of other public lands, or the funds must be directed to an otherwise appropriate and related use. In no instance should public lands be sold for the purpose of reaping short-term financial gains.

When trading, purchasing, or selling public land, the federal government must ensure that land valuations are established without interference from buyer or seller and must use fair market value to determine price.

A. Conservation Funds
The Land and Water Conservation Fund (LWCF) was established as a visionary and bipartisan program in 1964 to create parks and open spaces, protect wetlands and refuges, preserve wildlife habitat, promote environmental stewardship, and enhance recreational opportunities for all Americans. NLC urges Congress to honor this commitment by fully and permanently funding the LWCF and related programs such as the Urban Park and Recreation Recovery Program (UPARR).

B. Natural Resources in Public Lands
Fees for the extraction of resources such as minerals, oil, and gas must be restructured so that the taxpaying public is compensated based on the fair market value of the resource. Additionally, royalties on hard metals such as gold, silver, uranium and copper should be collected. Companies that extract these resources from public lands must be held legally responsible for mitigating the adverse effects of the extraction.
Commercial activities, using renewable resources, should be allowed as long as the activities are conducted in an environmentally-sensitive manner, and the public is fairly compensated.

C. Wildfire Protection and Public Forests
The protection of communities should be the central focus of any wildfire protection plan. To accomplish this goal, the federal government must:

- Engage locally elected officials in the development of fire protection plans;
- Promote the use of the best ecological research to accomplish the dual goal of protection from forest fires and promotion of forest health;
- Assist in the development of models to determine how to protect communities from wildfire; and
- Give priority to protection of municipal watersheds on federal lands when developing fire reduction plans.

D. Beaches and Shorelines
The country's public shorelines and beaches provide vital economic, environmental, fish and wildlife habitat, and recreational benefits to the nation. The federal government should partner with state and local governments to fund environmentally appropriate beach restoration and renourishment projects.

E. Closed Federal Facilities
Community efforts to redevelop closed federal facilities have often been hindered by environmental contamination which restricts transfer of federal property. Congress must fully fund environmental remediation to EPA standards of closed federal facilities, and ensure prompt action in order to facilitate the reuse of these facilities and support the economic viability and environmental quality of the affected communities.

2.10 Security of Critical Infrastructure

A. Problem

Cities and towns lack the financial resources to assess adequately vulnerabilities to terrorist attacks and natural disasters, such as earthquakes, extreme weather, wildfires, floods, tsunamis, and human-caused disasters. Federal resources are needed to ensure that first responders are adequately trained to protect the public and evidence in the event of an attack.

B. Goals

The federal government must enhance its ability to assess potential threats to critical local infrastructure. Information on credible threats to local facilities must be shared with the appropriate local officials to assure adequate preparation to prevent or minimize the impact of any attack or natural disaster on critical local infrastructure.

The federal government must provide adequate resources to enable local governments to identify and rectify any structural vulnerabilities in their critical infrastructures. In addition, the federal government must provide technical assistance for the development of emergency alternatives to be used in the event of a major system disruption.

Since federally mandated vulnerability assessments have the potential to provide a blueprint for the effective disruption of specific municipal utilities, Freedom of Information Act requirements at both the federal and state level must be amended to exempt these documents from public access.

C. Federal Policies

1. Water Infrastructure Protection

NLC supports federal requirements to conduct vulnerability assessments and develop emergency response plans for drinking water and wastewater utilities and urges the federal government to provide financial assistance to comply with this mandate. NLC urges the federal government to provide water utilities with financial assistance, in addition to what is currently available through the State Revolving Loan Funds, to implement enhanced security measures. The federal government should also expand security research initiatives and make any resulting new information available to appropriate utility managers. Technical expertise on treatment, monitoring techniques, and prevention strategies is also required.

2. Energy Infrastructure Protection

NLC believes that energy diversification and distributed generation will help to limit the vulnerability of energy infrastructure facilities. To further reduce the vulnerability of these systems, NLC urges the federal government to work with local and state governments to protect critical energy infrastructure and coordinate emergency preparedness planning.

3. Nuclear Facilities Protection

NLC supports a federal regulatory system that protects nuclear facilities from direct attack or extreme events, including natural or human-caused disasters. NLC opposes any attempts by the federal government to federalize nuclear plant security teams or to provide the Nuclear Regulatory Commission (NRC) with authority to summon any branch of the military.

NLC urges the federal government to increase funding available to local governments to train first responders in the event of a nuclear emergency.