Energy, Environment and Natural Resources

2020 Congressional City Conference
Marriott Wardman Park Hotel
Lincoln 6
Sunday, March 8, 2020
1:30 p.m.
Sunday, March 8

1:30 p.m.  NLC OFFICER GREETING

- The Honorable Joe Buscaino, President, National League of Cities
  Councilmember, City of Los Angeles, California

1:35 p.m.  WELCOME, INTRODUCTIONS AND MEETING OVERVIEW

- The Honorable TJ Cawley, Chair
  Mayor, Town of Morrisville, North Carolina

  Introductions and overview of expected outcomes from the meeting.

1:45 p.m.  TAKING ACTION IN 2020 – NLC’S FEDERAL ADVOCACY PRIORITIES

- Carolyn Berndt
  Legislative Director for Sustainability, Federal Advocacy, National League of Cities

  Committee members will hear an update on NLC’s federal advocacy priorities, as well as energy and environmental issues before Congress, the Administration and the courts. Committee members will also discuss advocacy actions they can take in 2020 to advance local priorities.

2:10 p.m.  SUSTAINABILITY PROGRAM UPDATE

- Cooper Martin
  Director, Sustainability and City Solutions, City Solutions, National League of Cities

  Committee members will hear an update on NLC’s sustainability programs, initiatives and research.
2:30 p.m.  **EENR TOPIC: WATER INFRASTRUCTURE – ADDRESSING PFAS DRINKING WATER CONTAMINATION**

- **Brett Doyle**  
  *Senior Advisor to the Administrator, U.S. Environmental Protection Agency*

- **Maureen Sullivan**  
  *Deputy Assistant Secretary of Defense (Environment), U.S. Department of Defense*

Committee members will hear an update on key federal actions from the U.S. Environmental Protection Agency and the U.S. Department of Defense to address drinking water contamination from PFAS.

- **The Honorable Deborah Calvert**  
  *Councilmember, City of Minnetonka, Minnesota*

Committee members will share highlights from NLC’s recent local official engagement summit on PFAS and other drinking water contaminants, which was hosted in partnership with the American Association for the Advancement of Science.

Committee members will discuss next steps for addressing this issue.

3:30 p.m.  **EENR TOPIC: CLIMATE CHANGE – LEGAL CHALLENGES AND CONSIDERATIONS FOR LOCAL ACTION**

- **Amy Turner**  
  *Senior Fellow, Cities Climate Law Initiative, Sabin Center for Climate Change Law, Columbia Law School*

Committee members will gain an understanding of the legal questions, challenges and considerations associated with various local government climate mitigation policies.

4:00 p.m.  **BEST PRACTICES: CELEBRATING THE 50TH ANNIVERSARY OF EARTH DAY**

- **Will Callaway**  
  *National Campaign Director, Earth Day Network*

Committee members will hear how they can take action in their community to celebrate the 50th Anniversary of Earth Day.
4:15 p.m. POLICY DISCUSSION: UPDATING THE EENR POLICY SECTION ON ENERGY

- The Honorable TJ Cawley, Chair  
  Mayor, Town of Morrisville, North Carolina

- Carolyn Berndt  
  Legislative Director for Sustainability, Federal Advocacy, National League of Cities

Committee members will review Section 2.02 Energy of the National Municipal Policy to decide what, if any, action should be taken this year to update NLC’s policy position.

4:30 p.m. ADJOURN

Next EENR Committee Meeting:
NLC Summer Board and Leadership Forum
Los Angeles, California
June 17-19, 2020

Enclosures

- NLC Policy Development and Advocacy Process
- 2019 City Summit EENR Executive Summary
- 2020 EENR Work Plan
- Energy and Environment Legal Update
- EENR Policy Section 2.02 – Energy
- Citiesspeak blog: “Legal Consideration for Carbon Mitigation by Cities”
- Sabin Center for Climate Change Law blog: “Municipal Natural Gas Bans: Round 1”
- Flyer: April 22, 2020 Marks the 50th Anniversary of Earth Day
- Break Free From Plastic Pollution Act
- Energy, Environment and Natural Resources Committee Roster
As a resource and advocate for more than 19,000 cities, towns and villages, the National League of Cities (NLC) brings municipal officials together to influence federal policy affecting local governments. NLC adopts positions on federal actions, programs and proposals that directly impact municipalities and formalizes those positions in the National Municipal Policy (NMP), which guides NLC’s federal advocacy efforts.

NLC divides its advocacy efforts into seven subject areas:

- Community and Economic Development
- Energy, Environment and Natural Resources
- Finance, Administration and Intergovernmental Relations
- Human Development
- Information Technology and Communications
- Public Safety and Crime Prevention
- Transportation and Infrastructure Services

For each of the seven issue areas, a Federal Advocacy Committee advocates in support of NLC’s federal policy positions. Members of each Committee serve for one calendar year and are appointed by the NLC President.

**Federal Advocacy Committees**

Federal Advocacy Committee members are responsible for advocating on legislative priorities, providing input on legislative priorities, and reviewing and approving policy proposals and resolutions. Additionally, Committee members engage in networking and sharing of best practices.

Federal Advocacy Committees are comprised of local elected and appointed city and town officials from NLC member cities. NLC members must apply annually for membership to a Federal Advocacy Committee. The NLC President makes appointments for chair, vice chairs, and general membership. In addition to leading the Federal Advocacy Committees, those appointed as Committee chairs will also serve on NLC’s Board of Directors during their leadership year.

At the Congressional City Conference, Federal Advocacy Committee members are called upon to advocate for NLC’s legislative priorities on Capitol Hill, as well as develop the committee’s agenda and work plan for the year. Committee members meet throughout the year to further the plan, hear from guest presenters, discuss advocacy strategies and develop specific policy amendments and resolutions. At the City Summit, Committee members review and approve policy proposals and resolutions. These action items are then forwarded to NLC’s Resolutions Committee and are considered at the Annual Business Meeting, also held during the City Summit.

**Advocacy**

Throughout the year, Committee members participate in advocacy efforts to influence the federal decision-making process, focusing on actions concerning local governments and communities. During the Congressional City Conference, Committee members have an opportunity, and are encouraged, to meet with their congressional representatives on Capitol Hill. When NLC members are involved in the legislative process and share their expertise and experiences with Congress, municipalities have a stronger national voice, affecting the outcomes of federal policy debates that impact cities and towns.
POLICY

One amendment to existing policy was approved:

- **Section 2.05 Water Quality and Supply** – adds language drawing attention to plastics and other emerging contaminants.

RESOLUTIONS

Nine resolutions were adopted:

- **NLC Resolution #8**: Supporting Local PACE Programs
- **NLC Resolution #9**: Supporting and Advancing Resilient Communities to Prepare for Changing Climate and Extreme Weather Events
- **NLC Resolution #10**: Supporting Urgent Action to Reduce Carbon Emissions and Mitigate the Effects of Climate Change
- **NLC Resolution #11**: Addressing Lead Contamination and Calling for Nationwide Federal Support for Water Infrastructure
- **NLC Resolution #12**: Increase Federal Investment in Water Infrastructure
- **NLC Resolution #13**: Support for Integrated Planning and New Affordability Consideration for Water
- **NLC Resolution #14**: Calling on the Federal Government to Take Action to Address PFAS Contamination
- **NLC Resolution #15**: Improve the Benefit-Cost Analysis for Federally Funded Flood Control Projects
- **NLC Resolution #16**: Increase Funding for Border Water Infrastructure Projects
The main purpose of the Energy, Environment and Natural Resources (EENR) Federal Advocacy Committee is to 1) advocate on legislative priorities, 2) provide input on legislative priorities, 3) review and approve policy proposals and resolutions, and 4) engage in networking and sharing of best practices.

In January, the NLC Executive Committee affirmed NLC’s legislative priorities for 2020, with a primary focus on the priorities of the Leading Together Cities Agenda. The charge to each of NLC’s federal advocacy committees is to develop a work plan to further the Cities Agenda. The committee will meet over the course of the year to engage in advocacy activities and develop policy recommendations, as necessary.

Summary of Last Year’s Activities

Last year, the EENR Committee continued advocacy efforts on climate change and water infrastructure. Specifically, the committee focused on water affordability issues, advocating for water infrastructure investments, addressing PFAS drinking water contamination, and building community resilience and disaster preparedness.

Legislative Victory:
- February 2019 – Passage of the Natural Resources Management Act, a bipartisan public lands package that included a permanent reauthorization of the Land and Water Conservation Fund among the more than 100 public lands, natural resources, and water bills. Also included in the bill was the Every Kid Outdoors Act, which supports efforts to connect children to federally managed lands and natural areas. The bill codifies the U.S. Department of the Interior Every Kid in a Park program, which provides fourth graders free access to publicly accessible federal lands and waters.

EENR Topics – Water Infrastructure and Climate Change

Water infrastructure and climate change come together under the Building Sustainable Infrastructure pillar of the Leading Together Cities Agenda.

Infrastructure investment is essential to moving America forward. Yet, much of our nation’s infrastructure needs to be repaired and modernized to meet today’s demands. Local governments and states have stepped up over the past 10 years with more than $3.8 trillion in municipal bonds to address their most pressing infrastructure needs. However, a $2 trillion infrastructure funding gap remains for our nation’s transportation and water networks. This number does not reflect the costs of expanding broadband access, addressing climate change, and investing in workforce development and training programs. The costs of continued inaction
are staggering. Strategic investments in our infrastructure will support a growing and strong economy.

**Water**

Much of the nation’s water infrastructure was built in the post-World War II period—and some of it is more than 100 years old. It’s no wonder there are an estimated 240,000 water main breaks across the country each year, according to the American Society for Civil Engineers. Adding to the challenge for local governments are new costly and complex federal mandates that are driving local water and sewer rates to levels that are unaffordable for many residents. Local government investments account for nearly 98% of all water and sewer infrastructure spending, including more than $125 billion in 2017, according to the U.S. Census Bureau. The federal government should recommit to being a significant partner in investing in our nation’s water infrastructure.

What to watch in 2020:

- **Water Resources Development Act** – Congress is expected to stick to its two-year authorization schedule for a water resources bill. House and Senate Committees are expected to unveil legislation in the coming weeks, with an eye toward floor passage by early Summer.

- **Harbor Maintenance Trust Fund** – In October, the House passed the Full Utilization of the Harbor Maintenance Trust Fund Act (HR 2440) to ensure the full use of funds from the Harbor Maintenance Trust Fund for harbor maintenance purposes. The bill would enable, without appropriation, the expenditure of approximately $34 billion over the next decade for critical harbor and port projects to improve our nation’s infrastructure and secure our economic vitality. This bill is a top NLC priority for inclusion in the water resources bill this year.

- **Clean water and drinking water provisions** – The House Transportation and Infrastructure Committee has passed HR 1497 to reauthorize the Clean Water State Revolving Fund, authorize grants for managing sewer overflows and more. In the Senate, these Clean Water Act provisions will likely be tied to the water resources bill, along with Safe Drinking Water Act provisions.

  - HR 1497 would also extend the maximum term for National Pollutant Discharge Elimination System (NPDES) permits issued under the Clean Water Act from five to 10 years. NLC supports this option but does not support changes the bill would make to 5-year permits – namely not allowing for administrative extensions. Administrative extensions allow for the short-term extension of a permit if EPA/the permit agency has not approved a new permit by the expiration date – through no fault of the permittee.

  - House Democrat’s **Moving Forward Framework** includes significant funding for programs clean water, drinking water, water resources, water quality, harbors, ports and inland waterways, as well as investments for brownfields, clean energy, broadband and transportation programs.

  - EPA rulemaking on proposed revisions to the **Lead and Copper Rule.**

  - **EPA Water Reuse Action Plan** – On Feb. 27, EPA released the National Water Reuse Action Plan: Collaborative Implementation (Version 1). The actions that EPA and its partners commit to in the Action Plan will help strengthen the sustainability, security and resilience of our
nation’s water resources by creating new partnerships, providing accountability and promoting communication and transparency with a new online platform.

Climate Change and Community Resilience
Cities across the country are seeing the effects of climate change and are taking action to mitigate the impacts of extreme weather events on their residents and businesses. With heat waves, droughts, wildland fires, heavy downpours, floods, and hurricanes becoming more frequent and more severe, communities need to be able to anticipate, prepare for and adapt to these events. Extreme weather can cost local, state and federal governments trillions of dollars and severely impact local and regional infrastructure, the economy, public safety, public health, natural landscapes, environmental quality and national security.

What to watch in 2020:

- Will there be bipartisan action to address climate change?
  - Both House Democrats and Republicans have released proposals, along with one bipartisan plan.
  - Newly-formed Senate Climate Solutions Caucus with 14 bipartisan members, as a companion to the House Caucus.
- The House Select Committee on the Climate Crisis is expected to release a report by the end of March on policy proposals the federal government can take to address climate change. NLC weighed in on policies to mitigate the impacts of climate change, support local adaptation efforts, and build community resilience.
- Efforts to reauthorize the Energy Efficiency and Conservation Block Grant (HR 2088).
- Bipartisan energy legislation – On Feb. 27, the Senate Natural Resource Committee unveiled the American Energy Innovation Act (S 2657), which includes more than 50 energy-related bills the Committee reported to the full Senate on an individual basis. The bill supports energy efficiency programs for commercial, residential, schools, industrial and federally-owned buildings, as well as support renewable energy research and development and workforce development in these sectors.
  - Related House and Senate legislation (HR 3962, S 2137) would also create a voluntary model building energy code.
- Climate resilience legislation – Legislation has been introduced that would create a resilience revolving loan fund (HR 3779), create permanent program under CDBG-DR and an Office of Disaster Recovery and Resilient Communities in HUD (S 2301, HR 3702), enhance the federal government’s planning and preparation for extreme weather (HR 4347) and improve drinking water resilience/address drought (S 1932).
- Climate litigation – see legal update.

Other Priorities

PFAS Drinking Water Contamination
As federal action to address PFAS contamination of drinking water continues, NLC is building on the work done last year to adopt a resolution calling for the federal government to take additional actions
to address PFAS contamination. On February 7, NLC partnered with the American Association for the Advancement of Science (AAAS) to host a summit convening elected officials, city staff, water utility leaders and state league directors to explore the use of scientific information on drinking water safety in local decision making, with particular focus on PFAS and other emerging contaminants.

Participants discussed their experience grappling with these issues, the extent to which local policymakers have access to scientific information to inform their decision making, and what approaches and resources, if any, could help make such information more accessible and usable.

What to watch in 2020:

- Continued legislative action to address PFAS contamination — will it be included in the water resources bill?
- Continued Federal action to address PFAS contamination, including EPA’s current rulemaking on a proposed regulatory determination for PFOA and PFOS in drinking water — the two most well-known and studied PFAS chemicals — and potential forthcoming rulemaking to establish a National Primary Drinking Water Standard.

Rethinking and Reimagining our Nation’s Recycling Infrastructure and Programs

On Feb. 5, NLC testified before the House Appropriations Committee, Subcommittee on Interior and Environment on the challenges that cities, towns and villages are facing on recycling and the opportunities for improving local recycling programs, upgrading recycling infrastructure and protecting the environment.

China’s National Sword Policy presents an opportunity for public, private and nonprofit sectors to rethink and reimagine recycling. As we approach the 50th anniversary of Earth Day, it’s important to celebrate what local governments have accomplished over the years—a national recycling and composting rate for municipal solid waste of 35%.

The challenges today come down to contamination in our recycled materials, which not only increases costs, but also damages equipment and reduces the quality of the material — potentially making it completely unrecyclable. These costs are forcing local governments, private haulers and facility operators to reevaluate their operations and policies in order to maintain viable municipal materials management systems.

While solid waste management is a local issue, the federal government is an important partner. Cities, towns and villages across the country urge the federal government to develop a national policy that includes source reduction, volume reduction and resource recovery.

What to watch in 2020:

- House (HR 5115) and Senate (S 2941) legislation to help local governments improve recycling infrastructure, develop recycling programs, and build community awareness.
House (HR 5845) and Senate (S 3263) legislation to create an extended producer responsibility/product stewardship framework, as well as addresses source reduction and the phasing-out of single use plastic products. (see enclosed fact sheet.)

**CCC Workshops and Activities of Interest**

Are Your Communities Ready? Emergency Management for Elected Officials – Saturday, March 7 at 9 a.m., Room: Virginia A (NLCU Course)

Infrastructure Partner Roundtable – Sunday, March 8 at 10:30 a.m., Room: Washington Room 1 (connect with NLC’s private sector partners who help build and support infrastructure in your communities)

Energy, Environment and Natural Resources Committee meeting – Sunday, March 8 at 1:30 p.m., Room: Lincoln 6

Opening General Session – Monday, March 9 at 9 a.m., Room: Marriott Ballroom (Peter Wright, Assistant Administrator, Office of Land and Emergency Management, U.S. Environmental Protection Agency speaking)

U.S. Department of Energy “Office Hours” – Monday, March 9 from 10:45 a.m. – 12:15 p.m., Room: Park Tower 8223 (email Adam Guzzo, Advisor, Office of Energy Efficiency and Renewable Energy at stateandlocal@ee.doe.gov to set an appointment time – or just drop by!)

Federal Agency Round Robin – Monday, March 9 at 1:45 p.m., Room: Marriott Ballroom Salon 1

Monday Afternoon General Session – Monday, March 9 at 3:30 p.m., Room: Marriott Ballroom (Kathy Caster (D-FL), Chair, House Select Committee on the Climate Crisis speaking)

One Water: How Integrated Planning Can Address Affordability and Promote Community Resilience – Tuesday, March 10 at 10:45 a.m., Room: Maryland A, B, C

Tuesday Lunch Closing General Session – Tuesday, March 10 at 12:30 p.m., Room: Marriott Ballroom (Garret Graves (R-LA), Ranking Member, House Select Committee on the Climate Crisis speaking)
1. Hawaii Wildlife Fund et al. v. County of Maui – U.S. Supreme Court

Update since City Summit: The U.S. Supreme Court heard oral arguments on Nov. 6. The State and Local Legal Center filed an amicus brief on behalf of the state and local government organizations. A decision is expected by June.

In 2016, NLC joined an International Municipal Lawyers Association amicus brief in the case Hawaii Wildlife Fund et al. v. County of Maui arguing that groundwater is neither a “Waters of the U.S.” nor a point source and that expanding the National Pollutant Discharge Elimination System (NPDES) program to include the migration of pollutants through groundwater is an expansion of the existing Clean Water Act regulatory program. Oral arguments in the case were heard in October 2017.

In February 2018, the Ninth Circuit Court of Appeals held that any discharge of pollutants to Waters of the United States through groundwater (or any other medium) that is “fairly traceable” to a point source falls within the NPDES program and requires a Clean Water Act permit. The Court also found that the County of Maui was liable for violating the Clean Water Act even though the State of Hawaii had declined to issue the county a permit. NLC supported the County of Maui in its request for a rehearing en banc with the 9th Circuit, which the court denied. NLC joined an amicus brief supporting the County of Maui in its appeal with the U.S. Supreme Court.

Local Government Impacts: This case appears to expand the coverage of the CWA significantly by using a novel “conduit” theory of liability. Under the conduit theory, according to the district court, any release of pollutants into groundwater that migrates to hydrologically-connected navigable waters violates the CWA. This theory and the 9th Circuit decision could have far-reaching implications and greatly expand the types of facilities and projects that are required to obtain an NPDES permit. This could include water supply entities and municipalities that are pursuing groundwater recharge projects, rely on groundwater storage, or use retention basins to hold or treat water, as well as projects involving underground storage tanks, surface impoundments, landfills, and pipelines that may release pollutants to groundwater that is hydrologically connected to navigable waters.

The case could significantly change the CWA landscape as it applies to groundwater, and extend the interconnected adjacent waters theory to a point where the CWA is being applied to groundwater. This extension should be a concern for any city that discharges to groundwater.

Additional impacts of this extension include local water reuse and/or recycling projects, particularly in states where there are drought conditions, such as western states. Cities and water districts or utilities in Florida could also be impacted by the ruling in this case because of the state’s high groundwater table and the local use of injection wells.
Background: The County of Maui operates a wastewater treatment facility that filters and disinfects the sewage it receives then releases the wastewater into four onsite injection wells. The injection wells are long pipes into which the wastewater is pumped. The wastewater then travels approximately 200 feet underground into a shallow groundwater aquifer beneath the facility. It is undisputed that wastewater from these wells eventually makes its way into the Pacific Ocean and that the County was aware of that fact for some time. Specifically, a 2013 tracer study, conducted on behalf of the EPA, the Army Corps of Engineers and the Hawaii Department of Health, confirmed that treated wastewater from the County’s underground injection control wells reached the ocean roughly half a mile south of the treatment plant. On average, it took approximately 10 months for groundwater containing County wastewater to enter the ocean along approximately 2 miles of coastline.

Citizen groups sued, claiming the County needed a NPDES permit for its injection of treated wastewater into the underground injection control wells. The County did eventually apply for a NPDES permit.

Related cases: Four different circuit courts heard cases that revolved around the question, should groundwater pollution be federally regulated under the Clean Water Act (CWA) National Pollutant Discharge Elimination System program, rather than by the state, and, if so, under what circumstances? Even though all cases have different players and circumstances, the base question is the same: Does the federal government have the authority and the responsibility to federally regulate groundwater pollutants that ultimately release to a “waters of the U.S.”? These cases are relevant for local governments who oversee municipal wastewater and stormwater management responsibilities.

While the circuit courts ruled differently in the cases, only the Maui case went to the U.S. Supreme Court for review. NLC participated in two of these additional cases: Upstate Forever and Savanna Riverkeeper v. Kinder Morgan Energy Partners (Fourth Circuit) and 26 Crown Associates v. Greater New Haven Regional Water Pollution Control Authority, City of New Haven (Second Circuit).

NOTE: At issue in cases 2-7 below is whether cities and counties may bring state common law claims seeking damages or compensation for climate change impacts. Given the long history of local government reliance on public nuisance and other state common law claims to address widespread social problems affecting the public health and welfare, it is imperative that the courts recognize the viability of this type of claim. Local governments everywhere have an interest in affirming the principles of federalism underlying state common law.

Cities and counties across the United States have brought lawsuits against major oil and gas companies claiming they knew for decades their products caused climate change but denied or downplayed the threat. These lawsuits have been brought under state common law (including public and private nuisance, trespass, negligence, design defect, and failure to warn). The suits seek damages or compensation for current and future costs associated with climate change.
Lawsuits have been filed in California (eight separate lawsuits), New York, Colorado, Maryland and Washington. (The State of Rhode Island has also brought a suit.)

The lower courts all consider the following two cases: In *American Electric Power v. Connecticut* (2011) the Supreme Court held a federal common law public nuisance lawsuit seeking an injunction against power companies to reduce greenhouse gas emissions (GHGs), brought by cities and states, was displaced by the Clean Air Act, which delegates authority to regulate GHGs to the U.S. Environmental Protection Agency (EPA). In *Native Village of Kivalina v. ExxonMobil* (2012) the Ninth Circuit held that a federal common law public nuisance lawsuit seeking damages for climate change brought by a Native village in Alaska was also displaced by the Clean Air Act. (Displacement of federal common law by a federal statute is, in essence, the same as preemption of state common law by a federal statute.)

2. **City of New York v. BP et al. – Second Circuit**

**Update since City Summit:** *Oral arguments were held in November 2019.*

In the case *NYC v. BP et al.*, the district court ruled that cities and counties may not bring state common law claims and dismissed the lawsuit. The district court relied on the above two cases to conclude that, first, a federal common law public nuisance claim for climate change does exist and, second, that as a result of the existence of a federal nuisance claim cities and counties cannot bring state common law claims for damages for climate change. (The lower courts also relied on separation of powers principles to hold that the courts should not consider any federal claims.) NLC filed an *amicus brief* in the case.

3. **City of Oakland v. BP et al. – Ninth Circuit**

**Update since City Summit:** *Oral arguments were held in February.*

In the case *City of Oakland v BP et al.*, the district court ruled that cities and counties may not bring state common law claims and dismissed the lawsuit. Similar to New York City case, in this case, the district court concluded that, first, a federal common law public nuisance claim for climate change does exist and, second, that as a result of the existence of a federal nuisance claim cities and counties cannot bring state common law claims for damages for climate change. NLC filed an *amicus brief* in this case.

4. **County of San Mateo v. Chevron et al. – Ninth Circuit**

**Update since City Summit:** *Oral arguments were held in February.*

In the case *County of San Mateo v. Chevron et al.*, the district court ruled cities and counties may bring state common law claims and ordered the case remanded to state court. In contrast to the New York City and Oakland cases, the district court concluded that the existence of a federal common law claim does not eliminate the state common law claim, and that the Clean
Air Act’s delegation of regulatory authority to EPA doesn’t preempt state law claims. NLC filed an amicus brief in the case.

The district court stated:
“To the contrary, the Clean Air Act and the Clean Water Act both contain savings clauses that preserve state causes of action and suggest that Congress did not intend the federal causes of action under those statutes “to be exclusive.””

5. **Mayor and City Council of Baltimore v. BP et al. – Fourth Circuit**

Update since City Summit: Oral arguments were held in December 2019.

On June 10, 2019, the U.S. District Court for Maryland granted the City of Baltimore’s motion to remand to Maryland state court the City’s case against fossil fuel companies for climate change-related damages. In a lengthy and comprehensive opinion, the judge rejected each of defendants’ “proverbial ‘laundry list’ of grounds for removal.” The court held that the City’s public nuisance claim was not governed by federal common law, and that its claims did not necessarily raise substantial and disputed federal issues and were not completely preempted. The court also held that there was no federal enclave jurisdiction, no jurisdiction under the Outer Continental Shelf Lands Act, no federal officer removal jurisdiction, and no bankruptcy removal jurisdiction. The decision follows a similar order granting remand in the San Mateo County appeal currently pending in the Ninth Circuit. NLC filed an amicus brief in this case.

On July 31, 2019, the judge denied defendants’ motion for a stay pending appeal of her remand order. The 4th Circuit declined to stay the district court’s remand of the case to state court pending the appeal. This then caused the defendants to ask the district court to extend its stay of the remand, pending a petition for an emergency stay to the U.S. Supreme Court. The district court agreed, but also gave plaintiffs the opportunity to move to rescind the stay by October 7. The petition for an emergency stay was denied by the U.S. Supreme Court in October. The only precedent for anything like this would be the Supreme Court’s stay of the Clean Power Plan.

6. **Board of County Commissioners of Boulder County v. Suncor Energy et al. – Tenth Circuit**

Update since City Summit: NLC filed an amicus brief in this case. Oral argument has not been scheduled.

On Sept. 5, 2019, the U.S. District Court for Colorado granted the City and County of Boulder’s motion to remand to Colorado state court the local governments’ case against fossil fuel companies for climate change-related damages. The decision closely resembles the San Mateo, Baltimore, and Rhode Island decisions. Defendants have filed an appeal in the 10th Circuit Court of Appeals.
7. State of Rhode Island v. Chevron et. al – First Circuit

Update since City Summit: NLC filed an amicus brief in this case. Oral argument has not been scheduled.

On July 22, 2019, the U.S. District Court for Rhode Island granted the State of Rhode Island’s motion to remand to Rhode Island state court the State’s case against fossil fuel companies for climate change-related damages. The decision rejected each of defendants’ grounds for removal. The court held that the State’s public nuisance claim was not governed by federal common law, and that its claims did not necessarily raise substantial and disputed federal issues and were not completely preempted. The court also held that there was no federal enclave jurisdiction, no jurisdiction under the Outer Continental Shelf Lands Act, no federal officer removal jurisdiction, and no bankruptcy removal jurisdiction. The decision follows a similar order granting remand in the San Mateo County appeal currently pending in the Ninth Circuit, and as well as a similar order granting remand in Baltimore’s case, currently pending in the Fourth Circuit. The defendants have filed an appeal in the 1st Circuit Court of Appeals.

8. California v. Chao et al. – DC Circuit

Update since City Summit: NLC will file an amicus brief supporting a summary judgement motion in DC District Court. On March 5 the DC Circuit will issue a briefing schedule for this case. This order may or may not allow parties to also brief the issues raised in the California waiver case – California v. EPA below.

Final regulations of the National Highway Traffic Safety Administration (NHTSA) called the “Preemption Regulation” declare that the Energy Policy and Conservation Act of 1975 (EPCA) preempts state laws that regulate greenhouse gas emissions from new passenger cars and light trucks. California has had emissions standards for light-duty vehicles for 60 years. The federal government has repeatedly granted California and other states who have adopted California’s standards waivers of preemption the Clean Air Act.

At issue in this case is whether the Preemption Regulation is unlawful, exceeds NHTSA’s authority, contravenes Congressional intent, and is arbitrary and capricious because the NHTSA has failed to conduct the analysis required under the National Environmental Policy Act (NEPA). In September, 23 states, the District of Columbia, and the cities of Los Angeles and New York, filed a lawsuit in federal district court in DC making numerous arguments against the U.S. Department of Transportation pursuant to the Administrative Procedures Act.

First, the states argue that the Preemption Regulation exceeds NHTSA’s statutory authority because “Congress has not delegated to NHTSA any authority to issue a regulation or other legally effective determination under EPCA regarding express or implied preemption under EPCA, nor to adopt regulations declaring particular state laws, or categories of state laws, preempted by EPCA.”
Second, the Preemption Regulation is ultra vires, meaning beyond NHTSA’s scope of authority because NHTSA “does not identify any statute or other authority that authorizes the regulation.”

Third, the lawsuit offers numerous arguments for why the Preemption Regulation is arbitrary and capricious including that it “interprets EPCA as expressly and implicitly preempting state laws regulating or prohibiting—or “having the direct or substantial effect of regulating or prohibiting,” p. 224—tailpipe greenhouse gas emissions, regardless of whether EPA has waived Clean Air Act preemption of those laws under Section 209(b) of the Clean Air Act.”

Finally, the lawsuit describes NHTSA’s assertion that NEPA does not apply to the Preemption Regulation so it didn’t comply with it as “arbitrary, capricious, and an abuse of discretion.” The lawsuit notes that NEPA “requires the preparation of a detailed environmental impact statement for any “major Federal actions significantly affecting the quality of the human environment.”

9. California v. EPA – DC Circuit – California Waiver

New: NLC will file an amicus brief in this case. On March 5 the DC Circuit will issue a briefing schedule for this case. This order may or may not allow parties to also brief the issues raised in the NHSTA preemption case – California v. Chao above.

Background: On September 27, 2019, EPA and the National Highway Traffic Safety Administration (NHTSA) issued a withdrawal of waiver it had previously provided to California for that State’s greenhouse gas and zero-emissions vehicle programs under section 209 of the Clean Air Act.

Before this withdrawal of waiver, California had adopted emissions standards for passenger cars and light trucks for 60 years that were more rigorous than the federal standard. The federal government had repeatedly granted California and other states who have adopted California’s standards waivers under the Clean Air Act.

Litigation Status: To date, revocation of this waiver has generated four lawsuits: California and other states; three California air districts; the National Coalition for Advanced Transportation, which represents Tesla and other electric vehicle-aligned companies; and eleven environmental groups.

The waiver lawsuit brought by California and other states has been filed in the D.C. Circuit. According to Politico, the Trump administration wants to combine the waiver lawsuit and a related preemption lawsuit against the National Highway Traffic Safety Association (California vs. Chao above) heard in the DC Circuit together.
10. **New York v. EPA – DC Circuit – ACE Rule**

**New:** NLC will file an amicus brief in this case. No briefing schedule has been set.

In *New York v. EPA* states and cities, environmental groups, and other organizations have filed a lawsuit challenging the Trump Administration’s repeal of the Clean Power Plan (CPP) and issuance of the Affordable Clean Energy (ACE) Rule, which establishes greenhouse gas emissions standards for existing power plants. The repeal of the CPP and the promulgation of the ACE Rule represent the Trump Administration’s most significant climate rollback to date.

The goal of the local government amicus brief in this case, as with our previous efforts in the EPA climate regulation cases, is to highlight the perspective of localities as the first responders to the impacts of climate change and as climate policy innovators. The brief will reflect signatory associations’ and local governments’ priority concerns related to climate impacts, to highlight local sustainability and climate action plans, and to support the legal arguments set forth by petitioners challenging the regulatory rollback. The brief will largely resemble the one filed in support of the Clean Power Plan in terms of its approach, although of course the legal arguments will be different, focusing on the arbitrary and capricious nature of the new rule and its lack of a rational basis.

To date, 18 cities have signed onto the brief and that number is expected to increase in the weeks ahead. For comparison, about 50 signed onto the brief supporting the Clean Power Plan.

11. **Monroe County Commission v. AA Nettles – U.S. Supreme Court**

**Update since City Summit:** NLC joined an amicus brief asking the U.S. Supreme Court to review the decision of the Alabama Supreme Court. On Jan. 13, 2020 the U.S. Supreme Court declined to review the Alabama Supreme Court decision refusing to apply principles of federal preemption to the federal railbanking law.

In 1997 the Alabama Railroad Company conveyed land it used for a railroad to Charles Boyles, reserving for itself a right-of-way (if it ever began rail service again). Later, his widow leased the property to AA Nettles. In 2013 the Alabama Railroad Company conveyed the right-of-way to Monroe County Commission for use as a recreation trail in accordance with the National Trails System Act Amendments of 1983 (Trails Act).

The issue in this case is whether federal law giving the Surface Transportation Board (STB) exclusive jurisdiction over abandonment of rail lines and expressly stating that conversion of a railroad right-of-way to an interim trail use shall not be treated “for purposes of any law” as abandonment, preempts state law that would deem a railroad right-of-way abandoned because of disuse or conversion to interim trail use.

**Applicable Law:** The “remedies provided” under the Transportation Act “are exclusive and preempt the remedies provided under Federal or State law.” The Surface Transportation Board
has “exclusive” and “plenary” authority to regulate abandonment of rail lines by rail carriers when it enacted the Transportation Act of 1920.

According to the Monroe County cert petition: “When the STB authorizes a railroad to abandon a line that portion of the line is no longer within the STB’s jurisdiction. In contrast, when service on a rail line is discontinued, but the rail corridor is not abandoned—as occurs when the rail line is converted to interim trail use—the railroad may ‘cease operating a line for an indefinite period while preserving the rail corridor for possible reactivation of service in the future.’”

The Trails Act allows states and local governments and other entities to sponsor trails after railroads have abandoned them. According to Monroe County’s cert petition: “the Trails Act postpones application of state law (and related state-law causes of action) that would otherwise deem a railroad right-of-way to be abandoned when the right-of-way is converted to a trail use. Before the 1983 amendments, efforts to convert rail lines to trail use had been frustrated by state property laws that terminated the right-of-way or easement when it was no longer used for railroad purposes.”

Lower Court Decision: The Alabama Supreme Court held that state property law determined the outcome of this case and that the Boyles’ owned the right-of-way because state property law preempted federal law. The Monroe County cert petition describes the Alabama Supreme Court’s ruling:

The Alabama Supreme Court nevertheless held that determining the ownership of the right-of-way at issue here is a matter of “state property law that existed before the advent of railroads.” Under Alabama law, the court concluded, the railroad had abandoned its right-of-way “by nonuse” before it conveyed the right-of-way to petitioner. “Thus,” the court concluded, “the quitclaim deed conveyed nothing to [petitioner] because the railroad, at the time of the conveyance, had nothing to transfer.” The court further held that, even if the right-of-way had not lapsed through the railroad’s nonuse of it for railroad purposes, the railroad lacked authority to “change the character of th[e] easement” from use for railroad purposes to use as a trail.

While this case pertains to a federal preemption of state law, a negative ruling will make it more difficult for local governments to convert land previously owned by railroads to trails.
of the Fifth Amendment of the U.S. Constitution.

2.01 Climate Change Adaptation and Resilience

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.

In order to help communities plan for the impacts of a changing climate and create resilient communities that are able to adapt in the face of challenges and changing circumstances, 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 financial and technical assistance to support local government vulnerability assessments and climate change mitigation and adaptation implementation efforts;
- Ensure that local governments have the information, resources and tools to adequately plan for and respond to climate change effects;
- 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;
- Require consideration of climate-related risks and vulnerabilities as part of all federal policies, practices, investments, and regulatory and other programs;
- Facilitate collaboration among federal, state and local authorities to share best practices and climate resilient strategies; and
- Fund a national public service campaign to inform the public about the impacts of climate change and the need for adaptation measures.

2.02 Energy

A. 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:

- 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;
- Promote the most efficient and affordable use of all energy sources 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 which will decrease greenhouse gas emissions;
• Encourage conservation and increased energy efficiency across the country and sectors of the economy;
• Encourage the use of both distributed and utility scale generation of renewable energy; and
• Promote community resilience by strengthening and modernizing energy infrastructure to withstand the impacts of climate change.

B. Climate Change Mitigation
Greenhouse gases, such as carbon dioxide, methane and nitrous oxide, are chemical compounds that trap heat in the atmosphere, leading to a warming of the atmosphere. The federal government must develop policies to rapidly reduce greenhouse gas emissions in order to prevent the worsening of the already measureable effects of climate change on the global environment, such as the warming of the atmosphere and oceans, melting ice caps and glaciers, and rising sea levels. NLC believes that the solution to reducing greenhouse gas emissions, while simultaneously strengthening the economy, lies in conserving energy, coupled with replacing fossil-based energy systems with renewable energy as rapidly as practicable. NLC urges the federal government to develop a multi-pollutant strategy to reduce emissions from power plants, mobile sources and other major sources to provide significant reductions in greenhouse gas emissions.

As the federal government adopts and implements these strategies, it must ensure that the nation’s cities are part of the decision-making process. Moreover, this is an urgent global problem that demands a global solution; every country, including developing countries, must be part of the solution and not exempted.

C. Federal Policies
1. 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.

2. Energy Assistance to Low Income Households
NLC urges the federal government to continue to fund programs such as the Low Income Home Energy Assistance Program and the Weatherization Assistance program to help low income households reduce their energy costs and improve the energy efficiency of their homes. 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.

3. 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.

4. 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.

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

• Develop and promulgate a model building rating system and benchmarking tools;
• Promote financing mechanisms that take into account the reduced costs of operating energy efficient buildings;
• Offer training and financial assistance to state and local governments to adopt and enforce building codes that implement energy efficiency gains;
• Encourage the distribution and use of inexpensive mechanisms, such as smart home energy meters, to provide information on residential building energy performance for homeowners and homebuyers;
• Develop models that can account for transportation costs within household total energy consumption data;
• Reauthorize and fully fund the Energy Efficiency and Conservation Block Grant (EECBG) and share best practices and lessons learned from state and local governments as a result of programs implemented through the EECBG;
• Assess conservation programs that most effectively reduce the use of energy and provide technical assistance to cities to implement such programs;
• Prioritize grant applications that demonstrate energy efficiencies will result in a net reduction of cost for the product; and
• Ensure that all new and existing federal facilities are energy efficient.

1. Tax Policy and Financial Incentives
NLC encourages the federal government to develop regulations and tax incentives that would improve the energy and water efficiency of appliances and equipment for industrial, agricultural, commercial and residential consumers. The federal government should provide incentives for new and renovated buildings that meet or exceed nationally recognized energy efficiency standards.

2. Public Awareness and Education
The federal government should promote the benefits of energy efficiency to local governments and public utilities. The federal government should develop public service announcements and other educational
materials that can be utilized by local governments to promote the benefits of energy efficient and resource conserving consumer products to consumers.

E. Renewable Energy

1. Alternative and Renewable Energy

Federal tax policies should promote the development and use of alternative and renewable energy. 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, regulatory and market barriers to development, procurement and implementation 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.

To promote the use and development of renewable energy such as solar, wind, geothermal, biomass, tidal and hydro power, the federal government should:

- Increase funding for research and development to implement the use of renewable energy sources; Create a renewable portfolio standard that increases the share of electricity from renewable sources;
- Create standards for and evaluate the effectiveness of renewable energy products;
- Promote and support improvements to the electrical grid, including capabilities and incentives for smart metering, support for large scale distributed generation, and construction of long distance renewable energy transmission capabilities; and
- Increase funding to research and develop alternative energy technology.

2. Demand Management

NLC urges the federal government to establish tax incentives promoting demand-side management of energy in such areas as distributed generation systems and electricity production to reduce base load demand.

3. Distributed Generation

The federal government should develop a comprehensive research and development program to improve storage capacity and affordability of distributed energy systems, as well as promote their implementation.

4. Renewable Energy Sources

a. 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.

b. Solar

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

c. 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.

d. Additional Energy Sources
The federal government should support research and development and use of additional energy sources such as geothermal and bioenergy, including waste-to-energy and landfill gas recovery projects, that help meet goals of an efficient, economical, and environmentally responsible energy supply.

F. Conventional Energy Sources

1. 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.

2. Natural Gas
The federal government should encourage the domestic production of natural gas in an environmentally responsible manner. Therefore, 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 the oil and natural gas production and extraction process on drinking water resources and air quality, the impacts on land and aquatic ecosystems, seismic risks and public safety.

3. 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 Public Safety and Crime Prevention chapter.)*

4. **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.

**G. 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. 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.

**H. Transportation and Energy**

NLC supports federal programs that:

• Reduce dependence on fossil fuels used for transportation, including through the support and promotion of transportation alternatives such as public transportation, multi-modal transportation systems and safe routes to schools;

• 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. (See also the Transportation Infrastructure and Services policy chapter).

2.03 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 and state governments as well as across 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 through multi-pollutant strategy;
• Recognize regional problems and support local government efforts to partner with other local governments as a means of improving air quality on a regional scale;
• Emphasize air shed solutions to problems from the transport of air pollution across jurisdictional boundaries;

• Coordinate policies of federal agencies regulating air quality to avoid conflicting regulations, such as imposing stricter air standards while simultaneously cutting funding for mass transit;
• Anticipate and mitigate the effects of climate change;
• 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. 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.

Congress should maintain and increase federal funding for regional clean air agencies, which should go directly to the local agencies with State Implementation Plans responsibilities.

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. The federal government should encourage collaboration among local, state and federal partners in developing a SIP.

NLC supports the imposition of sanctions on states that fail to submit an SIP, revise the SIP in accordance with EPA specifications, or
WASHINGTON (Feb. 26, 2020) — Today, the U.S. Environmental Protection Agency (EPA) is releasing the PFAS Action Plan: Program Update. Over the past year, EPA has made significant progress under the Action Plan to help states and local communities address per- and polyfluoroalkyl substances (PFAS) and protect public health and the agency’s Program Update highlights those efforts.

“The Trump Administration’s efforts under the PFAS Action Plan over the past year represent the first time in EPA’s 50-year history that we have tapped all of our program offices to address an emerging contaminant of concern like PFAS — and our EPA staff efforts have been unprecedented,” said EPA Administrator Andrew Wheeler. “As we look to the future, we are committed to working diligently with our federal, state, local and tribal partners as we continue to make progress on this important public health issue.”

From issuing groundwater cleanup guidance to proposing a positive regulatory determination for both perfluorooctanoic acid (PFOA), perfluorooctanesulfonate (PFOS), EPA has made progress under every aspect of the Action Plan. The actions EPA has taken reflect the comprehensive and coordinated approach that was outlined in the February 2019 PFAS Action Plan. Some key highlights from the past year include:

- On February 20, 2020, EPA issued preliminary determinations to regulate PFOA and PFOS in drinking water.
- On February 20, 2020, EPA issued a supplemental proposal to ensure that new uses of certain persistent long-chain PFAS chemicals in surface coatings cannot be manufactured or imported into the United States without notification and review under TSCA.
- On December 19, 2019, EPA accomplished a key milestone in the PFAS Action Plan by publishing a new validated method to accurately test for 11 additional PFAS in drinking water bringing the total to 29 PFAS.
- On December 19, 2019, EPA issued Interim Recommendations for Addressing Groundwater Contaminated with PFOA and PFOS, which provide guidance for federal cleanup programs (e.g., the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act) that will also be helpful to states and tribes.
- On November 22, 2019, EPA announced availability of $4.8 million in funding for new research on managing PFAS in agriculture.
- On November 25, 2019, EPA issued an advanced notice of proposed rulemaking that would allow the public to provide input on adding PFAS to the Toxics Release Inventory toxic chemical list.

Background on the PFAS Action Plan
PFAS are a large group of man-made chemicals used in consumer products and industrial processes. In use since the 1940s, PFAS are resistant to heat, oils, stains, grease, and water—properties which contribute to their persistence in the environment.

The agency’s PFAS Action Plan is the first multi-media, multi-program, national research, management, and risk communication plan to address a challenge like PFAS. The plan responds to the extensive public input the agency received during the PFAS National Leadership Summit, multiple community engagements and through the public docket. The PFAS Action Plan outlines the tools EPA is developing to assist states, tribes and communities in addressing PFAS.
Legal Considerations for Carbon Mitigation by Cities

By Amy Turner

*The Sabin Center for Climate Change Law seeks to partner with cities to understand the legal challenges facing cities in crafting and adopting climate-friendly laws and policies.*

U.S. cities, towns, villages and counties are increasingly taking the lead on climate mitigation. Dozens of U.S. cities have set greenhouse gas mitigation targets, more than 400 U.S. mayors signed onto a joint commitment to “adopt, honor and uphold the Paris Climate Agreement goals,” and more than 90 American cities have committed to a 100% renewable energy target. These ambitious goals demand that we not only reimagine our economy and energy systems but also rethink the legal mechanisms by which we authorize and regulate our transportation, buildings, energy and waste, and the countless pieces of our lives that these sectors touch.

The Sabin Center for Climate Change Law at Columbia Law School has launched the Cities Climate Law Initiative, a project aimed at helping cities achieve their climate mitigation commitments by both addressing obstacles to advancing implementation of the laws and sharing legal tools available to help reduce urban greenhouse gas emissions. While there are shared legal challenges that all cities face in enacting climate-friendly laws and policies, there are also significant differences in the types of policies cities may be able to enact – at least in the way the community would need to go about implementing those policies.

We’ve identified five major types of legal challenges that U.S. cities face when crafting and adopting climate-friendly laws and policies:

1. **Preemption by U.S. Federal Law.** Federal laws like the Clean Air Act and the Energy Policy & Conservation Act can preempt some of the policies advanced abroad, like London’s “ultra-low emissions zone.” While American cities could be preempted from implementing a low emissions zone that distinguishes among vehicles based on emissions or fuel economy, there are aspects of these policies that can be implemented here in the U.S. The Cities Climate Law Initiative helps cities understand what aspects of low emissions zone policy are legally permissible in the U.S.

2. **Adapting Policies From City to City.** Laws requiring new commercial and multifamily buildings to connect to renewable energy or be solar-ready (Seattle) or to be EV-ready (Los Angeles) require more creativity to implement in cities that don’t have authority to set their building codes. Options to counteract this could include increased incentives, greening the city’s own buildings, or attaching the requirement to another legal mechanism.

3. **Navigating State Authority.** U.S. cities are limited by their grant of authority from the state. Therefore, cities will need to work with their state governments to implement some climate-friendly policies. For example, New York City needed to collaborate with
its state government to pass congestion pricing legislation. Additionally, public service commissions are creatures of state law, and cities may need to work with these entities on matters such as renewable procurement, distributed generation and EV charging.

4. **Emerging Businesses.** Aggressive pushes by micro-mobility companies to introduce their bikes and scooters have left cities scrambling to regulate various legal issues related to permitting, public rights-of-way and disability rights. Strategies for reducing greenhouse gas emissions, including from private businesses, will continue developing rapidly.

5. **Private Contracts.** Private actors will need to take action for cities to be successful in achieving their greenhouse gas mitigation goals. For example, some building emissions reductions will require landlords and tenants to realign traditional commercial lease terms, which disincentivize owner investment in building energy retrofits (aka the “split incentive problem”).

Central to all of this, of course, is equity. The significant and structural legal changes that will be needed to achieve cities’ climate mitigation goals must be implemented in a way that is just, that protects vulnerable communities and that reflects the needs of all of a city’s residents. These considerations are a significant part of crafting any laws, policies or legal tools that cities can use to combat climate change.

The Cities Climate Law Initiative is seeking U.S. cities, towns, and villages to partner with on legal questions associated with climate mitigation policies. Together, the Sabin Center and each partner city will identify a legal question, issue or obstacle, or a drafting need. The Sabin Center will conduct academic research to help inform each city’s approach to developing or implementing an identified climate mitigation policy and will provide tailored insights and learning to the city. For more information, please contact Amy Turner at aturner@law.columbia.edu.

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**About the Author:** Amy Turner is a Senior Fellow for the Cities Climate Law Initiative at the Sabin Center for Climate Change Law at Columbia Law School. Her work focuses on the laws and legal tools cities use to achieve their climate mitigation commitments. Amy has practiced in the area of environmental law for more than a decade and currently serves as co-chair of the New York City Bar Association’s Committee on Environmental Law. She can be found on Twitter at @amyturner.
Legal Considerations for Carbon Mitigation by Cities

By Amy Turner

In July 2019, Berkeley, California made news with the first-ever municipal ban on new natural gas hookups in the U.S. Hailed as “momentous” and a “landmark move,” Berkeley’s ordinance inspired other municipalities in California and beyond to consider and enact similar bans. At latest count, more than 50 municipalities — mostly in California and Massachusetts — have considered or enacted an all-electric requirement for new construction. Though they differ in their details — some exempt uses such as cooking ranges, laboratories and more; some include major renovations in addition to new construction — these bans are largely aligned with local climate action planning and municipal goals to reduce greenhouse gas emissions. They are also giving rise to legal questions and challenges. This post offers a quick survey of the state of play.

Authority under applicable state law
The bans in California and Massachusetts rely on different sources of authority. Many of the California bans are structured as amendments to the local building codes. In that state, municipalities are permitted to adopt building energy code provisions that are more stringent than the state code with California Energy Commission approval. San Jose, Menlo Park, San Mateo, West Hollywood and Santa Monica, and Marin County have obtained this approval, while other municipalities have proposals pending before the Commission. Berkeley took a different approach, relying on its local police powers to ban natural gas connections, and the city of Morgan Hill followed Berkeley’s lead. Berkeley later supplemented its police power ban with updates to the local building energy code (still pending approval before the CEC).

In Massachusetts, where municipalities generally do not have the authority to augment the state building energy code, the tension between state and municipal authority takes a different form. Brookline’s ban relies on its “its home rule powers and its police powers” under Massachusetts law, which include the authority to “direct[] and manag[e] their prudential affairs” and to “regulat[e] the inspection, materials, construction, installation, alteration or use of pipes, fittings and fixtures through which gas is supplied within buildings.” Because Brookline is a town, Massachusetts law requires that it submit the by-law implementing the ban to the state attorney general’s office for approval, which is pending.

Massachusetts cities, which are not subject to the same attorney general approval as towns, also face unresolved questions about their authority to implement natural gas bans. The Cambridge city attorney shared her office’s view with the city’s council that the a ban on new natural gas hookups would be preempted by state building code law. This has not deterred some city lawmakers, including a Cambridge city council member who told Inside Climate News that “if this boils down to a fight in court over whether or not we ban gas, I welcome the fight.”
Other localities are waiting in the wings. The city of Newton appears poised to take the same
tack as Cambridge, while the town of Lexington has indicated it will wait to see the outcome of
the attorney general’s review of the Brookline ban.

**Court challenges**
Not surprisingly, litigation has been filed to challenge these local government actions.
In November, the California Restaurant Association sued the city of Berkeley seeking to enjoin
that city’s ban.[1] The complaint claims that the Berkeley ban is preempted by the U.S. Energy
Policy and Conservation Act, or EPCA, which preempts state and local promulgation of energy
efficiency standards for certain household appliances such as furnaces, air conditioners, water
heaters, dishwashers, clothes washers and dryers, kitchen ranges and ovens and more. (See 42
U.S.C. §§ 6297(a) and 6292.) The California Restaurant association also claims in its suit that the
Berkeley ban is preempted by the California Building Standards Code and the California Energy
Code, and that Berkeley should not have relied on its police power but rather pursued approval
from the California Building Standards Commission or the California Energy Commission for an
update to the building or energy code. As noted above, Berkeley has sought CEC approval for an
electrification component in its “reach code” to supplement the ban; it is not yet clear whether
or how this will impact the litigation.

The building code and energy code amendment approach is also being challenged in court. Two
local home builders have filed suit[2] against the town of Windsor, CA’s ban – structured as an
amendment to the local building energy code – alleging, among other things, that the
municipality failed to properly consider under the state’s environmental review statute hazards
and reliability concerns that could result from increased electrification, particularly in the face
of increasing wildfires.

These cases, though in preliminary stages, may influence future municipal efforts and the
lawsuits challenging them.

**More opposition**
Municipal natural gas bans offer an area ripe for continued opposition by the natural gas
industry and others. An industry group has indicated it will file suit challenging the Brookline,
MA ban. Some environmental advocacy organizations have suggested that natural gas interests
may be behind the California Restaurant Association suit in Berkeley. Natural gas groups are
also intervening at the local level. For example, opposition letters came in from such groups in
the days before the Brookline vote. A California gas company has also apparently funded
“grass-roots” anti-ban advocacy in that state as well. Other interest groups have also expressed
reservations about these natural gas bans, leading Seattle to table voting on a proposed
ban there while it considers input from labor and industry groups. Given the essential interest
of the natural gas industry in maintaining the ability to connect to new customers, we are sure
to continue seeing anti-ban advocacy during the lawmaking process and in the courts.

*The Cities Climate Law Initiative is continuing to monitor developments in the promulgation of
municipal bans on new natural gas hookups and related litigation in order to help advise*
municipalities on structuring such bans, or electrification requirements, in their jurisdictions.


We continue to face serious threats to our natural world and human health, especially those associated with climate change. As we approach the 50th anniversary of Earth Day, cities must once again lead the way in finding solutions to the environmental challenges we face.

Earth Day 2020 is an opportunity for city leaders to highlight those efforts by:

1. Supporting citizen-based mobilizations for the environment and sustainability
2. Launching bold, new city-wide initiatives
3. Showcasing innovative solutions to common municipal responsibilities

Earth Day Network’s Green Cities program elevates the leadership of cities and local governments driving solutions to environmental management problems. And, this year we are proud to partner with leading cities around the world committed to making climate action a priority in 2020.

Join the Green Cities Network and register your Earth Day events today: https://www.earthday.org/take-action-now/

EarthDay.org has a platform for thousands of Earth Day events in cities around the globe. Together, we will show the collective impact of local action and amplify the demand for climate action from national governments.

WHAT IS YOUR CITY’S PLAN FOR EARTH DAY?

Sebastian Rosemont, Green Cities Coordinator • Email: rosemont@earthday.org

#EarthDay2020 earthday.org/greencities
Integrated Planning Offers A Better Way to Comply With the Clean Water Act

By Adrienna Nemura

Last January, President Trump signed bipartisan legislation to benefit cities, towns, and villages with municipal storm sewer systems (MS4s) and publicly owned treatment works (POTWs). The Water Infrastructure Improvement Act codifies the U.S. Environmental Protection Agency’s (EPA) integrated planning framework in the Clean Water Act (CWA). The legislation is short – just 6 pages – but very powerful.

Local governments can now prioritize their stormwater and wastewater projects and make the case for an affordable capital improvement program, including one that relies on green infrastructure or other innovative projects to reclaim, recycle, or reuse water. Integrated planning can provide much needed regulatory relief for cities, towns and villages and result in greater environmental and public health benefits with ratepayer investments.

What is Integrated Planning?
Integrated planning is a voluntary opportunity for municipalities to balance multiple CWA requirements and defer low or marginal benefit projects. Without integrated planning, permit writers may need to require that the city commits to long-term capital projects, regardless of whether there will be noticeable water quality improvements in local streams and rivers.

Integrated planning need not be complex – EPA only requires that a plan include six elements:
1. water quality, human health, and regulatory issues;
2. summary of the existing wastewater and stormwater systems;
3. stakeholder process;
4. alternatives selection process, including proposed implementation schedules;
5. project prioritization process; and
6. plan modification process.

Is Integrated Planning different than comprehensive planning?
Yes. Integrated planning is distinct from comprehensive planning, but it offers great opportunities for local governments that want to incorporate their wastewater, stormwater, and drinking water master planning into a comprehensive plan. These projects are often significant components of a city’s overall budget, so making the projects serve multiple purposes makes sense. The stakeholder, alternatives selection, and project prioritization processes inherent to integrated planning also allow local governments to incorporate sustainability, resiliency, and climate change planning into both plans.

Are Local Governments Required to do an Integrated Plan?
No. The law requires EPA or a state to inform a local government of its opportunity to pursue integrated planning under a National Pollutant Discharge Elimination System (NPDES) discharge permit or a CWA enforcement order. Local governments do not, however, have to do an integrated plan. It would be good practice to consider whether integrated planning is right for your community several years in advance of a NPDES permit renewal or if your city faces
potential CWA enforcement actions. Integrated planning should also be considered if a local government is undertaking a comprehensive plan. Cities, towns, and villages should also consider integrated planning as a potential “best practice” to obtain stakeholder support or to stretch ratepayer dollars for the most beneficial projects.

Where Can I Learn More About Integrated Planning?
If you don’t know much about integrated planning, you are not alone. Research conducted for The Water Research Foundation (WRF) indicates that even though EPA adopted the integrated planning policy in 2012, obstacles still remain for its widespread implementation. These obstacles include lack of knowledge, institutional memory, and other factors.

Local governments interested in considering integrated planning can consult WRF’s Users’ Guide to see if integrated planning is right for their community. The Users’ Guide includes a simple excel-based tool that will help local governments decide if integrated planning is right for their community. It also includes several case studies, including communities that considered integrated planning and decided not to pursue it (Peoria, Illinois) to those that fully embraced integrated planning (Oxnard, California; Lima, Ohio; Springfield, Massachusetts; Santa Maria, California). The Users’ Guide also includes resource pages on each of the six EPA elements and recommendations for going through the integrated planning process.

Ohio was the first state to host an integrated planning workshop to inform municipalities about integrated planning, including several case studies (see this video and this presentation). Additionally, EPA recently conducted a webinar entitled “The Straight Scoop on Integrated Planning,” which contains two community examples.

Four Local Examples: How Has Integrated Planning Been Used?
The City of Oxnard, California pursued integrated planning to develop a cohesive plan for all of its water resource departments. Oxnard had outdated, individual plans for water, wastewater, potable water, and recycled water. The city expects lower operation cost and efficiencies, better coordination of capital projects, and better internal and external planning. The city also expects to be able to spread costs to later years when financially necessary and to improve communication with council when budgeting.

The City of Lima, Ohio developed an integrated plan to prioritize treatment plant, combined sewer overflow, and sanitary sewer overflow improvements as part of a federal consent decree. Integrated planning was an important tool to prevent the diversion of funds on low priority projects and to be able to invest in existing infrastructure. Lima hopes to obtain much needed flexibility in required rate increases with respect to financial impacts on low income families.

Integrated planning allowed the City of Springfield, Massachusetts to determine the true condition of their wastewater collection and treatment systems. Springfield also undertook a maintenance program while developing the plan that allowed them to reduce their sanitary sewer overflows and make their operations and maintenance more efficient.
Hampton Roads Sanitation District in Virginia Beach used integrated planning to protect the environment, enhance sustainability of long-term groundwater supplies, and to address environmental pressures such as restoration of the Chesapeake Bay, sea level rise, and saltwater intrusion. Their program, Sustainable Water Initiative for Tomorrow (SWIFT), treats wastewater to drinking water standards to replenish the Potomac Aquifer avoiding discharge to three different rivers.

**How Do I Get Started?**

Integrated planning does not need to be a complicated, long, expensive process. It does, however, require leadership and support from the community and the regulatory agencies. The first step is to consider whether integrated planning might be right for your community and to define your preliminary objectives. The second step would be to inform your permit writer (or enforcement staff from the state agency or EPA) that you want to develop an integrated plan. The third step would be to assemble the resources needed to complete the plan, including internal resources and consulting and legal resources.

Integrated planning provides the opportunity for local governments to control their CWA regulatory future and maximize environmental and public health benefits in an affordable manner. EPA intentionally made the framework simple and flexible so that communities of all sizes could benefit. It is a new approach to utility planning which shows great promise.

Want to learn more about integrated planning? NLC’s upcoming [Congressional City Conference](#) will feature a workshop titled, “One Water: How Integrated Planning Can Address Affordability and Promote Community Resilience” on Tuesday, March 10.

**About the Author:** Adrienne Nemura is a water resources engineer and a Principal of Geosyntec Consultants, based in the Cleveland/Akron region. For 35 years, she has helped municipalities identify cost-effective and sustainable solutions to meet their water quality goals and comply with the Clean Water Act. Adrienne was the principal investigator for the Users’ Guide on Integrated Planning for The Water Research Foundation. Contact Adrienne at [anemura@geosyntec.com](mailto:anemura@geosyntec.com).
The American people are fed up with the plastic pollution crisis. They are demanding a bold, comprehensive response. The **Break Free From Plastic Pollution Act**, from U.S. Senator Tom Udall (D-N.M.), U.S. Representative Alan Lowenthal (D-Calif.) and U.S. Senator Jeff Merkley (D-Ore.), is the national strategy we need to tackle the tidal wave of plastic pollution and chart a new course for the future.

**Plastic pollution has exploded into a global crisis that threatens our public health, economic security, and the future of our planet. Plastic pollution is everywhere — from the highest mountain peaks to the bottom of our oceans, and even inside our own bodies.**

- Studies suggest that humans swallow a credit card’s worth of plastic every week. Exposure to plastic toxins has been linked to cancers, birth defects, and other ailments.

- The United States disposes or incinerates 32 million tons of plastic waste each year, burdening our local government budgets and overwhelming systems to handle it. 334 thousand tons are directly littered.

- Every year, enough plastic waste — about 8 million tons — escapes into the oceans to cover each foot of coastline in the world in five garbage bags full of trash.

- Our recycling system is broken: just 8% of plastic waste in the United States is sorted for recycling. The recycling in our blue bins is often landfilled, incinerated, or shipped overseas to countries that are unable to manage this waste.

- Global plastic production will triple by 2050, accounting for 20% of global oil consumption.

- Plastic production facilities are super-polluters and a major contributor to climate change: emissions linked to plastic will reach 1.3 billion tons by 2030, equal to 300 coal-fired power plants.

The **Break Free from Plastic Pollution Act** will provide badly-needed national leadership — reducing the amount of wasteful plastic and reforming our broken waste and recycling collection system. It will shift the burden of cleanup to where it belongs: on the corporations that produce this waste:

- Require big corporations take responsibility for their pollution, requiring producers of plastic products to design, manage, and finance waste and recycling programs.

- Spur innovation, incentivizing big corporations to make reusable products and items that can actually be recycled.

- Create a nationwide beverage container refund program, which is successful at the state level.

- Reduce and ban certain single-use plastic products that are not recyclable.

- Establish minimum recycled content requirements for beverage containers, packaging, and food-service products.

- Spur massive investments in U.S. domestic recycling and composting infrastructure, while pressing pause on new plastic facilities until critical environment and health protections are put in place.

Let’s come together to tackle plastic pollution with the bold action we need — before it’s too late.
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