2.00 Environmental Quality

A. Problem

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

B. Goals

A national environmental quality policy must:

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

C. Federal Policies

1. National Environmental Policy Act

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

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

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

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

2. Federal Mandates

To meet national environmental quality goals, NLC recognizes that federal mandates are necessary. Where federal standards are established, the federal government must ensure that local governments have adequate capacity, resources, and time to achieve those standards. In addition, the federal government should renew its financial partnership to assist municipalities in complying with these mandates. Moreover, local governments must have the flexibility to determine their own methods to achieve federal mandates. However, federal policies should not impose unachievable objectives that foster new or expanded opportunities for litigation against municipal governments.

D. Principles

1. Regional Approaches

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

cooperation of the federal government and its encouragement for regional action to ensure regional sustainability.

2. Sustainability

NLC is committed to the concept of sustainability, that as a society we must find ways to meet the needs of the present population without compromising the ability of future generations to meet their needs. Adopting sustainable solutions offers the potential of multiple, significant benefits to individuals, communities and society, including economic prosperity, environmental protection, environmental justice, social well-being, public health and national security.

A wide array of issues should be viewed through the sustainability lens, including energy, water, transportation, land use and economic development, housing, and public health. (See also the Community and Economic Development (CED) and Transportation Infrastructure and Services policy chapters.)

NLC supports the Interagency Partnership for Sustainable Communities formed by the U.S. Department of Housing and Urban Development, the U.S. Department of Transportation, and the U.S. Environmental Protection Agency to coordinate housing, community development, transportation, energy, and environmental policies that will help local communities create better and more affordable places to live, work and raise families. NLC urges Congress to pass legislation to officially authorize the partnership and to continue funding.

From a municipal perspective, protecting and rebuilding existing communities are vital components of a national environmental protection program. Restoring and strengthening existing communities contributes toward ensuring a sustainable future. (For more details on sustainable development, see CED Section 3.07 (C) (4) (c), Land Use, Promoting Sustainable Communities.)

America's cities can benefit from the exchange of experiences and engagement with local governments in other countries, and must join in international cooperation and collaboration efforts to mount meaningful actions to achieve goals and reduce the impacts of climate change.

3. Environmental Justice

The impacts of pollution fall disproportionately on various communities, including people with disabilities, economically disadvantaged households, the elderly, Black, Indigenous and People of Color (BIPOC), and other vulnerable and underrepresented populations, an issue of special concern to the nation's cities, towns and villages. To mitigate these unacceptable impacts, the federal government should:

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

- Prioritize equitable access to nature and natural spaces.

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

2.01 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 renewable and sustainable energy sources to protect the environment;

- Encourage the transition to a clean energy economy that increases the use of carbon neutral energy and promotes energy efficiency, with a goal of at least 50 percent carbon neutral energy by 2030 and 100 percent by 2050 or sooner;
- Protect the supply of energy by promoting the use of renewable energy sources, while implementing measures to minimize the environmental impact of fossil fuels;
- Protect our economic and national security by reducing our dependence on foreign oil and minimizing the environmental impact of the domestic production of energy sources;
- Ensure a national energy supply that decreases greenhouse gas emissions;
- Encourage conservation and increased energy efficiency across the country and sectors of the economy;
- Encourage the widespread use and deployment of both distributed energy sources and utility scale generation of renewable energy as a component of energy infrastructure to help communities withstand impacts from disruptions in regional supply systems;
- Promote community resilience by strengthening and modernizing energy infrastructure to reduce vulnerability to disruptions and withstand the impacts of climate change;
- Support local economies with job training and workforce development as the nation transitions to clean energy; and
- Ensure that low-income households do not face unaffordable costs related to the transition away from fossil fuels.

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. Energy Sources

1. Renewable Energy

Federal tax policies should promote the development and use of 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 renewable energy sources by residential, commercial and municipal entities, as well as producers. The U.S. Department of Energy (DOE) should continue to offer grants to cities for the procurement of renewable 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 storage capacity, and construction of long-distance renewable energy transmission capabilities; and
- Increase funding to research and develop innovative technology for energy production, storage and transmission.

a. Hydroelectric

The use of hydroelectric power should be done in a manner that minimizes environmental impact. 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. NLC urges the federal government to support technical assistance and incentives for local- and regional-scale efforts to obtain biogas from waste materials and biological feedstocks.

2. Fossil Fuels

a. 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.

b. 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.

c. 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.

3. Nuclear

Nuclear power will be a necessary component of the carbon-neutral energy portfolio for the coming decades. The federal government should use its capacities and authorities to maximize the safety and minimize the adverse environmental effects and public costs of nuclear power production and the nuclear fuel cycle. The federal government should support and encourage the development and deployment of technical innovations and advanced technology that enhances safety and efficiency of nuclear power production and reduces the potential for misuse or diversion of nuclear materials. The federal government should ensure that its licensing and regulatory procedures for new and existing nuclear power plants are appropriate for the potential hazards associated with their specific technologies and external conditions, including implications of climate change.

Additionally, Congress should strengthen the Nuclear Regulatory Commission's (NRC) protection of the public – and public confidence in the NRC – by prohibiting "revolving door" employment between industry and the NRC.

F. Electricity

1. Infrastructure

NLC supports federal incentives for all generators and transmission grid owners to create new infrastructure, consistent with current environmental regulations and laws. To ensure that the nation has an adequate and reliable national transmission grid, the federal government should coordinate with state and local governments. NLC opposes any attempts to preempt local authority in siting energy producing facilities or transmission grids.

2. Smart Grid

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

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

3. 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.

4. 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. The federal government should incentivize the buildout and deployment of microgrids, which can provide backup power during emergencies.

5. 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.

G. 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 and connected networks for walking and bicycling to employment, education and commercial centers;
- 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;
- Encourage national standards for electric vehicle infrastructure to ensure compatibility with all brands of vehicles;
- Offer incentives for acquisition of zero- or low- emission vehicles. Incentives should be available for cities to purchase these vehicles for use in public transportation systems, municipal fleets and school buses, 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 implement the measures identified in the SIP. Where the SIP cannot be developed in accordance with requirements to "demonstrate attainment" because there are no known strategies available to accomplish the objectives of the Clean Air Act, EPA should be given the flexibility to refrain from imposing sanctions. Where sanctions remain the only tool to ensure timely compliance, they should be imposed on the government whose actions were inadequate or inconsistent with the requirements of the law. Where a state has failed to develop and enforce its SIP, it is the state that should be sanctioned. In no case should the state be authorized to transfer any sanctions to its local governments absent a demonstration of that local government's culpability.

3. *National Ambient Air Quality Standards*

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

- New standards are based on peer reviewed science;
- Adequate technology is or will be made available to attain the revised standards; and
- Sufficient time is provided for areas to come into compliance.

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

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

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

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

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

a. Transportation Control Measures

In areas projecting attainment and making projected yearly progress toward attainment by the statutory deadlines, implementation of transportation control measures should not be a mandatory federal requirement. Where reductions in vehicle miles traveled are needed to meet emission reduction targets, strategies such as economic incentives and transportation demand congestion pricing that protects privacy and prohibits penalties should be permitted in place of mandated transportation control measures if it can be demonstrated that such strategies will provide equal or greater benefits. (*See also EENR section 2.02 Energy, H. Transportation and Energy and the Transportation Infrastructure and Services policy chapter.)*

4. *Stationary Source Emissions*

a. Generation of Electricity and Production of Petroleum Products

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

- Establishes an integrated approach for regulating air emissions from all electric power plants and petroleum production facilities;
- Addresses significant emissions from electric power generation and petroleum production facilities;
- Caps emissions from power plants to establish stringent, feasible, and enforceable national emissions reduction goals;
- Requires the installation of technology no less stringent than the best available controls on existing power plants by a compliance deadline;
- Includes a national emissions trading program, which equitably allocates any emissions allowances to existing utilities, so long as specific sources credited are not allowed to increase their emissions;
- Encourages and credits utilities for early compliance, while enforcing deadlines to ensure steady progress;
- Offers flexibility to utilities to meet required emissions reductions; and
- Retains the authority of regions, states, and local governments to adopt and implement more stringent measures than those required by the federal government.

Strict emission control requirements must be maintained for new sources. New source

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

b. Biomass and Waste-to-Energy

NLC recognizes biomass and waste-to-energy as a renewable energy source, but encourages these sources to be emission-neutral so that air quality is not negatively impacted.

5. Mobile Source Emissions

Where pollution is caused by mobile sources, the primary means for abatement of such pollution should be direct and stringent controls related to mobile source emissions and promotion of transportation zero- or low–emission vehicles. *(See also EENR policy section 2.02 Energy H. Transportation and Energy and the Transportation Infrastructure and Services policy chapter)*

6. Hazardous Air Pollutants

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

2.04 Solid and Hazardous Waste

A. Problem

Disposing of solid and hazardous wastes and conserving resources are two of the most challenging issues facing local governments. The Chinese National Sword Policy has had ripple effects on community recycling programs and recycling markets across the country and necessitates finding new solutions to waste management and recycling in the United States.

Improper disposal of hazardous wastes, including nuclear and radioactive waste, and spills of chemicals, oils, and other hazardous substances, can endanger public health and pollute our nation's air, water and land resources.

B. Goals

Waste management must be addressed aggressively through source reduction, volume reduction and resource recovery. The federal government should invest in and develop sustainable domestic capacity for recovering resources and returning them to economically beneficial use. These actions must be compatible with protecting the environment.

The Chinese National Sword Policy presents an opportunity to reimagine and strengthen U.S. waste management and recycling infrastructure and programs. Investments in domestic infrastructure, support for local and regional recycling programs and education efforts, and policy changes will ensure recycling remains environmentally and economically sustainable throughout the country.

C. Solid Waste Policies

Solid waste management is primarily a local matter, but the nature and quantity of waste that must be managed is largely dictated by national and multinational decisions and trends. The federal government should support local and regional programs by developing a national solid waste management policy that takes an integrated approach to best meet local needs.

1. Source Reduction

To help relieve local governments and taxpayers of the financial burden of product and packaging management and to reduce greenhouse gas emissions, the federal government should:

- Develop and implement policies that promote product stewardship and create inducements for manufacturers and marketers to design and produce products and packaging created with less energy, materials and toxins;
- Support the creation of effective producer-led reduction, reuse and recycling programs to address a product's life cycle environmental impacts;
- Create incentives for local governments and producers to develop systems to collect, compost, reuse and recycle products;
- Promote material exchange and secondary markets;
- Support research and development on conversion technology, packaging materials, biodegradability and techniques to minimize solid waste, facilitate recycling and reuse, and provide safe and cost-effective methods to convert nonrecyclable wastes to energy;
- Support public participation and education programs to provide a better understanding of source reduction (reduce, reuse, recycle) and disposal options; and
- Promote the recycling of materials for federally-funded projects.

2. Electronic Waste

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

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

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

3. Recycling

To support municipal recycling initiatives, EPA should develop a clearinghouse to share best practices among cities on delivering efficient recycling programs and to create connections that foster collaboration between waste producers and users.

Congress should encourage development of long-term stable markets for recycled products, hard-to-recycle products (such as plastics) and non-recyclable products. In addition, federal funding should:

- Support research and development and pilot programs to assist local

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

4. Environmental Labeling

NLC supports the development of national guidance to ensure that environmental labels for products and packaging, including labels regarding recyclability, biodegradability, flushability and suitability for composting or other processing, are based on clear and verifiable definitions and standards that facilitate the safe and efficient processing of municipal solid waste and recycled goods and reduce costs to municipalities.

5. Plastics

Plastic waste is found in the planet's land and oceans, in our food streams and in animals and human bodies. Plastics in our environment do not biodegrade, nor are all plastics are recyclable. For these reasons, NLC supports federal efforts to:

- reduce plastic use, including incentives to reduce the use of single-serve plastics that are not recyclable;
- incentivize and support research and development to reuse plastic waste through extended producer responsibility or other programs; and
- increase plastic recycling through public education and outreach and clear and verifiable definitions and labeling.

6. Organic Material

NLC supports the diversion and reduction of compostable materials from landfills. NLC encourages development of reliable technical guidance to assist municipalities in establishing successful arrangements, including composting programs or other bioprocessing operations, that will convert organic waste materials into useful products or energy sources, rather than sending these materials to landfills.

Organic material, such as food waste, breaks down anaerobically and produces methane, which is a short-lived climate pollutant. Collected food waste can be composted into nutrient rich soil or renewable natural gas and lessen the impact on landfills and the environment.

Organic waste diversion and reduction are costly to implement. Barriers for organic waste collection are the requirements to sort into its own designated recycling bin with its own collection, public education and outreach, and the lack of technology and infrastructure by solid waste providers to process and convert organic waste. Additional barriers are individual environmental approvals for recycling facilities, as well as the need for regional recycling sites.

To support the proliferation of organic material diversion and reduction from landfills, Congress should consider:

- Funding to support the procurement organic waste infrastructure, including technological advancements in organic waste processing;
- Support for environmental approvals to establish anaerobic recycling facilities;
- Funding for public education and outreach to support and comply with organic waste collection; and
- Incentives for waste haulers or processors.

A byproduct of organic waste collection is food waste prevention. Markets, restaurants, farmers, and institutions (hospitals and schools) contribute to the organic waste stream by disposing edible food products. Congress can incentivize unnecessary food waste by:

- Supporting the redistribution or donation of edible food sources to local charities, food pantries or homeless shelters;
- Supporting the redistribution of edible food sources to animal feed processors; and
- Creating tax incentives and liability protections for donations.

7. Medical Sharps and Pharmaceuticals

NLC supports medical sharps and pharmaceutical collection in order to protect public health, the environment and water quality. Improper disposal of expired or unused pharmaceuticals and medical sharps, such as needles and syringes, can endanger municipal workers and the public, as well as impose a cost-burden on local governments.

Extended producer responsibility through pharmaceutical and drug take-back programs will help prevent pollution of waterways, drinking water and soil contamination. Although pharmacy chains are working with drug manufacturers to create greater resources for drug disposal, the federal government should continue to work with drug manufacturer and local communities on public education and outreach and to further develop and expand product stewardship and take-back programs.

Product stewardship and collection centers are also important in sharps disposal. Sharps have been comingled in regular and public trash cans (such restrooms, hotels) leading to injury and harm to children, maintenance workers, and others. Sharps could contaminate trash, recycling bins and landfills, which impacts sanitation workers, recycling workers and water treatment facilities. While hospitals and pharmaceutical chains have participated in collection programs, Congress can help support proper sharps disposal by:

- Funding public disposal and collection sites at both public and private facilities including entertainment venues, airports, restaurants, hotels, etc.;
- Working with sharps manufacturers and pharmaceutical companies to develop sharps product stewardship programs and distribution of biohazard containers;
- Creating convenient sharps disposal sites such as pharmacy chains, hospitals, etc.;
- Providing funding for public health organizations to develop disposal sites and distribution of biohazard containers; and
- Supporting public outreach and education.

8. Incinerator Ash

The federal government should designate incinerator ash as a "special" waste and establish appropriate testing and treatment requirements. NLC supports the beneficial reuse of non-toxic ash.

The federal government must provide that the term of permits for new incinerators is for an adequate duration with periodic monitoring to ensure compliance with permit conditions. The federal government should also provide resources for operators of municipal incinerators.

9. Landfills

New federal mandates that retroactively reclassify specific segments of waste, thus requiring new and more costly disposal

methods and/or retrofitting of existing and closed disposal facilities, must be accompanied by financing to comply.

10. Interstate Transport of Municipal Solid Waste

Congress should authorize states that develop approvable, comprehensive solid waste management plans, which include long-term capacity assurance for disposal of waste generated in-state, to restrict out-of-state use of their facilities unless there is planned capacity for out-of-state wastes. Municipal or regional authorities within states with approved plans must have the right to accept or reject solid waste from out-of-state. Congress should also authorize the imposition of phased-in differential, i.e., higher, disposal fees which must be equal for out-of-state solid waste at facilities in states with approved plans.

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

11. Backhauling

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

D. Nuclear Waste Management Policies

1. Local Participation in Site Selection

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

2. High-Level Nuclear Waste Storage

Congress should adopt legislation to establish an integrated spent nuclear fuel management program to:

- Construct and operate a safe, permanent geologic disposal facility;
- Use the Nuclear Waste Trust Fund for the purpose for which the funds were contractually paid for by users of nuclear generated electricity; and
- Allow state and local governments to be compensated for the costs which they incur in disposing of nuclear waste until a long-term storage option is available and viable.

The federal government should also research additional options for managing nuclear waste.

3. Nuclear Waste Management

DOE, the federal agency that manages nuclear weapons complexes, must be required to clean up contaminated areas. If DOE proposes waste disposal facilities on site, the agency should be required to obtain the approval of the affected local governments. Such facilities should be located in isolated areas, away from populations, including farmed areas, critical wildlife areas and waterways, and must meet EPA and Nuclear Regulatory Agency standards.

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

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

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

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

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

6. Notification
The federal government should be required to give general, not shipment-by-shipment, notification to affected local governments of the routes used and approximate frequency of shipments of high level radioactive waste through their jurisdictions.

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

Compensation for losses resulting from accidents at nuclear waste repositories and those involving transportation of nuclear waste should be provided in a manner similar to compensation for losses at nuclear power generation facilities. Furthermore, state and local governments should be compensated for the costs which they incur in preparing for and responding to a nuclear accident.

To encourage state and local participation in emergency response efforts and to minimize the potential for lawsuits against these governments, state and local governmental liability should, under the Price-Anderson Act, be explicitly waived in the event of a nuclear accident.

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

E. Hazardous Waste Management Policies

1. Hazardous Waste Collection

The federal government should provide state and local governments with financial and technical assistance to support, develop and expand local government hazardous waste collection capacity.

2. Landfill Regulations

The federal government should provide state and local governments with financial and technical assistance to evaluate potential new sites for hazardous waste disposal facilities. Hazardous waste landfill regulations should combine technology-based design and operating standards and should include minimum landfill location standards.

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

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

The federal government should also develop and implement a plan for prompt and responsible emergency and long-term action to protect public health and the environment in the case of spills or leakage at disposal facilities and in the transportation of hazardous materials to and from facilities.

3. Incinerator and Impoundment Requirements

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

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

4. Kilns, Boilers and Industrial Furnaces

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

5. Permit Requirements

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

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

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

6. Underground Injection

Underground injection of hazardous chemicals or wastes above, into, or near an aquifer that is a potential source of drinking water must be prohibited.

7. Research

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

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

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

8. Insurance

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

9. Closure of Facilities

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

10. Brownfields

NLC calls on Congress to reauthorize and fully fund the EPA Brownfields program, which supports the assessment, cleanup and redevelopment of sites that are complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant. The economic redevelopment and environmental restoration of these properties is essential to revitalizing communities and protecting public health. Cleanup standards for these areas should be based on the level and type of contamination and the purposes for which the area is intended to be reused, as outlined in the local land use plan.

Congress should enact legislation addressing and resolving the disincentives created by

potential liability to facilitate reuse of those properties. Such legislation should provide for a waiver or a definitive limitation or elimination of liability for non-contributing current or future owners, developers, lenders, operators and tenants of previously contaminated sites which have been certified as "clean."

11. Federal Facility/Site Conversion

When downsizing the nation's military structure and converting to civilian use, NLC urges Congress and the Administration to adopt the following environmental cleanup policies:

- Ensure the active involvement of local government officials in all phases of the environmental cleanup, including site evaluation and selection and implementation of cleanup remedies;
- Allow parcelization of federal facilities or sites, where feasible, to permit prompt redevelopment of uncontaminated portions of the property;
- Coordinate timetables for an environmental impact statement, parcelization and prioritization with civilian reuse plans; and
- Provide full and timely funding and appropriation for the cleanup of federally owned or operated contaminated facilities and sites.

F. Superfund Policies

1. Superfund Trust Fund

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

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

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

2. Standards and Deadlines

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

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

EPA and other federal agencies involved in hazardous waste site cleanup should increase their financial and administrative commitments to addressing Superfund sites.

3. State and Local Roles in Superfund

The Superfund program can be made more efficient if qualified state and local

governments are given greater decision-making responsibilities under the program. Qualified state and local governments should have the option to assume full responsibility for planning and implementing Superfund response actions.

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

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

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

4. Liability

Municipal liability for cleanup costs under the federal Superfund statute must be clarified. EPA recognizes that municipal solid waste (including both garbage and sewage sludge) contains only insignificant amounts of hazardous constituents and in its Interim Municipal Settlements Policy provides that EPA will identify local governments as potentially responsible parties (PRPs) at hazardous waste sites only in exceptional circumstances.

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

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

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

NLC recognizes the need to expedite the cleanup process, reduce transaction costs and increase funds for cleanup while maintaining a level of fairness. Any effort to limit the retroactivity of these standards and to relieve responsible parties from liability for past

activities could leave the cleanup of older hazardous waste sites funded at state and municipal expenses, funded through substantially increased Superfund taxes, or unfunded entirely (and therefore not cleaned up).

5. State Response Funds

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

6. State and Local Matching Share

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

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

7. Maintenance and Operating Costs

Funds from the Hazardous Response Trust Fund should be used to support long-term operation and maintenance activities, such as cleanup of groundwater contamination at Superfund sites, after cleanup actions have been taken.

8. Post-Closure Liability

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

9. Environmental Impairment Liability Insurance

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

10. Right-to-Know

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

Additionally, legislation should require each state to develop a statewide emergency response plan. Participation by local

government representatives in developing the plan should be mandatory. The costs of developing state and local emergency response plans should be borne by the federal government.

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

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

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

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

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

14. Good Samaritan Policies
There are hundreds of thousands of abandoned mine sites across the nation and many pose serious health, safety and environmental hazards. NLC supports EPA's Good Samaritan Guiding Principles which clarifies that "good samaritans," or non-liable parties, who volunteer to clean up abandoned mine sites are generally not responsible for obtaining a permit under the Clean Water Act both during and following a successful clean up.

NLC urges EPA to continue the Good Samaritan Initiative, which is intended to accelerate restoration of watersheds and fisheries threatened by abandoned hard rock mine runoff by encouraging voluntary cleanups by parties that do not own the property and are not responsible for the property's environmental conditions. Additionally, NLC urges Congress to adopt Good Samaritan legislation.

2.05 Water Quality and Supply

A. Problem

The nation continues to experience problems with the quality of our waters, as well as the adequate supply of sources of water to sustain our population. Local governments construct, operate, and maintain the vast amount—95 to 98 percent—of the country's water infrastructure networks, which are essential for economic development and quality of life in our communities. But, local governments face a backlog of projects and are finding challenges in funding much needed water

infrastructure improvements. Federal mandates, along with aging infrastructure, are straining local budgets. Meanwhile, federal options for grants and loans are not adequate to address present and future needs.

Financing the necessary improvements to our nation's aging infrastructure and costs of meeting new and more costly federal mandates with rate increases alone would result in a doubling or tripling of rates across the nation – making water and sewer bills unaffordable for a significant number of Americans.

Moreover, studies show that climate change will have regionally different impacts on water supply, water quality and water infrastructure, including increased flooding, an increase in frequency and intensity of heavy downpours and precipitation events, sea level rise, decreased snow pack and drought. Climate change will exacerbate existing water challenges and pose new risks and challenges for communities.

B. Goals

The ability of municipalities to comply with any clean water and drinking water program must be recognized as contingent upon adequate funds. The federal government should ensure that there is adequate funding for providing clean and safe water, upgrading the nation's aging infrastructure, and meeting clean water and drinking water requirements.

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

C. Funding

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

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

Congress should remove water and wastewater facilities from the federally imposed state volume caps on private activity bonds.

1. State Revolving Loan Funds

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

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

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

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

- State program administration;
- Research;
- Development of new, cost-effective technologies;
- Non-point source projects, including implementation of watershed plans and stormwater recapture;
- Water and energy conservation and efficiency projects;
- Programs to train and certify operators of public water supply systems;
- Programs to assist economically-disadvantaged communities with mandated monitoring and compliance requirements; and
- Direct grants to economically disadvantaged cities for drinking water treatment and purification plants where deemed necessary to meet federal drinking water standards.

2. Grants and Loans

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

Congress should provide funding to ensure adequate resources for water treatment facilities in small, rural communities and to assist all cities in remediating their aging water infrastructure. Congress should provide full appropriation to the Water Infrastructure Finance and Innovation Act (WIFIA) for loans and loan guarantees for water infrastructure projects.

3. Local Financing

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

D. Watershed Planning and Management

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

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

The federal government should support and provide incentives for the development of a national system of watershed planning based on a process of local decision-making. Regional watershed management strategies and plans should be encouraged to involve all stakeholders to jointly prioritize the allocation of resources and participate in finding solutions to achieve water quality objectives. Implementation of watershed management plans must assure equity between point and non-point sources of pollution, and should not place one region at an economic disadvantage as compared to neighboring areas. Upon completion of watershed management plans, the National Pollutant Discharge Elimination System (NPDES) terms, conditions and limits should

be modified to achieve the objectives of the plan in the most cost-effective way.

NLC supports an integrated planning framework that allows communities to examine all of their clean water and drinking water requirements and prioritize and sequence projects to achieve the greatest community and environmental benefit. The financial capability of the community and ratepayers should be taken into account when determining and implementing schedules for meeting clean water and drinking water requirements.

E. Water Pollution Control

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

1. Level of Treatment

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

2. Conservation and Reuse

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

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

3. Pretreatment

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

Local governments should be allowed to devise methods to satisfy national standards that protect water quality and that are cost effective to meet the conditions of their particular jurisdiction. Therefore, as an alternative to federally mandated implementation of the national categorical pretreatment standards, Congress should authorize states to approve local pollutant elimination programs.

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

4. State Water Quality Standards

States should not be allowed to downgrade or revise its water quality standards where the designated uses have already been attained. States should be encouraged to revise their water quality standards if they can demonstrate that: (a) the existing designated use is unattainable because of irretrievable conditions; or (b) attainment of the designated use would result in substantial and widespread adverse economic and social impact.

5. Total Maximum Daily Loads

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

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

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

6. Effluent Trading

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

7. Toxicity Testing

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

8. Pollution Prevention

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

The federal government should adopt strict regulations on the placement of pipelines containing hazardous materials to protect environmentally sensitive areas, public water supplies, and communities from pipeline accidents. Strong enforcement action should be taken against repeat polluters.

9. Legal Remedies

No municipality injured by a willful or negligent violation of federal or state law should be deprived a remedy if one exists under the federal Clean Water Act and other appropriate laws. However, EPA must be made a party where the defendant can demonstrate it has acted in good faith.

Municipalities should be granted the authority and discretion to bring environmental law enforcement actions against polluters within the municipal jurisdiction or when pollution from outside its boundaries poses a potential threat to the health, safety, or welfare of those living in the municipality.

10. Sewer Overflows

a. Separate Storm Sewer Requirements

NLC supports a more simplified and flexible approach to managing municipal stormwater run-off that allows for a more cost effective program design and dissemination of information.

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

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

The federal government should continue to provide incentives for stormwater recapture projects, including green infrastructure projects.

b. Combined Sewer Overflow

NLC supports taking a holistic and economically-feasible approach to addressing Combined Sewer Overflows (CSOs) and Total Maximum Daily Loads (TMDLs). NLC supports the following components of EPA's CSO control policy:

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

- An implementation schedule for the selected long-term control plan may be phased in based on the relative importance of adverse CSO impacts and

on the permittee's financial capability; and
- A provision to exempt permittees that have constructed CSOs designed to meet water quality standards from planning and construction requirements of the policy.

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

c. Sanitary Sewer Overflows

NLC supports the development of national guidance and, where appropriate, regulations to address Sanitary Sewer Overflows (SSOs). Any such guidance and/or regulations must, however, be developed with the understanding that sewer systems may (or have the potential) to leak regardless of how well the wastewater treatment facilities and collection system are constructed and for reasons that may well be beyond the control of sewer system operators. This may be exacerbated during heavy rain events, especially as the frequency and intensity of these types of events increases due to climate change.

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

d. Blending in Wet Weather Conditions

NLC supports a practicable blending policy that permits publically owned treatment works to operate their facilities in the manner in which they were designed and permitted, including the use of peak wet weather flow management techniques such as blending.

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

F. Drinking Water Policies

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

1. Standard Setting

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

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

2. Lead

The National Primary Drinking Water Regulation for lead, and any legislative initiatives addressing lead in drinking water, should give municipal water systems options for reducing drinking water lead levels. Corrosion control should be considered the optimal tool for reducing exposure to lead through the drinking water supplies. Municipal water systems should be allowed to utilize the least expensive, yet effective, methods for reducing human exposure to lead in drinking water.

NLC supports measuring the level for lead in the public water system at the point where the water leaves the distribution system and enters the user's property. NLC also supports programs for public education regarding safe drinking water.

3. Protection of Drinking Water Resources

Greater emphasis must be placed on preventing contamination of our drinking water resources from both point and non-point sources of pollution, including plastics and other emerging contaminants.

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

4. Monitoring

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

5. Notification

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

6. Sole Source Aquifer

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

G. Ground Water Policies

1. Regulation

Ground water protection can best be implemented through current federal environmental laws. The states should continue to have primary responsibility for developing and implementing groundwater protection programs.

2. Financing

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

3. Enforcement

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

4. Federal Evaluation

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

5. *Septic Systems*

The federal government should incentivize and provide funding for the removal and replacement of septic systems, the leakage from or failure of which can affect groundwater, drinking water and surface water.

H. Water Supply Policies

1. Data Collection

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

2. Federal Participation

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

3. Water Project Evaluation

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

- Final reviews and decisions to build projects should be based on up-to-date information;
- New water projects should be subject to uniform cost/benefit criteria. As part of these analyses, the discount rate should reflect the real cost to the government of borrowing money;
- Whenever appropriate, nonstructural alternatives should be given equal weight with structural solutions to water supply problems. Federal financing provisions should not bias choice in favor of one alternative over another;
- The environmental value of natural wetlands and marshes should be included in any analysis of costs and benefits of water projects; and
- New federal water projects must be assessed for their impact on patterns of urban development, social and natural impacts, and should be consistent with national urban policy based on values of urban conservation.

4. Water Conservation

Conservation should be the cornerstone of federal policies and programs for water. All federal decisions to expand water supplies should recognize that there are limitations on water resources. Federal feasibility studies should include rigorously developed demand forecasts and consider, as precisely as possible, all environmental impacts. Wherever possible, less costly, nontraditional alternatives, especially conservation measures, should be fully evaluated as viable options. These alternatives could also be combined with more costly programs, using conservation alternatives first. Federal water projects funds should support and encourage water management, conservation, and

pollution control programs in all types of water use.

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

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

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

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

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

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

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

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

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

Although technological advances continue to expand options for salt removal, further efforts are needed. To improve the efficiency

of this process, NLC urges the federal government to:

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

2.06 Ecosystem Protection, Preservation and Restoration

Ecosystem restoration should focus on building resilient communities, restoring and conserving habitats, improving water quality and replenishing and protecting resources.

A. National Wetlands

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

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

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

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

B. Invasive Species and Harmful Infestations

Invasive species and harmful infestations include aquatic and non-aquatic plants, insects, pathogens and other species whose introduction does or is likely to cause harm to the economy, environment or human health. Invasive species, such as the Emerald Ash Borer, Aquatic Milfoil, Asian Carp, Zebra Mussel and Burmese Python, degrade, change, compete with or displace native habitats and flora and fauna. Additionally, harmful infestations of native species, such as the Mountain Pine Beetle, also can impact communities in similar ways.

NLC urges Congress and the Administration to:

- Prevent the introduction of invasive species and harmful infestations;
- Detect, respond rapidly to, and control populations of such species in a cost-effective and environmentally sound manner;

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

C. Beaches and Shorelines

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

2.07 Endangered Species

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

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

2.08 Noise Control

The federal government should, using the best available technologies, establish noise limits for major surface and air transportation vehicles. The federal government should develop and disseminate noise standards and criteria which could be used by cities in noise planning and abatement efforts.

There should be ongoing federal research on noise mitigation, particularly on developing more sophisticated noise measurement devices. A program of direct federal technical and financial assistance should be maintained to assist local governments in managing local noise control programs and agencies. Sufficient federal assistance should be made available and targeted to severely noise

distressed cities to help develop strategies to lessen noise impact. *(See also TIS Section 5.04, Air Transportation)*

A. Local Regulatory Responsibility

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

B. Airport Noise Policies

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

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

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

The federal government should provide technical assistance to local communities for land use planning for airport development. A federal program supporting advance acquisition of property schedules to be incorporated into airport development under comprehensive airport plans must be initiated. This program must support acquisition of property outside airport property boundaries to minimize aircraft noise impact in existence as of the date of implementation. *(See also CED Section 3.07, Land Use)*

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

C. Federal Airbases

NLC supports full implementation of the NextGen satellite-based air traffic system. As this system is being implemented, the federal government should:

- Ensure there is a robust community engagement and education prior to implementation with airport-adjacent cities that will be impacted by aviation noise. This engagement should not be exclusive to impacts that trigger at NEPA review. Community impacts of noise should be considered a crucial part of the calculations to determine the overall benefit of proposed changes;
- Study health impacts of aviation noise, particularly the impacts of concentrated flights associated with Performance Based Navigation, a main tenant of NextGen and
- Review the use of the annual day/night average level of noise exposure as the principal metric for noise measurement and continue to investigate other appropriate metrics for noise impacts that take into account impact of concentrated, frequent flights associated with Performance Based Navigation.

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

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

Military and Air National Guard aircraft and operations located in populated areas should be compatible with local noise plans.

D. Highway Noise Policies

Interstate construction and other federally funded highway construction in urban areas should continue to include a provision for sound barriers or buffer zones to be constructed as an integral part of the highway as required by local governments. The federal government should update the Highway Traffic and Construction Noise regulations to include consideration of volume and duration of noise when determining the need for sound barriers.

E. Buy Quiet Program

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

2.09 Public Lands

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

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

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

A. Conservation Funds

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

B. Parks and Natural Areas

Parks, natural areas and green infrastructure provide a multitude of community benefits, including stormwater management, recreation opportunities, positive impacts on public health, and community resilience and well-being. NLC supports federal programs that help cities create and jointly manage parks and natural areas. In addition, NLC supports efforts to connect children to federally managed lands and natural areas, such as the Every Kid Outdoors program to provide fourth graders free access to publicly accessible federal lands and waters.

C. Natural Resources in Public Lands

Fees for the extraction of resources such as minerals, oil, and gas must be restructured so that the taxpaying public is compensated

based on the fair market value of the resource. Additionally, royalties on hard metals such as gold, silver, uranium and copper should be collected. Companies that extract these resources from public lands must be held legally responsible for mitigating the adverse effects of the extraction.

Commercial activities, using renewable resources, should be allowed as long as the activities are conducted in an environmentally-sensitive manner, and the public is fairly compensated.

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

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

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

2.10 Security of Critical Infrastructure

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

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

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

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

C. Federal Policies
1. Water Infrastructure Protection
NLC supports federal requirements to conduct vulnerability assessments and

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

2. Energy Infrastructure Protection

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

3. Nuclear Facilities Protection

NLC supports a federal regulatory system that protects nuclear facilities from direct attack or extreme events, including natural or human-caused disasters. Federal agencies and/or state agencies with delegated authority that provide 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, training 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.)

NLC opposes any attempts by the federal government to federalize nuclear plant security teams or to provide the Nuclear Regulatory Commission (NRC) with authority to summon any branch of the military.

2.11 Health-Focused Local Food Systems

NLC urges Congress and the Administration to:

- Support policies and programs that reduce the prevalence of obesity and improve the overall health and wellness of those in our communities;
- Ensure that all people have access to food that is healthy, affordable and, where practicable, locally grown;
- Support efforts to establish, promote and expand local farmers markets and school and community gardens;
- Provide incentives for local farms to sell fresh produce at farmers markets and to schools;
- Support educational programming, outreach efforts and policies to reduce food loss and waste;
- Encourage farmland conservation and regenerative agricultural practices, such as water conservation, organic fertilizers, crop rotation and the use of living covers by providing incentives to small, local farms in urban and rural areas;
- Improve the quality of food in schools by supporting and promoting the purchase of unprocessed and minimally processed, locally grown and locally raised agriculture

products, such as fresh fruits and vegetables, in schools;

- Expand and strengthen the Healthy Food Financing Initiative to meet the growing demand of healthy food access in underserved urban and rural communities;
- Maintain the Supplemental Nutrition Assistance Program as a federal grant program;
- Establish and maintain a national set of uniform, integrated food system metrics to help evaluate the effectiveness of existing programs and to plan innovative initiatives; and
- Enable an interagency partnership among the U.S. Environmental Protection Agency, U.S. Department of Health and Human Services, and U.S. Department of Agriculture to protect and improve human, animal, and environmental health as an integrated system, including food safety and production.

NLC RESOLUTION #09

SUPPORTING LOCAL PACE PROGRAMS

WHEREAS, utility bills represent a major part of operating costs for home and business owners; and

WHEREAS, the building sector accounts for 39 percent of the nation's energy use, 72 percent of its electricity use, one third of all global greenhouse gas emissions and represents the single largest, most accessible opportunity for deep emission cuts in the United States; and

WHEREAS, investing in cost-effective energy efficiency and renewable energy improvements to homes and businesses can save energy, cut utility bills up to $140 billion per year, create thousands of local jobs, reduce reliance on fossil fuels, and dramatically reduce greenhouse gas emissions; and

WHEREAS, a 2013 study that found default risks are on average 32 percent lower in energy efficient homes and recommends that the lower risks associated with energy efficiency should be taken into consideration when underwriting mortgages;[1] and

WHEREAS, Property Assessed Clean Energy (PACE) financing programs are an innovative local government solution to help property owners finance energy efficiency and renewable energy improvements – such as energy efficient HVAC systems, upgraded insulation, new windows, solar installations, etc. – to their homes and businesses; and

WHEREAS, PACE programs can also be used for other types of projects that provide public and community benefits, such as improving community resilience to hurricanes and wildfires and managing stormwater and tidal flooding; and

WHEREAS, the PACE program removes many of the barriers of energy efficiency and renewable energy retrofits that otherwise exist for residential homeowners and businesses, particularly the high upfront cost of making such an investment and the long-term ability to reap the benefits of cost savings; and

WHEREAS, 37 states plus the District of Columbia have passed laws enabling local governments to develop PACE programs; and

WHEREAS, locally-administered PACE programs are an exercise of the traditional authority of local governments to utilize the tax code for public benefit; and

WHEREAS, PACE programs help local governments meet a core obligation to their citizens to maintain housing stock and improve housing opportunities for all citizens; and

[1] *Home Energy Efficiency and Mortgage Risk*, UNC Center for Community Capital and Institute for Market Transformation, (March 2013), *available at:* http://www.imt.org/resources/detail/home-energy-efficiency-and-mortgage-risks

WHEREAS, the PACE program is an achievement of the intergovernmental partnership to realize national policy goals, namely, reducing energy consumption, that will positively impact the fiscal conditions of every level of government; and

WHEREAS, PACE holds the potential to unlock private capital and jumpstart economic growth backed by the marketplace certainty of the federal government; and

WHEREAS, despite PACE's great promise, in July 2010 the Federal Housing Finance Agency (FHFA) and the Office of the Comptroller of the Currency issued statements that immediately forced existing PACE residential programs to halt operations and froze the development of dozens of other residential PACE programs nationwide; and

WHEREAS, despite the FHFA directive, many commercial and a few residential PACE programs are operating or are in development in hundreds of municipalities across the country; and

WHEREAS, in 2010 the U.S. Department of Energy dedicated $150 million to assist in the development of local PACE programs and in 2016 issued Best Practice Guidelines for Residential PACE Financing Programs to help state and local governments develop and implement programs and recommended protections that PACE programs should put in place for consumers and lenders;[2] and

WHEREAS, in July 2016, the U.S. Department of Housing and Urban Development released guidance allowing the Federal Housing Administration to insure mortgages on properties that include PACE assessments,[3] which has since been withdrawn; and

WHEREAS, in 2018, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act banking reform bill that recognizes PACE as a tax assessment and directs the Consumer Financial Protection Bureau (CFPB) to develop rules in consultation with state and local governments that ensure consumers have the ability to pay their residential PACE financing obligations.

NOW, THEREFORE, BE IT RESOLVED that locally-administered PACE programs operating in accord with state and federal guidelines are a safe and sound investment of public and private funds; and

BE IT FURTHER RESOLVED that locally-administered PACE programs represent an essential contribution of local governments to reduce greenhouse gas emissions and promote renewable energy; and

[2] *Best Practice Guidelines for Residential PACE Financing Programs,* U.S. Department of Energy, (Nov. 18, 2016), *available at:* https://energy.gov/eere/slsc/downloads/updated-guidelines-residential-pace-financing-programs
[3] "FHA to Insure Mortgages on Certain Properties with PACE Assessments," U.S. Department of Housing and Urban Development, (July 19, 2016), *available at:* https://portal.hud.gov/hudportal/HUD?src=/press/press_releases_media_advisories/2016/HUDNo_16-110

BE IT FURTHER RESOLVED that the National League of Cities (NLC) urges FHFA to work with local governments seeking to establish PACE programs that benefit from the same senior lien status of all other projects that are funded through municipal assessments that improve private property and meet public policy objectives; and

BE IT FURTHER RESOLVED that NLC urges the CFPB to work with local governments to adopt regulations that clearly reaffirms the right of state and local governments to exercise liens or assess special taxes or other property obligations to protect and improve housing stock for the public good, including energy efficiency improvements, and establishes underwriting standards that are consistent with guidelines issued by the U.S. Department of Energy for PACE financing programs or by implementing any other appropriate measure.

NLC RESOLUTION #10

SUPPORTING AND ADVANCING RESILIENT COMMUNITIES TO PREPARE FOR CHANGING CLIMATE AND EXTREME WEATHER EVENTS

WHEREAS, across the country local governments are seeing the devastating effects associated with a changing climate and recent extreme weather events, such as heat waves, droughts, heavy downpours, floods, hurricanes, and changes in other storms have brought renewed attention to the need for cities to anticipate, prepare for and adapt to these events; and

WHEREAS, these challenges are larger than individual communities can address on their own, making it beneficial to coordinate regionally and across levels of government; and

WHEREAS, while all regions of the country are impacted by climate change, approximately one third of the U.S. population – more than 100 million people – live in coastal communities that are threatened by rising sea levels, which could impact economic development, land availability, property values, insurance rates, beaches and tourism, and critical water, transportation and energy infrastructure; and

WHEREAS, the Fourth National Climate Assessment reports that current evidence of climate change appears in every region and impacts are currently visible in every state, and concludes that the evidence of human-induced climate change continues to strengthen;[1] and

WHEREAS, the effects of a changing climate are a national security issue with potential impacts to the U.S. Department of Defense (DoD) missions, operations plans and installations and the DoD must be able to adapt to current and future operations to address the impacts of a variety of threats and conditions, including those from weather and natural events[2]; and

WHEREAS, a report by the Intergovernmental Panel on Climate Change indicates that limiting global warming to 1.5° C is necessary to avoid the worst impacts of climate change;[3] and

WHEREAS, climate change and extreme weather events can have severe impacts on local and regional infrastructure, economies, public safety, national security, public health, population migration, natural landscapes, water resources, and environmental quality; and

WHEREAS, the impacts of climate change and extreme weather events pose an especially pressing threat to persons with disabilities, economically disadvantaged households, the elderly, Black, Indigenous and People of Color (BIPOC), and other vulnerable and underrepresented populations; and

[1] National Climate Assessment (Volume I, 2017; Volume II, 2018), *available at:* https://nca2018.globalchange.gov/
[2] Report on Effects of a Changing Climate to the Department of Defense, Office of the Under Secretary of Defense for Acquisition and Sustainment (Jan. 2019), *available at:* https://partner-mco-archive.s3.amazonaws.com/client_files/1547826612.pdf
[3] "Special Report on Global Warming of 1.5°C," Intergovernmental Panel on Climate Change, (Oct. 2018), *available at:* https://www.ipcc.ch/sr15/

WHEREAS, as local governments continue to recover from the coronavirus pandemic, hurricanes, wildfires, floods and other disasters continue to threaten communities across the U.S. and present new challenges for communities in protecting residents, particularly those that are most affected and least able to prepare or respond; and

WHEREAS, the capability of maintaining energy availability is a critical first order priority in maintaining critical infrastructure and building community resilience; and

WHEREAS, there is currently insufficient information, technical coordination or financial assessment of the costs and mechanisms to rapidly retrofit and redesign local energy systems to enable them to be more resilient to a range of potential disruptive events, such as extreme weather, terrorism, and energy price escalation; and

WHEREAS, the United States has seen 290 separate billion-dollar-plus weather and climate disasters since 1980, including 14 in 2019 and 22 in 2020, with a cumulative cost exceeding $1.9 trillion (CPI-adjusted) and a total death toll of 14,492;[4] and

WHEREAS, in 2005 Hurricane Katrina led to 1,833 deaths and more than $167.5 billion (CPI-adjusted) in losses, and a subsequent $120 billion in supplemental disaster assistance and in 2012 Hurricane Sandy led to 159 deaths and more than $73.5 billion in damages (CPI-adjusted), and a subsequent $60.4 billion in supplemental disaster assistance;[5] and

WHEREAS, in 2017 three Category 4 hurricanes made landfall in the U.S. totaling more than $275 billion (CPI-adjusted) in damages and a death toll of 3,167, including 2,981 from Hurricane Maria, which made landfall in Puerto Rico;[6] and

WHEREAS, in 2019 historic flooding hit the Midwest and southern plains significantly affecting agriculture, roads, bridges, levees, dams and other infrastructure, assets and industries, resulting in 12 deaths and $20.3 billion (CPI-adjusted) in economic costs;[7] and

WHEREAS, 2020 sets the new annual record of 22 billion-dollar-plus weather or climate events – shattering the previous annual record of 16 events that occurred in 2011 and 2017, and is the sixth consecutive year (2015-2020) in which 10 or more billion-dollar weather and climate disaster events have impacted the United States;[8] and

WHEREAS, rising temperatures are lengthening the wildfire season, causing more radical fire behavior and increasing wildfire risks throughout the Western United States due to earlier snow

[4] National Climate Data Center, National Oceanic and Atmospheric Administration, *available at:* https://www.ncdc.noaa.gov/billions/events/US/1980-2020
[5] National Climate Data Center, National Oceanic and Atmospheric Administration, *available at:* https://www.ncdc.noaa.gov/billions/events/US/1980-2018
[6] National Climate Data Center, National Oceanic and Atmospheric Administration, *available at:* https://www.ncdc.noaa.gov/billions/events/US/1980-2018
[7] National Climate Data Center, National Oceanic and Atmospheric Administration, *available at:* https://www.ncdc.noaa.gov/billions/events/US/2019
[8] "Billion-Dollar Weather and Climate Disasters: Overview," National Climate Data Center, National Oceanic and Atmospheric Administration, *available at: https://www.ncdc.noaa.gov/billions/overview*

melts and forests that are drier longer,[9] the costs of putting out wildfires has increased dramatically, from $571 million in 1985 to over $2.2 billion in 2020[10] (2020 dollars[11]), and the economic losses associated with wildfire continues to grow, with the 2018 western wildfires costing over $24.5 billion (CPI-adjusted)[12] and the 2020 western wildfires, the most active fire season on record, costing over $16.6 billion (CPI-adjusted);[13] and

WHEREAS, Congress approved over $62 billion in disaster relief in FY20;[14] and

WHEREAS, 2020 was the second warmest year on record behind 2016 (warmest), followed by 2019 (third warmest), 2015 (fourth warmest), 2017 (fifth warmest) and 2018 (sixth warmest);[15] and

WHEREAS, as extreme weather events become more common, local governments in all geographic and climatic regions require resources to assist them in anticipating, preparing for and adapting to these events; and

WHEREAS, a preparedness response fund would provide financial assistance to accelerate the development of adaptive success models and provide a far-reaching damage prevention initiative that would help reduce the ultimate financial pressure on the federal government; and

WHEREAS, local governments are first responders – preparing in advance of emergency situations, offering immediate assistance to those impacted, and identifying strategies, solutions, and partnerships to address situations quickly and efficiently; and

WHEREAS, firefighters and other local essential personnel, who risk their lives responding to natural disasters and extreme weather events, are put at even greater risk of contracting coronavirus as they respond to emergency situations; and

WHEREAS, taking action now to adapt to a changing environment and create community resilience will help save lives, strengthen local economies, save taxpayer dollars and build preparedness for future events; and

[9] Infographic: Western Wildfires and Climate Change, Union of Concerned Scientists, *available at:* http://www.ucsusa.org/global_warming/science_and_impacts/impacts/infographic-wildfires-climate-change.html
[10] Federal Firefighting Costs (Suppression Only), National Interagency Fire Center, *available at:* https://www.nifc.gov/fire-information/statistics/suppression-costs
[11] CPI Inflation Calculator, Bureau of Labor Statistics, U.S. Department of Labor, *available at:* http://www.bls.gov/data/inflation_calculator.htm
[12] "Assessing the U.S. Climate in 2018," National Centers for Environmental Information, National Oceanic and Atmospheric Administration, *available at:* https://www.ncei.noaa.gov/news/national-climate-201812
[13] "Billion-Dollar Weather and Climate Disasters: Overview," National Climate Data Center, National Oceanic and Atmospheric Administration, *available at: https://www.ncdc.noaa.gov/billions/overview*
[14] The Disaster Relief Fund: Overview and Issues, Congressional Research Service (Nov. 13, 2020), *available at:* https://fas.org/sgp/crs/homesec/R45484.pdf
[15] National Oceanic and Atmospheric Administration (Jan. 14, 2021), *available at:* https://www.noaa.gov/news/2020-was-earth-s-2nd-hottest-year-just-behind-2016

WHEREAS, in 2014 the President's Task Force on Climate Preparedness and Resilience, comprised of state, local and tribal leaders, including representatives from the National League of Cities (NLC) made recommendations to the President on ways the federal government can assist local efforts to address and prepare for the impacts of climate change.

NOW, THEREFORE, BE IT RESOLVED that NLC calls on Congress and the Administration to partner with local governments and to support local action on climate change adaptation and resilience; and

BE IT FURTHER RESOLVED that NLC urges Congress and the Administration to take urgent action to help states and local governments conduct vulnerability assessments, develop and implement long-term mitigation, adaptation and resiliency action plans, and identify innovative financing opportunities to implement these assessments and plans in order to prepare, plan for and more quickly recover from extreme weather events; and

BE IT FURTHER RESOLVED that NLC calls on Congress and the Administration to recognize the unique risks and opportunities communities face and to offer customized tools and incentives to local governments to encourage communities to plan for and rapidly respond to the effects of climate change and extreme weather; and

BE IT FURTHER RESOLVED that NLC urges the federal government to develop a national strategy to assist communities in integrating the risks of climate change and extreme weather events into emergency management planning and responses to identify and quantify the economic value of regional infrastructure at risk under different scenarios; and

BE IT FURTHER RESOLVED that NLC urges the federal government to work with state and local governments, the insurance industry, and other stakeholders to develop an incentive-based disaster insurance and mitigation system that would encourage property owners to retrofit existing structures to reduce future losses from natural disasters; and

BE IT FURTHER RESOLVED that returning to the status quo is not sufficient in meeting the challenges of climate change and inequities in our society; and

BE IT FURTHER RESOLVED that NLC calls on the federal government to outline strategies and actions to reduce the vulnerability of federal programs to the impacts of climate change and extreme weather; and

BE IT FURTHER RESOLVED that NLC calls on the federal government to better align federal funding with local preparedness and resilience-building efforts; and

BE IT FURTHER RESOLVED that NLC calls on Congress to fully fund grant programs that help local governments prepare, respond and recover from climate change and extreme weather events and establish a preparedness and response fund to support local governments that are at the forefront of developing adaptive solutions; and

BE IT FURTHER RESOLVED that NLC urges the federal government to develop grant and technical assistance programs to enable communities to develop community energy transition plans that ensure the capability of cities to maintain critical energy and infrastructure during disruptions to local, regional or national energy infrastructure; and

BE IT FURTHER RESOLVED that NLC urges the federal government to develop a national pilot project initiative to conduct detailed assessments and designs for resilient city energy system retrofit and redesign across a range of different regions and city sizes; and

BE IT FURTHER RESOLVED that federal investments in communities must prioritize those communities that have been left behind and BIPOC communities, which have been disproportionately impacted by the effects of climate change and COVID-19.

NLC RESOLUTION #11

SUPPORTING URGENT ACTION TO REDUCE CARBON EMISSIONS AND MITIGATE THE EFFECTS OF CLIMATE CHANGE

WHEREAS, climate change mitigation is a global problem that demands a global solution; and

WHEREAS, the Fourth National Climate Assessment reports that current evidence of climate change appears in every region and impacts are currently visible in every state, and concludes that the evidence of human-induced climate change continues to strengthen;[1] and

WHEREAS, a report by the Intergovernmental Panel on Climate Change (IPCC) indicates that limiting global warming to 1.5° C is necessary to avoid the worst impacts of climate change;[2] and

WHEREAS, extreme heat will have more serious health consequences on people living in low-income communities, communities of color, and tribal communities, and people in these communities have been disproportionately impacted by coronavirus and high rates of underlying health conditions, both of which can be exacerbated by extreme heat; and

WHEREAS, according to the American Lung Association's 2021 State of the Air report, more than 40 percent or 135 million people live in counties with unhealthy air, which is especially concerning as research shows that people with long-term exposure to air pollution are more likely to die from COVID-19[3]; and

WHEREAS, while some impacts of climate change are inevitable, sharp reductions in greenhouse gas emissions will reduce the severity of the impacts and limit the rate of climate change; and

WHEREAS, in order to meet the carbon emissions reductions goals necessary to help mitigate the effects of climate change on communities, improving energy efficiency, increasing energy conservation and deploying renewable energy systems will be essential at the local, state and federal levels; and

WHEREAS, improving energy efficiency, increasing energy conservation and deploying renewable energy systems will save taxpayer dollars, boost the national and local economy, enhance national security, increase our nation's energy independence, and improve environmental quality; and

[1] National Climate Assessment (Volume I, 2017; Volume II, 2018), *available at:* https://nca2018.globalchange.gov/
[2] "Special Report on Global Warming of 1.5°C," Intergovernmental Panel on Climate Change, (Oct. 2018), *available at:* https://www.ipcc.ch/sr15/
[3] "State of the Air," American Lung Association (2021), *available at:* https://www.lung.org/research/sota/key-findings

WHEREAS, technology exists and continues to be developed that will help families, businesses and communities reduce energy use, but without standards to encourage adoption of new technology, many of these technology options will be unavailable or unaffordable; and

WHEREAS, the transportation sector generates the largest share of greenhouse gas emissions, 29 percent of 2019 greenhouse gas emissions, in the United States;[4] and

WHEREAS, buildings account for nearly 40 percent of the nation's energy consumption[5] and more than 70 percent of its electricity use,[6] and electricity production represents the second largest share of greenhouse gas emissions, 25 percent of 2019 greenhouse gas emissions, in the United States;[7] and

WHEREAS, indoor and outdoor lighting account for 6 percent of electricity consumed in the nation,[8] and rapid conversion to efficient lighting would result in significant greenhouse gas reductions as well as a decrease in base load energy needs; and

WHEREAS, communities large and small nationwide are laboratories of innovation and are taking action on climate mitigation, including adopting greenhouse gas reduction goals, successfully pioneering and demonstrating cost-effective clean energy solutions, and pursuing local strategies that create jobs, save energy and taxpayer dollars, and promote renewable sources; and

WHEREAS, the Energy Efficiency and Conservation Block Grant (EECBG) helped local governments undertake projects to reduce energy use, diversify energy supplies and improve air quality and the environment; and

WHEREAS, all levels of government must work to become more resilient by achieving greater energy independence based on a multi-pronged strategy of aggressively expanding renewable energy, significantly increasing energy efficiency portfolio standards, and creating new financing mechanisms; and

WHEREAS, in 2014 the President's Task Force on Climate Preparedness and Resilience, comprised of state, local and tribal leaders, including representatives from the National League of Cities (NLC), made recommendations to the President on ways the federal government can assist local efforts to address and prepare for the impacts of climate change; and

NOW, THEREFORE, BE IT RESOLVED that NLC calls on Congress and the Administration to partner with local governments, to support local action on climate change mitigation, and to

[4] Sources of Greenhouse Gas Emissions, U.S. Environmental Protection Agency, *available at:* https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions
[5] U.S. Energy Information Administration, *available at*: http://www.eia.gov/tools/faqs/faq.cfm?id=86&t=1
[6] Environmental and Energy Study Institute, Buildings and Climate Change, *available at:* http://www.eesi.org/files/climate.pdf
[7] Sources of Greenhouse Gas Emissions, U.S. Environmental Protection Agency, *available at:* https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions
[8] FAQ: How much electricity is used for lighting in the United States, U.S. Energy Information Administration, *available at:* https://www.eia.gov/tools/faqs/faq.php?id=99&t=3

provide essential tools, research, technology development, data, and funding, as well as workforce development, job training and community assistance, to help local governments achieve their greenhouse gas reduction targets and transition to a clean energy economy; and

BE IT FURTHER RESOLVED that NLC urges Congress and the Administration to take urgent action to reduce carbon emissions across a broad sector of the economy and become carbon neutral to mitigate the effects of climate change; and

BE IT FURTHER RESOLVED that NLC calls on Congress to position the U.S. as a climate leader and adopt nationwide greenhouse gas emission goals and policies that exceed the IPCC 1.5°C targets of 45% emissions reduction from 2010 levels by 2030 and net zero by 2050; and

BE IT FURTHER RESOLVED that NLC supports the U.S.'s reengagement in the Paris Climate Agreement; and

BE IT FURTHER RESOLVED that NLC supports efforts to increase the CAFE standards or fuel efficiency for all types of vehicles; and

BE IT FURTHER RESOLVED that NLC calls on Congress to pass energy efficiency and conservation legislation to incentivize energy efficiency improvements in residential and commercial buildings, schools and federal buildings located in communities; and

BE IT FURTHER RESOLVED that NLC calls on Congress to pass a national renewable portfolio standard that increases the use of carbon neutral energy and promotes energy efficiency, with the goal of at least 50 percent carbon neutral energy by 2030 and 100 percent by 2050 or sooner; and

BE IT FURTHER RESOLVED that NLC calls on Congress to pass a long-term extension of the investment tax credit and the production tax credit for renewable energy as an incentive for their development and deployment; and

BE IT FURTHER RESOLVED that NLC calls on Congress to reauthorize and fully fund the EECBG or other funding structure at the U.S. Department of Energy to further incentivize clean energy at the local level; and

BE IT FURTHER RESOLVED that federal investments in communities must prioritize those communities that have been left behind and Black, Indigenous and People of Color (BIPOC) who have been disproportionately impacted by the effects of climate change and COVID-19.

NLC RESOLUTION #12

ADDRESSING LEAD CONTAMINATION AND CALLING FOR NATIONWIDE FEDERAL SUPPORT FOR WATER INFRASTRUCTURE

WHEREAS, access to clean drinking water is fundamental to the health and well-being of America's communities and families; and

WHEREAS, Flint, Michigan, and Sebring, Ohio, are two recent examples of cities where high levels of lead have been found in the city's drinking water; and

WHEREAS, in the early 2000s, the District of Columbia experienced a similar crisis, as have many other cities; and

WHEREAS, lead has negative and long-term neurological effects, particularly in infants and children; and

WHEREAS, in Flint, the elevated blood lead level was discovered in children after the city's water source was switched to the Flint River by the state-appointed emergency manager, a decision made without coordination or consultation with local officials; and

WHEREAS, a contributing factor to the Flint, Michigan, drinking water crisis was the city's aging infrastructure and the lack of investment in infrastructure and the community; and

WHEREAS, incidents like these can undermine citizens' confidence in the safety and quality of the drinking water supply and water infrastructure of every community; and

WHEREAS, in January 2016, President Obama signed an emergency declaration in the State of Michigan, ordering federal aid to supplement state and local response efforts due to the emergency conditions caused by lead-contaminated water; and

WHEREAS, corrosion control and testing are essential to preventing lead leaching and alerting the public to potential dangers; and

WHEREAS, recent analysis by the National Resources Defense Council found that over 5,300 water systems nationwide have elevated levels of lead[1] and a recent analysis by the American Water Works Association estimates 6.1 million lead service lines remain in U.S. communities, at an estimated $30 billion to replace;[2] and

[1] "What's in your Water? Flint and Beyond," National Resource Defense Council (June 2016), *available at:* https://www.nrdc.org/sites/default/files/whats-in-your-water-flint-beyond-report.pdf
[2] "National Survey of Lead Service Line Occurrence," American Water Works Association (March 10, 2016), *available at:* http://www.awwa.org/resources-tools/public-affairs/press-room/press-release/articleid/4074/lead-service-line-analysis-examines-scope-of-challenge.aspx

WHEREAS, there is a need to invest in our aging water infrastructure nationwide and a failure to do so can have negative public health consequences; and

WHEREAS, the U.S. Environmental Protection Agency (EPA) estimates the nation's water infrastructure capital needs over the next 20 years to be approximately $743 billion in total,[3] the American Society for Civil Engineers estimates that over the next 20 years, the cumulative water and wastewater capital investment need will soar to $3.27 trillion and the cumulative capital investment gap will total $2.2 trillion,[4] and other estimates put the cost at more than $4 trillion to maintain and build a 21st century water system.

NOW, THEREFORE, BE IT RESOLVED that local planning and infrastructure decisions, including those related to clean drinking water, should not be preempted and should be made by locally elected leaders in coordination with state and federal officials; and

BE IT FURTHER RESOLVED that the National League of Cities (NLC) calls on Congress to provide direct assistance to the City of Flint, Michigan, and for EPA and the federal government to work directly with local officials, for as long as necessary, to resolve the drinking water crisis through the provision of safe drinking water and to support economic recovery; and

BE IT FURTHER RESOLVED that NLC calls on Congress and the Administration to provide long-term support for the families affected by lead drinking water contamination in Flint and nationwide, including in the areas of education and mental health; and

BE IT FURTHER RESOLVED that NLC calls on Congress and the Administration to support robust funding for all water infrastructure financing mechanisms, including the Clean Water and Drinking Water State Revolving Loan Fund programs and the Water Infrastructure Finance and Innovation Act (WIFIA); and

BE IT FURTHER RESOLVED that NLC calls on Congress and the Administration to support other mechanisms of infrastructure financing, including protecting the tax-exempt status of municipal bonds and reinstating the tax exemption for advance refunding bonds; and

BE IT FURTHER RESOLVED that NLC calls on Congress and the Administration to support grants to local governments, as well as school systems and daycare centers, for the replacement of lead service lines, testing, planning, corrosion control, and public education campaigns, and to assist small and disadvantaged communities in complying with the Safe Drinking Water Act.

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[3] "Clean Watershed Needs Survey," U.S. Environmental Protection Agency, (Jan. 2016), *available at:* https://www.epa.gov/cwns and "Drinking Water Needs Survey," U.S. Environmental Protection Agency, (March 2018), *available at:* https://www.epa.gov/dwsrf/epas-6th-drinking-water-infrastructure-needs-survey-and-assessment

"The Economic Benefits of Investing in Water Infrastructure," Value of Water Campaign and American Society of Civil Engineers (Nov. 2020), *available at:* http://www.uswateralliance.org/sites/uswateralliance.org/files/publications/The%20Economic%20Benefits%20of%20Investing%20in%20Water%20Infrastructure_final.pdf [1] 2019 *Infrastructure Report Card,* American Society of Civil Engineers, *available at:* https://www.infrastructurereportcard.org/cat-item/drinking-water/

NLC RESOLUTION #13

INCREASE FEDERAL INVESTMENT IN WATER INFRASTRUCTURE

WHEREAS, the nation's water infrastructure systems, both built and natural, are significant assets that protect public health and the nation's water resources and well-maintained systems are essential to our citizens' general welfare and the nation's prosperity; and

WHEREAS, with much of our nation's physical water infrastructure built in the post-World War II period – and some of it more than 100 years old – there are an estimated 240,000 water main breaks each year;[1] and

WHEREAS, cities and towns nationwide are finding that decentralized water solutions such as water use efficiency measures and green stormwater installations can effectively and affordably serve many of the same functions as conventional water infrastructure and can supplement and extend their existing centralized systems;[2] and

WHEREAS, federal loan and grant assistance to cities and local governments to assist in maintaining and upgrading water infrastructure systems has continued to decline in real dollars over the past decades[3]; and

WHEREAS, local governments are responsible for the vast majority of investment in water and sewer infrastructure, investing over $1.7 trillion between 1956-2010[4] (not adjusted for inflation) and over $134 billion in 2019 alone;[5] and

WHEREAS, tax-exempt municipal bonds are the primary funding mechanism for state and local government infrastructure projects with three-quarters of the total United States investment in infrastructure being accomplished with tax-exempt financing; and

WHEREAS, an economic analysis by the American Society of Civil Engineers shows a water-related infrastructure investment gap of $434 billion over 10 years for drinking water, wastewater, and stormwater combined;[6] and

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[1] 2019 *Infrastructure Report Card,* American Society of Civil Engineers, *available at:* https://www.infrastructurereportcard.org/cat-item/drinking-water/

[2] Koehler, Cynthia and Caroline Koch, Public Water Utilities Deploy 21st Century Water Infrastructure to Build a Resilient Future (2019), *available at:* https://tapin.waternow.org/resources/innovation-in-action-21st-century-water-infrastructure-solutions/

[3] *Federal Investment, 1962-2018,* Congressional Budget Office (June 2019), *available at:* https://www.cbo.gov/system/files/2019-06/55375-Federal_Investment.pdf

[4] Anderson, Richard F., *Growth in Local Government Spending on Public Water and Wastewater – But How Much Progress Can American Households Afford?* The U.S. Conference of Mayors (April. 2013), *available at:* http://www.circleofblue.org/wp-content/uploads/2013/06/USMayors_Growth-in-Local-Government-Spending-on-Water-and-Wastewater.pdf

[5] *2019 Annual Surveys of State and Local Government Finances,* U.S. Census Bureau (October, 2021), *available at:* https://www.census.gov/programs-surveys/gov-finances.html

[6] 2019 *Infrastructure Report Card,* American Society of Civil Engineers, *available at:* http://www.infrastructurereportcard.org/

WHEREAS, this funding gap does not include anticipated expenditures to comply with new Clean Water Act and Safe Drinking Water Act mandates, consent decrees, new responsibilities and costs relating to water security and source water protection, additional needs for re-use of treated effluent, or impacts due to climate change; and

WHEREAS, municipal resources dedicated to water infrastructure are currently overwhelmingly directed to comply with new complex federal mandates and are therefore unavailable for critical maintenance, repair, and rehabilitation needs; and

WHEREAS, public-private partnerships can provide options for communities to access sources of private capital to meet water infrastructure needs, but are not a viable for all communities or all types of projects; and

WHEREAS, private activity bonds or tax-exempt facility bonds are a form of tax-exempt financing that can be used for water infrastructure projects that utilize private capital instead of public debt and shift the risk and long-term obligation from the municipality to the private equity partner; and

WHEREAS, Congress provides to states a capped annual allocation ("volume cap") of tax-exempt bonds, based on population, but historically, most of the tax-exempt bonds are issued to short-term projects such as housing and education loans; and

WHEREAS, Congress has previously enacted legislation eliminating the state volume cap for such municipal infrastructure projects such as airports, landfills, and ports; and

WHEREAS, eliminating the state volume cap is estimated to make available $5-6 billion in private capital for water projects, while the cost in foregone revenue to the federal government is nominal.[7]

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) continues to urge Congress and the Administration to reverse the decline in federal financial participation in funding municipal water infrastructure needs by developing a financial option that strikes the right balance between local responsibility and federal assistance; and

BE IT FURTHER RESOLVED that NLC calls on Congress and the Administration to support robust funding for water infrastructure financing through the Clean Water and Drinking Water State Revolving Loan Fund programs and to reauthorize the programs; and

BE IT FURTHER RESOLVED that Congress should provide full appropriation to the Water Infrastructure Finance and Innovation Act (WIFIA) for loans and loan guarantees for water infrastructure projects; and

BE IT FURTHER RESOLVED that Congress should provide funding to local governments through grant programs such as for sewer overflow and stormwater management, lead pipe

[7] Testimony of Stephen L. Johnson, Administrator, U.S. Environmental Protection Agency, before the Senate Appropriations Committee, March 4, 2008.

replacement, water infrastructure resilience/sustainability to protect and reduce risk to extreme weather events, new/emerging technologies for cybersecurity improvements and water efficiency, workforce development in the water sector, and other programs; and

BE IT FURTHER RESOLVED that Congress should exempt from federal taxation rebates issued to consumers by local governments to pay for consumer-installed decentralized water infrastructure that benefits their communities; and

BE IT FURTHER RESOLVED that NLC supports legislation removing the federal volume cap on tax-exempt bonds for water and wastewater infrastructure projects; and

BE IT FURTHER RESOLVED that NLC calls on Congress and the Administration to support other mechanisms of infrastructure financing, including protecting the tax-exempt status of municipal bonds and reinstating the tax exemption for advance refunding bonds; and

BE IT FURTHER RESOLVED that Congress and the Administration should enact new legislation which provides adequate and reliable long-term funding for municipal water infrastructure needs to help close the funding gap.

NLC RESOLUTION #14

SUPPORT FOR INTEGRATED PLANNING AND NEW AFFORDABILITY CONSIDERATION FOR WATER

WHEREAS, in 2012 the U.S. Environmental Protection Agency (EPA) issued its *Integrated Municipal Stormwater and Wastewater Planning Approach Framework* ("Integrated Planning Framework"), which was intended to help local governments seek more efficient and affordable solutions to stormwater and wastewater issues and meet the requirements of the Clean Water Act (CWA) in a more flexible, affordable, and cost-effective manner; and

WHEREAS, in 2014 EPA issued its *Financial Capability Assessment Framework for Municipal Clean Water Act Requirements* ("Financial Capability Framework"), which allows the consideration of additional information, such as socio-economic factors, in determining the financial capability of residents and a community when developing compliance schedules for municipal projects necessary to meet CWA obligations; and

WHEREAS, these two policy frameworks demonstrate an awareness by EPA of the challenges local governments face in meeting CWA requirements, as well as the conflicts they face in balancing environmental protection with economic feasibility; and

WHEREAS, at a time where local financial resources are increasingly limited and the ability of local governments to raise revenue is also limited, local governments are facing costly unfunded federal and state regulatory requirements forcing them to make tough decisions about the services and maintenance that they can afford; and

WHEREAS, proposed federal budget cuts to critical local programs would further reduce the ability of cities and towns to meet the everyday needs of their community; and

WHEREAS, local water and sewer rates and stormwater fees are rapidly becoming unaffordable for many fixed- and low-income citizens, placing a disproportionate financial burden on these vulnerable populations who live at or below the poverty level; and

WHEREAS, the current reliance on two percent of median household income for wastewater and combined sewer overflows controls is a misleading indicator of a community's ability to pay, and often places a particularly high burden on residents at the lower end of the economic scale; and

WHEREAS, green infrastructure, such as constructed swales, wetlands, green roofs, infiltration planters, rain gardens, cisterns, and enhanced floodplains and riparian buffers, augmented by permeable pavers, rain barrels, and trees, is a valuable part of water infrastructure systems and provides a multitude of community benefits such as helping local governments manage runoff, extending the life of local infrastructure, saving the city and taxpayers money, providing outdoor recreation opportunities through parks and green spaces and promoting the joint use of city and school facilities, and serve as an economic development tool; and

WHEREAS, National Pollutant Discharge Elimination System (NPDES) permits are increasingly stringent, the treatment technologies and approaches necessary to meet permit limits have become exceedingly expensive and time-intensive to implement, and project construction timelines for clean water infrastructure projects can extend more than a decade.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) calls on EPA to work with local governments to develop local integrated plans through the permit process to comprehensively and collectively manage wastewater and stormwater needs, prioritize investments in wet weather overflows and flooding, incorporate green infrastructure components, and to ease the burden of unfunded mandates; and

BE IT FURTHER RESOLVED that NLC calls on EPA to share integrated planning best management practices, including those that take a regional watershed approach, from across the country with all communities that are interested in pursuing an integrated planning approach; and

BE IT FURTHER RESOLVED that NLC calls on Congress to modernize the NPDES permitting process to approve legislation to allow states with delegated authority to administer the NPDES permitting program to issue permits of up to ten years; and

BE IT FURTHER RESOLVED that NLC calls on EPA to work with local governments to revise the "Combined Sewer Overflows—Guidance for Financial Capability Assessment and Schedule Development" (Feb. 1997) to eliminate reliance on median household income as the critical metric for determining investment level and to allow for the consideration of additional information, such as socio-economic factors, consistent with the Agency's 2014 Financial Capability Framework; and

BE IT FURTHER RESOLVED that NLC calls on the federal government to explore options for providing ratepayer assistance, such as through a consumer assistance program modeled on the Low Income Home Energy Assistance Program.

NLC RESOLUTION #15

CALLING ON THE FEDERAL GOVERNMENT TO TAKE ACTION TO ADDRESS PFAS CONTAMINATION

WHEREAS, Per- and polyfluoroalkyl substances (PFAS) are a class of nearly 5,000 man-made chemicals that includes PFOA, PFOS, PFBS and GenX manufactured and used in a variety of industries; and

WHEREAS, PFAS chemicals are known as "forever" chemicals because they are persistent in the environment and in the human body; and

WHEREAS, PFAS chemicals have been known to cause adverse health outcomes in humans including effects on prenatal development, low infant birth weights, early onset of puberty, negative effect on the immune system, cancer, liver damage, and thyroid disruption[1]; and

WHEREAS, while science predicts that the entire class of PFAS chemical may be associated with adverse health effects and many such chemicals are in industrial and commercial use, only a small fraction of these chemicals have been investigated sufficiently to establish quantitative measures of toxicity; and

WHEREAS, in 2016 the U.S. Environmental Protection Agency (EPA) established a lifetime exposure health advisory level of 70 parts per trillion for the combined concentration of PFOA and PFOS in drinking water;[2] and

WHEREAS, in 2018 the U.S. Department of Health and Human Services Agency for Toxic Substances and Disease Registry released a draft report warning that PFAS chemicals could pose a health risk at levels lower than currently recommended by the EPA;[3] and

WHEREAS, in 2019 EPA announced a comprehensive nationwide action plan for addressing PFAS, including identifying both short-term solutions for addressing these chemicals and long-term strategies that will help states, tribes and local communities provide clean and safe drinking water to residents and address PFAS at the source – before it gets into the water;[4] and

WHEREAS, in February 2020 EPA issued a proposed regulatory determination to regulate PFOS and PFOA, the first step in the regulatory process of setting a Maximum Contaminant Level under the Safe Drinking Water Act; and

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[1] Fact Sheet: PFOA & PFOS Drinking Water Health Advisories, U.S. Environmental Protection Agency (Nov. 2016); *available at:* https://www.epa.gov/sites/production/files/2016-06/documents/drinkingwaterhealthadvisories_pfoa_pfos_updated_5.31.16.pdf

[2] Ibid

[3] Toxicological Profile for Perfluoroalkyls, Draft for Public Comment, U.S. Department of Health and Human Services, Agency for Toxic Substances and Disease Registry (June 2018); *available at:* https://www.atsdr.cdc.gov/toxprofiles/tp200.pdf

[4] EPA's Per- and Polyfluoroalkyl Substances (PFAS) Action Plan, U.S. Environmental Protection Agency (Feb. 2019); *available at:* https://www.epa.gov/sites/production/files/2019-02/documents/pfas_action_plan_021319_508compliant_1.pdf

WHEREAS, there are significant technical challenges in detecting and measuring PFAS in water and other environmental media at the levels where health effects can occur, and analytical methodologies are still under development or are not yet generally available; and

WHEREAS, the Environmental Working Group and the Social Science Environmental Health Research Institute at Northeastern University updated an interactive map of known contamination of communities from PFAS; and

WHEREAS, as of March 2019, the interactive map shows at least 610 locations in 43 states are known to be contaminated, including drinking water systems serving an estimated 19 million people;[5] and

WHEREAS, in February 2019, EPA and United States Geological Survey scientists published results on analysis for 17 PFAS compounds in water samples from 25 public drinking water supplies in 24 states (locations confidential) that detected PFAS in every sample tested, suggesting that PFAS is ubiquitous in our water;[6] and

WHEREAS, PFAS chemicals were widely used in firefighting foams, particularly for airports, and were used in frequent training exercises at military air bases; and

WHEREAS, PFAS chemicals were required in firefighting foams used at airports to meet federal performance standards for extinguishing agents, but currently the Federal Aviation Administration is updating its standards to allow for a non-fluorinated option for airports; and

WHEREAS, the U.S. Department of Defense has ended its use of the foam in training exercises; and

WHEREAS, PFAS contamination is found at and around military bases, airports, manufacturing sites, landfills, and in local water supplies obtained from both rivers and groundwater; and

WHEREAS, local governments are responsible for protecting the health, safety and welfare of residents, including providing clean and safe water; and

WHEREAS, while treatment technology for removing PFAS from water is not well-developed, the more effective methods use technologies that are not conventionally available in existing water treatment plants, so removing these PFAS chemicals from water could require costly investments by local governments and other local water suppliers, which would be passed onto ratepayers; and

WHEREAS, local governments are owners and operators of airports and landfills and employ firefighters, some of whom may have been exposed to PFAS chemicals on the job through

[5] *EWG: PFAS Chemicals Must be Regulated as a Class, Not One by One* (May 6, 2019), *available at:* https://www.ewg.org/release/mapping-pfas-contamination-crisis-new-data-show-610-sites-43-states

[6] "Per- and polyfluoroalkyl substances in source and treated drinking waters of the United States," Science of the Total Environment, Volume 653 (February 25, 2019), pages 359-369, *available at:* https://www.sciencedirect.com/science/article/pii/S004896971834141X

inhalation or skin absorption, and therefore present a pension and liability concern for local budgets; and

WHEREAS, PFAS contamination not only poses health risks, but also economic impacts on communities, including in the agriculture and fishing industries by contamination of food sources; and

WHEREAS, a number of states have adopted PFAS policies pertaining to prohibiting use, monitoring and reporting, cleanup, health studies, testing, liability provisions, and contamination limits, including Michigan, New Jersey and Vermont that have set maximum contamination levels lower than EPA health advisory levels;[7] and

WHEREAS, a number of bills have been introduced in both the U.S. House of Representatives and U.S. Senate to survey, regulate, mitigate and phaseout the use of PFAS.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) calls on Congress and the Administration to holistically examine PFAS contamination and to take comprehensive action to address the problem, including through nationwide testing, monitoring, mapping, public education, and water supply treatment; and

BE IT FURTHER RESOLVED that NLC calls on the federal government to ensure that the parties responsible for PFAS contamination, including the federal government but excluding local governments, are held fully liable for costs of cleanup and mitigation and to ensure that sites are cleaned up in a timely manner and to standards sufficiently stringent to permit reuse of the site and to obviate the need for additional cleanup and mitigation costs by affected local governments; and

BE IT FURTHER RESOLVED that local governments, including municipal airports and fire departments, were required by federal law to use firefighting foam containing PFAS chemicals, and therefore should not be held liable for PFAS contamination or cleanup costs; and

BE IT FURTHER RESOLVED that local governments, including drinking water and wastewater utilities and municipal landfills, serve as receivers of PFAS chemicals and did not cause or contribute to contamination, and therefore should not be held liable for PFAS contamination or cleanup costs; and

BE IT FURTHER RESOLVED that NLC calls on the federal government to accelerate research and technology development to advance the science needed to understand the health consequences of exposure to PFAS chemicals, detect and measure PFAS chemicals in water and other environmental media, treat water supplies to remove these substances, and find safe substitutes for PFAS chemicals; and

BE IT FURTHER RESOLVED that NLC calls on the federal government to set drinking water standards, including for PFAS chemicals, based on sound science, public health protection,

[7] States Forge Ahead with PFAS Regulations, PoliticoPro Datapoint on Energy (Feb. 28, 2019)

occurrence of the contaminant in drinking water supplies at levels of public health concern, risk reduction and cost; and

BE IT FURTHER RESOLVED that NLC calls for the federal government to avoid passing costs onto local ratepayers and to provide financial and technical assistance to communities for testing, monitoring, mapping, public education, water supply treatment, and pursuit of alternative water supplies if necessary; and

BE IT FURTHER RESOLVED that NLC calls on the federal government to prevent further exposure to PFAS through multiple means, including promoting and funding the development and use of firefighting alternatives and the phasing out the use of PFAS; and

BE IT FURTHER RESOLVED that the federal government should thoroughly study and test alternative PFAS and other long-chain chemicals before they are put into circulation to make sure they are safe; and

BE IT FURTHER RESOLVED that NLC should update the "Assessing the State Firefighter Cancer Presumption Laws and Current Cancer Firefighter Cancer Research" that it conducted in 2009 to determine what linkages there are between firefighting and an elevated incidence of cancer.

NLC RESOLUTION #16

IMPROVE THE BENEFIT-COST ANALYSIS FOR FEDERALLY FUNDED FLOOD CONTROL PROJECTS AND SUPPORTING BENEFICIAL REUSE OF DREDGED MATERIAL

WHEREAS, the U.S. Army Corps of Engineers (Army Corps) at the U.S. Department of Defense has responsibilities for development and maintenance of waterways and harbors and for other water resource projects across the nation, and is the primary federal agency associated with the design and construction of flood damage reduction projects across the country; and

WHEREAS, the White House Office of Management and Budget (OMB) works with the Army Corps to determine what water resource projects are funded with the budget allocation for the Army Corps enacted by Congress each year; and

WHEREAS, the Army Corps and OMB rely heavily on a benefit-cost analysis to determine which projects receive federal funding each year; and

WHEREAS, since Congress traditionally provides the Army Corps with far fewer resources than are necessary to fund the significant backlog of projects under their jurisdiction, the benefit-cost analysis has become a de facto filter for the Army Corps and OMB; and

WHEREAS, as a result, projects that have a benefit-cost ratio below a certain level are often not considered for funding at all; and

WHEREAS, the current system used by the Army Corps for determining benefit-cost ratios is narrowly focused on traditional economic and financial costs and benefits, largely overlooking environmental costs and benefits, social equity and potential for secondary benefits of interest to local communities; and

WHEREAS, the current system used by the Army Corps for determining benefit-cost ratios does not effectively reflect the potential value of projects for low-income communities, including the benefits of replacement of structures that protect low-income, low-cost of living communities; and

WHEREAS, the current system used by the Army Corps for determining benefit-cost ratios does not adequately consider the impacts of the loss of a community's livelihood associated with agricultural land; and

WHEREAS, the current system used by the Army Corps for determining benefit-cost ratio at the U.S. Army Corps of Engineers does not consider the value of federal lands; and

WHEREAS, dredged materials produced from Army Corps waterway and harbor maintenance activities may be suitable for beneficial reuse, but often are disposed as waste; and

WHEREAS, there is a lack of sediment available for the habitat restoration and flood protection needed along our coasts and waterways.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) calls on the U.S. Army Corps of Engineers and the White House Office of Management and Budget to revise the benefit-cost analysis system used for projects to reflect the values of the nation to protect communities from flooding in ways that are environmentally protective and foster social equity;

BE IT FURTHER RESOLVED that NLC calls on the Army Corps and OMB to add a quantitative indexed value to life and safety to determine the benefit of federal investments in flood control projects; and

BE IT FURTHER RESOLVED that NLC calls on the Army Corps and OMB to add a quantitative indexed value to agricultural land value and the impacts of crop flooding to determine the benefit of federal investments in flood control projects; and

BE IT FURTHER RESOLVED that NLC calls on the Army Corps and OMB to add a quantitative indexed value to protection of low-income communities and environmental benefits to determine the benefit of federal investments in water resources projects, including projects for flood control; and

BE IT FURTHER RESOLVED that NLC calls on the Army Corps and OMB to add a quantitative indexed value to potential benefits of projects on federal properties, as well as benefits to military readiness when developing coastal storm protection projects in the adjacent community;

BE IT FURTHER RESOLVED that NLC calls on the Army Corps to increase the quantity of dredged materials put to environmentally beneficial uses, especially related to marsh restoration and sea level rise protection, by allowing a national beneficial reuse policy that considers dredged materials to be a potential resource (instead of a waste product) and establishes a realistic economic value of environmentally-suitable dredged material that takes into account its use for storm or flood risk reduction and habitat restoration; and

BE IT FURTHER RESOLVED that the cost of offshore disposal of dredged materials should include the full future economic value of that sediment that would be lost if it is deposited offshore.

NLC RESOLUTION #17

INCREASE FUNDING FOR BORDER WATER INFRASTRUCTURE PROJECTS

WHEREAS, international transboundary rivers on the southern border of the United States are a major source of sewage, trash, chemicals, heavy metals and toxins; and

WHEREAS, transboundary flows threaten the health of 18 million residents in the United States and Mexico, harm important estuarine land and water of international significance, force closure of beaches, damage farmland, compromise border security, and directly affect U.S. military readiness; and

WHEREAS, a significant amount of untreated sewage, sediment, hazardous chemicals and trash have entered United States waters, via the Tijuana and New Rivers in southern California, the Santa Cruz and San Pedro Rivers in Arizona and the Rio Grande in Texas, eventually draining into coastal waterways, waterbodies and inland waters, such as the Salton Sea; and

WHEREAS, the presence of pollution on state and federal public lands is creating unsafe conditions for visitors and residents—these lands are taxpayer supported and intended to be managed for recreation, resource conservation and the enjoyment by the public, and

WHEREAS, the current insufficient and degrading infrastructure in the border zone poses a significant risk to the public health and safety of residents and the environment on both sides of the border, and places the economic stress on cities that are struggling to mitigate the negative impacts of pollution; and

WHEREAS, the 1944 treaty between the United States and Mexico regarding *Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande* allocates flows on transborder rivers between Mexico and the United States, and provides that the nations, through their respective sections of the International Boundary Water Commission shall give control of sanitation in cross border flows the highest priority; and

WHEREAS, in 1993, the United States and Mexico entered into the *Agreement Between the Government of the United States of America and the Government of the United Mexican States Concerning the Establishment of a North American Development Bank* which created the North American Development Bank (NADB) to certify and fund environmental infrastructure projects in border-area communities; and

WHEREAS, on November 30, 2018 the United States, Mexico and Canada entered into the *Agreement Between The United States of America, The United Mexican States, And Canada* to replace the *North American Free Trade Agreement*, and on December 10, 2019 the United States, Mexico and Canada agreed to a protocol of amendment to the U.S.-Mexico-Canada Agreement (USMCA), which became effective in the United States on January 29, 2020; and

WHEREAS, the implementing language of USMCA authorizes and allocates funding for grants under the U.S.-Mexico Border Water Infrastructure Program (BWIP), the Trade Enforcement Trust Fund and recapitalization of the NADB; and

WHEREAS, the funding package included $300 million to be available to address the problem of toxic sewage flowing from the Tijuana River watershed; and

WHEREAS, the increase in commerce and traffic across the border has resulted in economic benefits for both the U.S. and Mexico; and

WHEREAS, the ease of trade and commerce has resulted in increased vehicle and factory emissions, which negatively impact the water quality, land quality and air quality of the areas along the southern border; and

WHEREAS, border communities need modernized and innovative water infrastructure to provide clean and sanitary drinking water to improve the quality of living and support the expanding communities; and

WHEREAS, the adverse environmental impact will worsen existing environmental issues and the strain on aging infrastructure, while also creating new environmental issues in the future; and

WHEREAS, the widespread threat to public health and safety, damage to fish and wildlife resources and degradation to the environment caused by transboundary pollution in the border states requires urgent action by the federal and state governments; and

WHEREAS, Congress authorized funding under the Safe Drinking Water Act and established the State and Tribal Assistance Grants (STAG) program for the U.S.-Mexico Border Water Infrastructure Program in 1996 to provide grants for high-priority water, wastewater, and stormwater infrastructure projects within 100 kilometers of the southern border; and

WHEREAS, the EPA administers the STAG and BWIP, and coordinates with the NADB to allocate BWIP grant funds to projects in the border zone; and

WHEREAS, since its inception, the BWIP has provided funding for projects in California, Arizona, New Mexico and Texas that would not have been constructed without the grant program; and

WHEREAS, the BWIP program was initially funded at $100 million per year, but, over the last 20 years, the program has been significantly reduced to $15 million in FY19 and $25 million in FY20; and

WHEREAS, in its FY 2021 Budget Request, the Administration proposed to eliminate the BWIP program and recommends that state revolving funds be used as a source of infrastructure funding; and

WHEREAS, officials from EPA Region 6 and 9 identified a multitude of BWIP-eligible projects along the southern border totaling over $300 million; and

WHEREAS, Mexico has identified multiple projects totaling hundreds of millions of dollars that would benefit from BWIP funding; and

WHEREAS, without federal partnership through the BWIP and state support to address pollution, cities that are impacted by transboundary sewage and toxic waste flows are left with limited resources to address a critical pollution and public health issue and limited legal remedies to address the problem; and

WHEREAS, Mexico benefits from the bi-national funding program and relies on the North American Development Bank to assist in funding projects on the Mexico side of the border, which have an immediate and long-term environmental impact along the border in the U.S. due to the upstream, transboundary flows of the major rivers; and

WHEREAS, local governments and the public support the State's primary objectives in complying with environmental laws including the Clean Water Act and Endangered Species Act, and their state law analogues, and are supported by substantial public investments at all levels of government to maintain a healthy and sustainable environment for the future.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities urges the Federal government to continue to fund the Border Water Infrastructure Program, and to recommit to working bi-nationally to develop and implement long-term solutions to address serious water quality and contamination issues, such as discharges of untreated sewage and polluted sediment and trash-laden transboundary flows originating from Mexico, that result in significant health, environmental, and safety concerns of affected communities.

NLC RESOLUTION #18

SUPPORTING LOCAL CONTROL OF WATER INFRASTRUCTURE PROJECTS

WHEREAS, local leaders have a strong commitment to ensuring that our citizens have access to clean and reliable drinking water and wastewater systems; and

WHEREAS, local leaders have an obligation to protect public health, to use limited public resources in the most efficient manner possible, and to promote economic development; and

WHEREAS, local public and private engineers and water professionals also have an obligation to protect public health, to use limited public resources in the most efficient manner possible, and to promote economic development; and

WHEREAS, there are efforts at the federal level and in various states that would undermine these goals, supersede engineering judgment and impose new mandates on local communities; and

WHEREAS, the design of drinking water and wastewater systems is an inherently local process and local communities are in the best position to select infrastructure materials, as each community's needs are unique; and

WHEREAS, infrastructure materials all have different service lives, durability, reliability, economic, health and safety characteristics and engineers and communities need to retain local control to select infrastructure materials based on factors important to the local community; and

WHEREAS, communities should remain free to adopt system-wide best management practices and uniform design specifications in the development and maintenance of their water systems to maximize efficiency and control costs; and

WHEREAS, restricting local control increases costs, interferes with sound engineering judgment, limits the ability of communities to manage their systems as efficiently as possible and delays projects.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) supports local control of drinking water and wastewater systems and the ability of local governments to make water infrastructure decisions based on engineering and design, not solely based on cost; and

BE IT FURTHER RESOLVED that NLC opposes federal and state policies that mandate, or in any way promote, material preferences or otherwise undermine local autonomy for local water and wastewater infrastructure systems.