



**National Advisory Council for  
Environmental Policy and Technology**

July 29, 2010

The Honorable Lisa P. Jackson  
Administrator  
United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington D.C. 20460

Dear Administrator Jackson:

I am pleased to submit these comments from the National Advisory Council for Environmental Policy and Technology on the draft *FY 2011-2015 EPA Strategic Plan*. Chief Financial Officer Barbara Bennett asked the Council for “a high-level review focused on whether the *Plan* effectively addresses the key strategies to achieve the Administrator’s priorities and our [EPA’s] statutory mission outcomes, and communicates that message to a diverse audience, including the general public and key partners and stakeholders.”

Howard Learner led a workgroup of Council members in an accelerated review of the draft *Strategic Plan*. The workgroup’s draft report was reviewed, refined and approved by the Council during its public teleconference meeting on July 22, 2010. The Council was impressed by the overall quality, focus, and effectiveness of the draft *Strategic Plan*. We present the following comments to you and Chief Financial Officer Bennett for your consideration as the Agency moves forward to revise and finalize the *FY 2011 – 2015 EPA Strategic Plan*.

**1. DO THE DRAFT STRATEGIC PLAN’S GOALS EFFECTIVELY  
ADVANCE ACHIEVING THE ADMINISTRATOR’S PRIORITIES  
AND THE EPA’S STATUTORY MISSION OUTCOMES.**

**Goal 1: Taking Action on Climate Change and Improving Air Quality** – We understand the complicated set of Clean Air Act implementation standards for Agency action over the next five years and the legal obligation to responsibly respond to the United States Supreme Court’s *Massachusetts v. EPA* (2007) decision in a timely and effective manner while Congress considers related legislation. We raise the following suggestions in that overall context:

- The draft *FY 2011 – 2015 EPA Strategic Plan* identifies a series of strategies to be undertaken in order to Reduce GHG Emissions. The first specified strategy is implementing the mandatory GHG reporting rule, which is identified as a high priority strategy. While this is, indeed, important, we suggest that – in the absence of Congressional action – the strategy of “establishing permitting requirements for facilities that emit large amounts of GHGs to encourage design and construction of more efficient and advanced processes that will contribute to a clean energy economy” is the highest priority following the Supreme Court’s decision in 2007 and the Agency’s subsequent endangerment finding in 2009.

- The way in which the GHG rule for power plants and manufacturing facilities is framed in the middle of a list of nine efforts undermines its importance and centrality in achieving the Administrator's and the Administration's priorities and the EPA's statutory mission. We suggest that this vitally important action be specified as one of the EPA's "high priority" performance goals and moved up to the top or near-top of the list of strategies for emphasis.
- We agree that implementation of the light-duty vehicle GHG rule should be "one of the Agency's high priority performance goals."
- The Agency recognizes the importance of working with partners on climate change adaptation. On the federal side, the important Interagency Climate Change Adaptation Task Force is included in a footnote. We suggest that it be recognized in the text.
- The current budget crises in many states may impair the state environmental agencies' abilities to fully accomplish their Clean Air Act permitting responsibilities. This is a key strategic challenge that the Agency should consider how to best address as part of the *FY 2011 – 2015 Strategic Plan*.
- Generally, the draft *Strategic Plan* communicates its messages well to a diverse audience. In some cases, there could be clearer statements on how certain strategic measures, such as educating the public about indoor air quality concerns, will be achieved. The indoor air quality education strategy is not directly addressed in Objective 1.2 – Indoor Air Quality.

**Goal 2: Protecting America's Waters** – The issues raised under this goal are excellent, and broadly stated so that they can be applied nationwide. The prioritization of raising drinking water standards to improve public health protections and the increased attention to nonpoint sources – principally, nitrogen, phosphorus and sediments – are important and commendable steps, which we support. We raise the following suggestions:

- The current budget crises in many states may impair the state environmental agencies' abilities to fully accomplish their Clean Water Act permitting responsibilities. This is a key strategic challenge that the Agency should consider how to best address as part of the *FY 2011 – 2015 Strategic Plan*.
- Addressing the threats of invasive species – Asian carp and others – to the Great Lakes should be prioritized and directly specified in the *FY 2011 – 2015 Strategic Plan*. The Great Lakes hold more than 20% of the world's fresh water supply and provide drinking water for more than 40 million people. The ecology and economy of the Great Lakes are severely threatened, today, by the intrusion of invasive species. The Agency should work closely with other federal agencies and state and local officials, NGOs and affected business stakeholders on the rapid implementation of strategies to hold off Asian carp and other imminent invasive species threats to the Great Lakes ecological health and economic value.
- Likewise, the President has spoken strongly and initiated new federal funding to support restoration and improvements of the Great Lakes ecosystem. Working to achieve the

Administration's Great Lakes goals should be specifically identified in the *FY 2011 – 2015 Strategic Plan*, especially in light of the Administration's *FY 2010 – 2014 Great Lakes Restoration Initiative Action Plan* (February 21, 2010). This is a comprehensive program for the removal of invasive species, removal of sediments and implementation of controls on nonpoint source pollution, among other actions.

- Under the Safe Drinking Water Act, the Agency should establish a program to specifically address designated “sole source” aquifer systems. Protecting recharge areas for groundwater lands should be given priority for protection. Wellhead protection programs should also be given greater importance. Moreover, several years ago under the Safe Drinking Water Act, an emphasis was placed on "source water" protection – protecting headwaters of water supply sources. A greater emphasis should be placed on this program with a potential land acquisition component.
- Although the clean up of longstanding contaminants in most streams flowing into the main stem of a major river system is recognized as important in the draft *FY 2011 – 2015 Strategic Plan*, the Agency should consider identifying specific objectives and timing for these clean ups. Moreover, where the term "protection of aquatic ecosystems" is used, it should be expanded (or clarified) to include restoration and maintenance of the ecological integrity of degraded waterways.
- Overall, the EPA can and should be more involved in projects being planned and implemented by other federal agencies, such as the Army Corps of Engineers, FEMA, FERC, U.S. Department of Transportation, U.S. Department of Agriculture, Bureau of Reclamation and Tennessee Valley Authority, especially through robust comments in the NEPA environmental review process.
- Climate change impacts, along with reduction in emissions and adaptation strategies, should be incorporated into the EPA's clean water initiatives as much as possible.
- The EPA should continue its efforts to expand environmental education as it relates to the *Strategic Plan*. Education and outreach should be a major tool from pre-school to graduate levels and for the general public in promulgating these goals.

**Goal 3: Cleaning Up Our Communities** – The priorities of preventing and reducing exposure to contaminants and accelerating the pace of cleanups across the country are on target. EPA's collaborative work with the U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Transportation (DOT) on developing and implementing “livable communities” strategies is laudable and far-sighted. We raise the following suggestions:

- Focusing on cleaning up legacy contaminants is certainly a key element for sustainable and livable communities. However, in some cases, the largest sources of environmental and public health threats are the air emissions and wastewater discharges from older power plants and other industrial facilities located in the communities. Cleaning up these point sources of harmful air and water pollution – which, in many cases, have a disproportionate impact on at-

risk populations, especially in environmental justice communities – should be a key priority for the Agency in linking its Goal 3 (Cleaning Up Our Communities) strategies to Goal 1 (Air Quality) and Goal 2 (Water Quality) strategies.

- The Agency seems to have narrowed the focus from its *FY 2006 – 2011 Strategic Plan*, where the equivalent section was “Land Preservation and Restoration” — which implies environmental stewardship addressed to broader goals, not limited to remedial cleanups. We recognize that the Agency does intend now to focus this goal on site remediation, but we suggest that the Agency also continue its land use stewardship for environmental preservation work in collaboration with other agencies.
- The “rubber really hits the road” on the “sustainable and livable” communities agenda when particular transportation, dam and sprawled housing development projects are proposed that will have significant environmental impacts. While EPA should engage collaboratively with DOT, HUD and the Army Corps of Engineers at the front-end of such projects, that should not obviate EPA’s robust participation by commenting critically, where justified, in the NEPA environmental review process for the projects.
- EPA statistics reference a large number of remaining LUST/RCRA sites. These sites are widespread. Even small communities have them, such as abandoned gas stations whose owners cannot be located and/or do not have the financial resources for remediation. A strategy to identify, assess and remediate “orphan” underground storage tanks would be beneficial to many communities across the country.
- The references to “area-wide planning approaches” for brownfield remediation sound positive. A few sentences on what additional stakeholders will be involved, and how this approach differs from past practices, would be helpful.
- EPA conducts a number of good programs to assess and remediate contaminated sites, which are detailed in the Strategic Measures section. However, often these programs tend to stop at the property line. An effective cross-cutting strategy would be for these programs to work more holistically on a watershed or “sewershed” basis. EPA’s role is to assess and clean up contaminated sites. That does not necessarily take into account runoff or leachate from such sites over the years, which result in accumulations of toxics in the sediments of nearby streams. The strategic measures should be based on not just cleaning up sites and returning them to an economic state of reusability, but also remediating resulting offsite contamination and restoration of impaired habitat.

**Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution** – This section is comprehensive and logical in its approaches, except in areas where the Agency could consider taking steps to establish standards for improving indoor air quality. We raise the following specific suggestions on the strategy goals as articulated:

- The draft *Strategic Plan* discusses accelerating work to identify safer alternatives. The Agency should also look to promote or facilitate the use of these safer alternatives so that companies know about and have incentives to use these alternatives.

- To better ensure chemical safety, the Agency should also look for ways to: (1) Focus on reducing accidental releases of chemicals due to poor operations or poor maintenance by increasing and improving fence-line monitoring of chemicals and progressive enforcement of violations; (2) Identify and develop plans to reduce chemical exposure from all sources in the most impacted “hot spot” communities – including environmental justice communities – that are overburdened with chemical exposures and health effects from air, land, water and accidental toxic chemical releases; and (3) Prioritize the implementation of high throughput toxicological assessment (computer assessment or toxicogenomics) into the regulatory process as soon as technologically feasible.
- For chemical safety, the Agency should consider adding an enforcement goal in this section or in the enforcement section of the *Strategic Plan* (Goal 5). Vigorous and fair enforcement is essential to protect public health, safety and environment and to ensure that the “good guys” who fully comply are not placed at an economic competitive disadvantage with companies which do not.
- The value of pollution prevention is indisputable. The statements in the draft *Strategic Plan* are often broad and rely principally on technological solutions. This strategy should also focus on the behavior of the operators and how changes in behavior can prevent pollution.
- For pollution prevention, the Agency should consider adding a goal on annual per capita total waste reduction.
- Preventing pollution before it occurs is an important principle and should be extended to international relationships to the greatest extent possible.
- In addition to funding state infrastructure and technical assistance grants to businesses, EPA should increase its funding of NGOs to promote, educate and advocate for pollution prevention. This will complement and speed up the implementation process.

**Goal 5: Enforcing Environmental Laws** – We strongly concur with the Agency’s view in the draft *Strategic Plan* that “[v]igorous civil and criminal enforcement plays a central role in achieving the bold goals . . . that the Administrator has set for EPA.” As stated above, vigorous and fair enforcement is essential to protect public health, safety and the environment, and to ensure that the “good guys” who fully comply are not placed at an economic competitive disadvantage with companies which do not. We raise the following specific suggestions:

- The current budget crises in many states may impair the state environmental agencies’ abilities to fully accomplish their enforcement responsibilities under the Clean Air Act, Clean Water Act and other environmental and public health standards. This is a key strategic challenge that the Agency should consider how to best address in its enforcement goals and responsibilities as part of the *FY 2011 – 2015 Strategic Plan*.

- The statement in the draft *Strategic Plan* about how tough, but fair, enforcement can promote environmental justice goals is on target. Providing educational, as well as technical, information can help foster effective community involvement. It is vital for the EPA to target the most important pollution violations and apply pressure to violators that negatively impact communities. In turn, this approach helps to ensure that companies that do the right thing and are responsible neighbors are not put at a competitive disadvantage.
- As the Agency sets specific numbers and percentages for enforcement in the Strategic Measures for Objective 5.1, we suggest that these measures should reflect the Agency's commitment to vigorous civil and criminal enforcement, and they should also include special measures for evaluating progress in environmental justice communities.
- Achieving the Agency's environmental justice goals by necessity involves closer collaboration and cooperation with the relevant United States Department of Justice divisions.

## 2. **DO THE CROSS CUTTING FUNDAMENTAL STRATEGIES IMPROVE THE WAY THAT THE EPA CARRIES OUT ITS MISSION?**

The draft *FY 2011-2015 EPA Strategic Plan* delineates cross cutting strategies in five areas. Overall, the strategies will improve the way that the EPA carries out its mission. However, the descriptions do not consistently provide the means for achieving the strategy; they sometimes provide very few details on measurable parameters to facilitate tracking of progress and provide little guidance for the Agency to view problems from a holistic perspective, including greater cooperation with other agencies. Comments for specific Cross Cutting Strategies are as follows:

- Expanding the Conversation on Environmentalism – Implementation of this strategy can be improved by identifying how people and communities will be made part of the decision making process and recognizing the importance of sensitive and vulnerable populations in the dialogue.
- Strengthening State, Tribal and International Partnerships – We suggest that the following specific objective be added: “Provide meaningful protection activities, when and where a Tribal nation is unable to perform these functions.”
- Strengthening EPA's Workforce and Capabilities – We suggest that the following specific objectives be added: (1) Offer training, career guidance and leadership development to employees. Such assistance will enable employees to move up the career ladder within the Agency; (2) Develop a workforce that can foster “One EPA” through integration of the Agency's offices and programs; and (3) Improve the Agency's capability for monitoring emerging technologies and environmental issues to ensure that its workforce of the future has the skills and knowledge needed to meet the challenges that lie ahead.

## CONCLUSION

I, Mr. Learner, and the entire Council thank you and Chief Financial Officer Bennett for the opportunity to provide comments on the draft *FY 2011 – 2015 EPA Strategic Plan*. We hope that our suggestions and analysis will be helpful, and we would welcome the opportunity to discuss them with you and Chief Financial Officer Bennett, perhaps at the Council's next meeting on September 27<sup>th</sup> and 28<sup>th</sup> in Washington, D.C. Thank you again for the opportunity to contribute our ideas, and please let us know if any clarifications or discussion on these recommendations would be helpful before the Council's next meeting in September.

Sincerely,

*/Signed/*

James H. Johnson, Jr., Ph.D.  
Chair

cc: Barbara Bennett, Chief Financial Officer  
U.S. Environmental Protection Agency

Cynthia Jones-Jackson, Acting Director  
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