

Society of Texas Environmental Professionals

EPA Administrator Jackson's First Year

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February 9, 2010

# Creation of the U. S. Environmental Protection Agency

- President Nixon created the EPA by Executive Order on December 7, 1970
- Devolution of government
- 10 Regional offices each headed by a political appointee who is not approved by the Senate.
- Even though Region 6 covers 5 States, the Regional Administrator is always politically appointed by Texas.
- Dr. Al Armendariz ,new Regional Administrator for Region 6, sponsor was Congressman Silvestre Reyes (D-16<sup>th</sup> Congressional District) as well as most Texas and National environmental organizations.

# Administrator Lisa Jackson

- **Administrator Jackson's Core Principles**
- **Administrator's Vision**
- **Administrator's Priorities**

# Administrator Lisa Jackson's Message and Core Principles

- Message – “EPA is Back on the Job”

## Core Principles

- **Science** must be the determining factor in EPA Decision making. The first is that **science** must once again be the determining factor in decision making. If we go back to science we will make decisions on clean air and water that are based on human health. It will lead us to places where we can identify and articulate very clearly what it is we face and what we must do. Since January, we've begun the arduous processes of re-examining previous decisions made at the agency – largely because of questions raised about whether science was trumped by politics. Whenever something like that happens, it may be a momentary victory for one side or the other, but it dilutes our effectiveness as an agency. It dilutes the American people's ability to look at EPA and see us as a guardian of the things that they value. And it requires that we use our time and resources to look back when we absolutely need to be moving ahead.

**Rule of Law** – we must faithfully implement the laws.

- **Transparency.** Signal to the American people that we work for them.



# Administrator's Vision

- ***We have much to do in restoring the country's faith in our ability to protect the air, water, and land – now and for future generations.***

***We have much to do to ensure that communities directly impacted by environmental degradation have not only a voice, but a seat at the decision-making table.***

***And we have much to do to revitalize ourselves and the future of the agency.***

# Administrator Jackson's Priorities

- **Reducing greenhouse gas emissions.** The President has pledged to make responding to the threat of climate change a high priority of his administration. He is confident that we can transition to a low-carbon economy while creating jobs and making the investment we need to emerge from the current recession and create a strong foundation for future growth. I share this vision. EPA will stand ready to help Congress craft strong, science-based climate legislation that fulfills the vision of the President. As Congress does its work, we will move ahead to comply with the Supreme Court's decision recognizing EPA's obligation to address climate change under the Clean Air Act.
- **Improving air quality.** The nation continues to face serious air pollution challenges, with large areas of the country out of attainment with air-quality standards and many communities facing the threat of toxic air pollution. Science shows that people's health is at stake. We will plug the gaps in our regulatory system as science and the law demand.
- **Managing chemical risks.** More than 30 years after Congress enacted the Toxic Substances Control Act, it is clear that we are not doing an adequate job of assessing and managing the risks of chemicals in consumer products, the workplace and the environment. It is now time to revise and strengthen EPA's chemicals management and risk assessment programs.
- **Cleaning up hazardous-waste sites.** EPA will strive to accelerate the pace of cleanup at the hundreds of contaminated sites across the country. Turning these blighted properties into productive parcels and reducing threats to human health and the environment means jobs and an investment in our land, our communities and our people.
- **Protecting America's water.** EPA will intensify our work to restore and protect the quality of the nation's streams, rivers, lakes, bays, oceans and aquifers. The Agency will make robust use of our authority to restore threatened treasures such as the Great Lakes and the Chesapeake Bay, to address our neglected urban rivers, to strengthen drinking-water safety programs, and to reduce pollution from non-point and industrial dischargers.
- **Environmental protection to everyone.** Low income and minority communities face higher burden of pollution .

# EPA/Texas lack of leadership

- The reduction of the air pollutants in Texas over the past years is significant.
- The air pollution causing health effects on citizens has been reduced.
- Yet, if Texas had followed the Federal law and regulations, the air quality would be much better.

# BCCA Proposed Settlement Schedule for EPA Final Actions

An Industry group (Business Coalition for Clean Air) sued EPA to act on the SIP backlog July 30, 2008, proposed settlement (74 Fed. Reg. 38015) sets out an aggressive schedule to act on submittals, including:

Public Participation	November 30, 2009
Qualified Facilities	March 31, 2010
ERCs/DERCs	April 30, 2010
Flexible Permits	June 30, 2010
NSR Reform	August 31, 2010
Emissions Event	October 31, 2010

## Additional Current Events

- Environmental groups petitioned EPA to use our authority to fix/disapprove the Texas air permit program.
- Due to modifications under State rules, air permits issued to Texas' largest facilities may no longer be federally enforceable.
- EPA's Refinery Consent Decrees require companies to place commitments in federally-enforceable permits, but the State may have limited ability to issue federally-enforceable permits at this point.

## Additional Current Events

- Environmental groups have begun to file permit-specific objections to monitoring and transparency defects in Title V permits; EPA granted two such petitions on May 28, 2009. (More permit petitions are likely.)

# Texas Permitting SIPS

## Potential Concerns

- Public Participation
- “Qualified Facilities
- Flexible Permits
- NSR Reform/PSD

# Texas Permitting SIPS

## Potential Concerns

1. Public Participation –
  - Public participation on permit applications only for new or modified minor sources or minor modifications at major sources.
  - No opportunity to comment on the State's air quality analysis or decision whether to issue the permit.
  - No opportunity to comment on the draft permit for initial issuance or revision of a PAL in most cases.

# Rules on public participation on NSR permits

- EPA's proposed Limited Approval and Limited Disapproval of Texas' rules on public participation on NSR permits was published in the November 26, 2008, Federal Register\*. There was a 60 day public comment period and public comments were due January 26, 2009. EPA is waiting on changes that were proposed by TCEQ that will be submitted to EPA in July 2010 before making any decision. EPA and Environmental organizations have significant comments on the proposal and comments are due Feb. 13, 2010.
- The document is found at the following website:
- \* <http://edocket.access.gpo.gov/2008/pdf/E8-28162.pdf>.

## EPA is objecting to Texas Title V draft operating permits.

- To date, EPA has objected to 21 Texas Title V draft operating permits.
- Every week additional objections will be made.

# National Ambient Air Quality Standards Initiative

- All Six NAAQS standards now under review as required by the CAA Schedule
- Clean Air Act Section 109 requires NAAQS review every five years
- Five now required by Court Order or Settlement Agreement deadlines

# Ongoing NAAQS Reviews: Current Schedule

- Court-driven agenda for NAAQS review
  - Designing a proactive approach
  - Implementation follows review

NAAQS	Proposed Rule	Final Rule
NO <sub>2</sub> Primary	June 26, 2009*	January 22, 2010*
SO <sub>2</sub> Primary	November 16, 2009*	June 2, 2010*
NO <sub>2</sub> /SO <sub>2</sub> Secondary	February 12, 2010*	October 19, 2010*
CO	October 28, 2010*	May 13, 2011*
PM	January 2011	October 2011
Ozone	January 7, 2010	September 31, 2010
Lead	Last review completed 10/08, new schedule being developed	

\* Court ordered or settlement agreement deadlines

# Ozone NAAQS

- March 2008 standards: 0.075 ppm, 8-hour average (primary and secondary)
  - CASAC recommended more protective standards (0.060 – 0.070 ppm)
- On Sept. 16, 2009 EPA announced that the Administrator will reconsider the standards to ensure they are clearly grounded in science, protect public health with an adequate margin of safety, and are sufficient to protect the environment
- Reconsideration will be based on the scientific and technical record used in the March 2008 review (including more than 1,700 scientific studies)
- Schedule for reconsideration: NPR Jan. 7, 2010, and NFR Sept. 31, 2010
- Proposal is a range of 0.060-0.070 ppm for the 8 hour average.

# Implementation Implications of Ozone NAAQS Reconsideration

- EPA will propose to stay the required March 2010 initial designations for the 2008 NAAQS
  - 2008 NAAQS will remain effective for all other purposes, including PSD permitting
  - If EPA changes the NAAQS decision in August 2010, all regulatory requirements associated with that NAAQS will be superseded by the reconsidered NAAQS and start new implementation schedule
- EPA will establish expedited schedule for designations for reconsidered NAAQS and propose a December 2013 deadline for attainment SIPs
  - Governors' recommendations due to EPA by December 2010
  - EPA "120-day" letters to Governors no later than March 2011
  - Designations effective August 2011
  - Secondary standard designations schedule undetermined
- Goal of proposing new ozone implementation rule/guidance early in 2010
  - Classifications, attainment dates, attainment demonstration, reasonable further progress, reasonably available control technology (RACT), reasonably available control measures (RACM), nonattainment new source review (NSR), emission inventory, timing of SIP submissions, etc.

# Climate Change Activities: Regulatory and Non-regulatory

- Proposed national legislation
- Finalization of National GHG Reporting
- Proposed “Endangerment and Cause or Contribute to” finding
- First GHG Vehicular Emissions Standards
- Renewable Fuels Standard
- Proposed PSD Permitting “Tailoring” rule
- Partnership efforts, Climate Showcase Communities program



# ACCOMPLISHMENTS

## (February 2009 – Feb. 8, 2010)

- **ISSUED PROPOSED ENDANGERMENT FINDING**
- **After a thorough scientific review ordered in 2007 by the U.S. Supreme Court, the Environmental Protection Agency issued a proposed finding Friday that greenhouse gases contribute to air pollution that may endanger public health or welfare. The proposed finding identified six greenhouse gases that pose a potential threat. This finding confirms that greenhouse gas pollution is a serious problem now and for future generations. Fortunately, it follows President Obama's call for a low carbon economy and strong leadership in Congress on clean energy and climate legislation.**
  
- **GRANTED CALIFORNIA WAIVER DECISION**
- **EPA is granting California's waiver request enabling the state to enforce its greenhouse gas emissions standards for new motor vehicles, beginning with the current model year. Using the law and science as its guide, EPA has taken this action to tackle air pollution and protect human health.**
  
- **LAUNCHED SCHOOL AIR MONITORING INITIATIVE**
- **The EPA announced a new initiative to further measure levels of toxic air pollution at 62 schools in 22 states to protect children where they learn and play. EPA and its state partners will prioritize and monitor schools for more extensive air quality analysis, looking closely at schools located near large industries and in urban areas. This action is particularly critical in some low-income areas, which are sometimes disproportionately impacted by environmental degradation.**

# ACCOMPLISHMENTS

## (February 2009 – Feb. 8, 2010)

- **REQUIRED FIRST MANDATORY NATIONAL REPORTING ON GREENHOUSE GAS EMISSIONS**

- EPA has taken a significant step to address greenhouse gas (GHG) emissions under the Clean Air Act by proposing the first comprehensive national system for reporting emissions of carbon dioxide and other greenhouse gases produced by major sources in the United States.

The proposed reporting requirements would apply to suppliers of fossil fuel and industrial chemicals, manufacturers of motor vehicles and engines, as well as large direct emitters of greenhouse gases with emissions equal to or greater than a threshold of 25,000 metric tons per year. This threshold is roughly equivalent to the annual greenhouse gas emissions from just over 4,500 passenger vehicles. The vast majority of small businesses would not be required to report their emissions because their emissions fall well below the threshold.

- **ANNOUNCED PROPOSED RULEMAKING ON THE RENEWABLE FUEL STANDARD**

- This proposal outlines the EPA's strategy for increasing the supply of renewable fuels, poised to reach 36 billion gallons by 2022, as mandated by the Energy Independence and Security Act of 2007. Increasing renewable fuels will reduce dependence of foreign oil by more than 297 million barrels a year and reduce greenhouse gas emissions by an average of 160 million tons a year when fully phased in by 2022. As we work towards energy independence, using more homegrown biofuels reduces our vulnerability to oil price spikes that everyone feels at the pump. Energy independence also puts billions of dollars back into our economy, creates green jobs, and protects the planet from climate change in the bargain.

# ACCOMPLISHMENTS

## (February 2009 –Feb. 8, 2010)

- **RENEWED EPA'S COMMITMENT TO SCIENCE**

- Stressing the importance of scientific integrity and transparency, EPA Administrator Lisa P. Jackson called for key changes to the process for reviewing National Ambient Air Quality Standards (NAAQS) to protect human health and the environment. These changes will help us bring a greater rigor and openness to our standard-setting process and improve the scientific basis for our standards
- EPA also announced reforms to the agency's Integrated Risk Information System (IRIS) that will revitalize the program and ensure its scientific quality, integrity, transparency and timeliness. The IRIS database provides crucial information on ways human health is impacted by exposure to chemical substances in air, water, and land both from contaminated sites and from products.

- **PROPOSED TO CREATE AN EMISSIONS CONTROL AREA (ECA) AROUND THE NATION'S COASTLINE**

- The United States took a critical step towards protecting Americans from harmful ship emissions by becoming the first country to ask the International Maritime Organization to create an emissions control area (ECA) around the nation's coastline. The EPA made a joint announcement with the Coast Guard in March. EPA submitted a proposal to the International Maritime Organization to designate our coastline as emissions control areas - essentially ensuring that the toxic emissions of ocean going vessels are not impacting air quality in our coastal communities. According to the EPA's data, the creation of an ECA would save up to 8,300 American and Canadian lives every year by 2020 by imposing stricter standards on oil tankers and other large ships that spew harmful emissions into the air near coastal communities where tens of millions of Americans live, work, play and learn.

# ACCOMPLISHMENTS

## (February 2009 –Feb. 8, 2010)

- **PROPOSED REVIEW OF KEY CLEAN AIR DOCUMENT**

- EPA is reconsidering a Bush Administration memo regarding the scope of the Clean Air Act. EPA will vigorously review the memo, originally submitted by former EPA Administrator Stephen Johnson, to ensure that it is consistent with the Obama Administration's climate change strategy and interpretation of the Clean Air Act. While conducting this review, EPA will abide by the three core principles outlined by Administrator Jackson: overwhelming transparency, adherence to the rule of law, and science-based policies and regulations.

- **PUBLIC HEALTH EMERGENCY AT LIBBY**

- This is the first time EPA has made a determination under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) that conditions at a site constitute a public health emergency. This determination recognizes the serious impact to the public health from the contamination at Libby and underscores the need for further action and health care for area residents who have been or may be exposed to asbestos.

- **MOUNTAINTOP MINING**

- Through a Memorandum of Understanding signed by Lisa P. Jackson, Administrator of the Environmental Protection Agency; Ken Salazar, Secretary of the Interior; and Terrence "Rock" Salt, Acting Assistant Secretary of the Army for Civil Works, the Administration will implement an Interagency Action Plan on mountaintop coal mining that will: Minimize the adverse environmental consequences of mountaintop coal mining through short-term actions to be completed in 2009; Undertake longer-term actions to tighten the regulation of mountaintop coal mining;

# ACCOMPLISHMENTS

## (February 2009 – Feb. 8, 2010)

- **LARGE SHIPS**

- The Environmental Protection Agency today announced the next steps in a coordinated strategy to slash harmful emissions from ocean-going vessels. EPA is proposing a rule under the Clean Air Act that sets tough engine and fuel standards for U.S. flagged ships that would harmonize with international standards and lead to significant air quality improvements throughout the country.

- **HARDROCK MINING**

- EPA has identified the hardrock mining industry as its priority for developing financial assurance requirements. Financial assurance requirements help ensure that owners and operators of these facilities, not taxpayers, foot the bill for environmental cleanup. These requirements will be developed under section 108(b) of the Comprehensive Environmental Response, Compensation and Liability Act, commonly called “Superfund.” EPA plans to propose the rule by spring of 2011.

- **LEAD AIR MONITORING**

- EPA will consider whether additional monitoring near industrial sources of lead is warranted. The agency also will reconsider the monitoring requirements for urban areas as part of its review. EPA is not reconsidering the lead standards.

- **PROPOSED FUEL EFFICIENCY RULES FOR AUTOS**

- EPA and NHTSA are proposing a new national program to reduce greenhouse gas emissions and significantly improve fuel economy from cars, SUVs and small trucks. The ground breaking standards require an average fuel economy of 35.5 mpg in 2016. That standard will reduce oil consumption by an estimated 1.8 billion barrels, significantly reducing our dependence on foreign fuel. That will help protect us from oil price spikes that shook our economy.

# ACCOMPLISHMENTS

## (February 2009 – Feb. 8, 2010)

- **CHEMICAL MANAGEMENT REFORM**

- EPA announced six core principles that outline the Obama Administration's goals for legislative reform of this country's chemical management law, the 1976 Toxic Substances Control Act or TSCA. The principles will give EPA the mechanisms and authorities to expeditiously target chemicals of concern and promptly assess and regulate new and existing chemicals in commerce. Some of the principals include reviewing chemicals against risk-based safety standards, manufacturers providing information for EPA to conclude whether chemicals are safe and do not endanger public health and encouraging green chemistry, among other things.

- **CLEAN WATER ACTION ENFORCEMENT PLAN**

- EPA is stepping up its efforts on Clean Water Act enforcement, a first step in revamping the compliance and enforcement program. It seeks to improve the protection of our nation's water quality, raise the bar in federal and state performance and enhance public transparency. The plan outlines how the agency will strengthen the way it addresses the water pollution challenges of this century. These challenges include pollution caused by numerous, dispersed sources, such as concentrated animal feeding operations, sewer overflows, contaminated water that flows from industrial facilities, construction sites, and runoff from urban streets

- **PCBS IN CAULK**

- EPA is concerned about the potential risks associated with exposure to PCBs. We're recommending practical, common sense steps to reduce this exposure as we improve our understanding of the science. For building owners and administrators who want to take added/more aggressive immediate steps, EPA is providing additional guidance to help them identify the extent of potential risks and determine whether mitigations steps are necessary. For local communities and governments with constrained resources this is a particularly challenging and sensitive situation. Although this is a serious issue, the potential presence of PCBs in buildings should not be a cause for alarm; there are steps to minimize exposure.

# Administrator's Future Agenda

- **Taking Action on Climate Change:** Last year saw historic progress in the fight against climate change, with a range of greenhouse gas reduction initiatives. We must continue this critical effort and ensure compliance with the law. We will continue to support the President and Congress in enacting clean energy and climate legislation. Using the Clean Air Act, we will finalize our mobile source rules and provide a framework for continued improvements in that sector. We will build on the success of ENERGY STAR to expand cost-saving energy conservation and efficiency programs. And we will continue to develop common-sense solutions for reducing GHG emissions from large stationary sources like power plants. In all of this, we must also recognize that climate change will affect other parts of our core mission, such as protecting air and water quality, and we must include those considerations in our future plans.
- **Improving Air Quality:** American communities face serious health and environmental challenges from air pollution. We have already proposed stronger ambient air quality standards for ozone, which will help millions of American breathe easier and live healthier. Building on that, EPA will develop a comprehensive strategy for a cleaner and more efficient power sector, with strong but achievable emission reduction goals for SO<sub>2</sub>, NO<sub>x</sub>, mercury and other air toxics. We will strengthen our ambient air quality standards for pollutants such as PM, SO<sub>2</sub> and NO<sub>2</sub> and will achieve additional reductions in air toxics from a range of industrial facilities. Improved monitoring, permitting and enforcement will be critical building blocks for air quality improvement.
- **Assuring the Safety of Chemicals:** One of my highest priorities is to make significant and long overdue progress in assuring the safety of chemicals in our products, our environment and our bodies. Last year I announced principles for modernizing the Toxic Substances Control Act. Separately, we are shifting EPA's focus to address high-concern chemicals and filling data gaps on widely produced chemicals in commerce. At the end of 2009, we released our first-ever chemical management plans for four groups of substances, and more plans are in the pipeline for 2010. Using our streamlined Integrated Risk Information System, we will continue strong progress toward rigorous, peer-reviewed health assessments on dioxins, arsenic, formaldehyde, TCE and other substances of concern.
- **Cleaning Up Our Communities:** In 2009 EPA made strong cleanup progress by accelerating our Superfund program and confronting significant local environmental challenges like the asbestos Public Health Emergency in Libby, Montana and the coal ash spill in Kingston, Tennessee. Using all the tools at our disposal, including enforcement and compliance efforts, we will continue to focus on making safer, healthier communities. I am committed to maximizing the potential of our brownfields program, particularly to spur environmental cleanup and job creation in disadvantaged communities. We are also developing enhanced strategies for risk reduction in our Superfund program, with stronger partnerships with stakeholders affected by our cleanups.

# Administrator's Future Agenda

- **Protecting America's Waters:** America's waterbodies are imperiled as never before. Water quality and enforcement programs face complex challenges, from nutrient loadings and stormwater runoff, to invasive species and drinking water contaminants. These challenges demand both traditional and innovative strategies. We will continue comprehensive watershed protection programs for the Chesapeake Bay and Great Lakes. We will initiate measures to address post-construction runoff, water quality impairment from surface mining, and stronger drinking water protection. Recovery Act funding will expand construction of water infrastructure, and we will work with states to develop nutrient limits and launch an Urban Waters initiative. We will also revamp enforcement strategies to achieve greater compliance across the board.
- **Expanding the Conversation on Environmentalism and Working for Environmental Justice:** We have begun a new era of outreach and protection for communities historically underrepresented in EPA decision-making. We are building strong working relationships with tribes, communities of color, economically distressed cities and towns, young people and others, but this is just a start. We must include environmental justice principles in all of our decisions. This is an area that calls for innovation and bold thinking, and I am challenging all of our employees to bring vision and creativity to our programs. The protection of vulnerable subpopulations is a top priority, especially with regard to children. Our revitalized Children's Health Office is bringing a new energy to safeguarding children through all of our enforcement efforts. We will ensure that children's health protection continues to guide the path forward.
- **Building Strong State and Tribal Partnerships:** States and tribal nations bear important responsibilities for the day-to-day mission of environmental protection, but declining tax revenues and fiscal challenges are pressuring state agencies and tribal governments to do more with fewer resources. Strong partnerships and accountability are more important than ever. EPA must do its part to support state and tribal capacity and, through strengthened oversight, ensure that programs are consistently delivered nationwide. Where appropriate, we will use our own expertise and capacity to bolster state and tribal efforts.

# Administrator's Future Agenda

- Ozone NAAQS reconsideration
- This will be a major decision by the Administrator since the estimated cost is in the \$12 Billion to \$90 Billion dollar range and resulting benefits estimated to be \$13 billion to \$100 Billion.

# AMERICAN RECOVERY AND REINVESTMENT ACT



Up to \$ 9.8 billion Dept. of Education funding:

- public school “green” renovations, upgrades

## **\$ 7.2 billion EPA funding:**

- \$ 6 billion Water SRF programs [20% for green infrastructure, energy efficiency, innovation]
- \$ 300 million diesel retrofit
- \$ 600 million Superfund remedies
- \$ 200 million Underground Storage Tanks
- \$ 100 million Brownfields

\$ 13.61 billion HUD/DOE environmentally related:

- Improved energy efficiency in low-income homes, public housing, schools, transportation, and local government operations
- Direct and competitive grants to local, tribal and State governments
- Promote research and job training for careers in renewable energy and energy efficiency industries

[www.epa.gov/recovery](http://www.epa.gov/recovery)