UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 12 2011

Office of
International and
Tribal Affairs

Dr. Irasema Coronado
JPAC Chair
Commission for Environmental Cooperation
393, St. Jacques Street West, Suite 200
Montreal, Quebec
H2Y IN9

Dear Dr. Coronado:

On behalf of the Council of the Commission for Environmental Cooperation (CEC), the Alternate Representatives would like to thank the Joint Public Advisory Committee for its participation in this year's Council Session and its thoughts and interest regarding the Submissions on Enforcement Matters (SEM) process.

As you are aware, the Council has initiated a trilateral "modernization" review of the SEM process with the goal of enhancing its effectiveness. To implement this effort, the Council has convened an SEM Task Force comprised of government representatives from each of the three Parties. In particular, the Task Force plans to focus its efforts on revising the SEM *Guidelines* to address existing interpretive and administrative ambiguities and inefficiencies. To provide further detail on the specifics of this exercise, please find attached, an excerpt from a presentation provided to the Council during the in-camera session of this year's Council Session which highlights key aspects of the SEM modernization plan.

In light of the JPAC's advisory role to Council and its position as a conveyor of public views, we look forward to engaging the JPAC in the SEM modernization effort. For this reason, members of the trilateral Task Force would like to attend a portion of this year's November JPAC meeting in order to provide the JPAC with a SEM modernization process update, but to also hear from the JPAC regarding the input it has received in response to the Questionnaire it distributed to previous SEM submitters. Further, and consistent with our aim to streamline the review process by engaging directly with the JPAC, we would welcome any other thoughts the JPAC has on SEM issues and the modernization process.

In the meantime, we will continue to review the extensive and useful SEM-related Advice previously provided by the JPAC as we move forward with this very important SEM initiative.

Thank you again.

Sincerely,

Michelle DePass
Alternate Representative for the United States

cc: Daniel McDougall, Alternate Representative for Canada
Enrique Lendo Fuentes, Alternate Representative for Mexico
Evan Lloyd, CEC Secretariat Executive Director

Modernizing the Citizen Submission Process

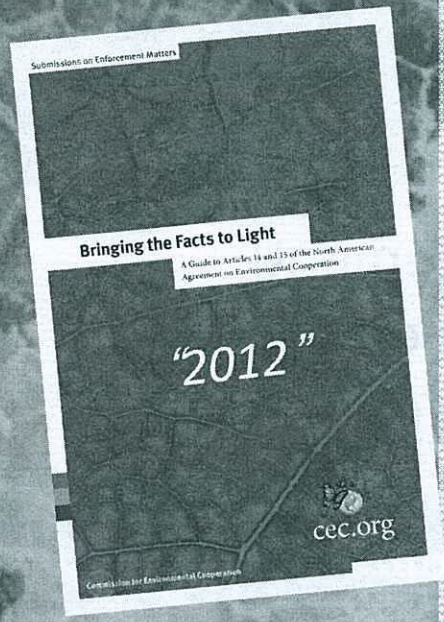
North American Agreement on Environmental Cooperation: Articles 14 and 15

SEM Modernization Task Force

cec.org

Commission for Environmental Cooperation

SEM modernization exercise



Goal

✓ Revise the existing Guidelines to improve understanding and operations of the SEM process, for consideration/approval by Council at Council Session 2012

Objectives

1. Modernize submission requirements to allow such things as electronic submissions
2. Establish trilaterally-agreed legal interpretations of relevant terms contained--but not defined--in the Agreement
3. Consider specific service standards to ensure timely Party and Secretariat actions, where not already prescribed by the Agreement

Path forward

Key highlights

- ✓ Revisions would be ready for consideration and approval by Council in time for the 2012 Council Session
- ✓ Focus on changes to the Guidelines, not the Agreement
- ✓ The Secretariat and the JPAC will be actively engaged
- ✓ Involve a highly-reputable firm to support the work, provide legitimacy of revisions, and ensure work proceeds on schedule
- ✓ Take advantage of existing meetings and technology to reduce impacts and costs

Path forward

One-year work plan

- ✓ **Already completed**:
  - Each Party has developed a list of SEMs issues for consideration
  - Secretariat developing its own list
  - JPAC is completing a survey of all past submitters
- ✓ **Now to September:**
  - Consolidate the four lists, identify potential issues of contention and establish common ground
  - Literature review, including JPAC advices and survey results
- ✓ **September to November:**
  - Prioritize the consolidated list
  - Attend next JPAC Meeting (El Paso) to present final list, provide Party views on issues in question, invite JPAC Chair to participate in the work of the task force

Path forward

One-year work plan (*cont'd*)

- ✓ **November to January:**
  - Launch the 1st drafting period for revised guidelines
- ✓ **January to March:**
  - Attend second JPAC meeting to review 1st draft
  - Launch 2nd drafting period
  - Review 2nd draft
- ✓ **April:**
  - Finalize draft recommendations, consider final JPAC views, and seek Party clearance
- ✓ **Council Session 2012:**
  - Approve and announce changes to the Guidelines

Looking ahead

Other opportunities

- ✓ Active submissions
  - Parties will prioritize decisions on all active submissions under Party control
  - Seek similar assurances from the Secretariat
- ✓ Potential Phase 2 after the adoption of revisions
  - Undertake a public outreach campaign, in line with Council direction, and develop new submission tools
  - Consider additional, temporary, resources to buttress the SEM Unit and advance on the workload
  - Report back to Council in 2013 (in Mexico) on the impacts

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