

Draft Scope

Innovation in Permitting and Compliance Assistance

December 23, 2003

Introduction

EPA and the Region 10 States of Idaho, Oregon and Washington are committed to exploring new and creative ways of achieving improved environmental results. EPA and the states are committed to using a variety of tools in their compliance and permitting programs ranging from traditional to new approaches designed to improve environmental benefit. However, much work is ahead of us in the exploration and testing of new ideas that will move us beyond traditional regulatory approaches.

The following principles are agreed to by EPA Region 10 and the states of Idaho, Oregon and Washington:

- EPA and the states will explore and support alternative approaches for increasing compliance and improving environmental results.
- EPA and the states, individually or collectively, will explore tailored enforcement approaches to the inherent differences between municipal sources and industrial sources of pollution.
- EPA will support the states in developing permit flexibility and streamlining for improved environmental results and timely issuance of permits.
- EPA will work with the states to develop increased flexibility in resource allocation between traditional and non-traditional enforcement approaches.
- The work developed through this effort need to be accommodated through trade offs with other existing work and commitments.

Proposed Projects

Sector or Pollutant-Based Approach to Improve Results

- EPA will work with the states to support and/or expand sector and/or pollutant-based approaches for improving environmental performance and compliance at priority sectors. The goal is to improve environmental results at either targeted industry sectors or by pollutant (for instance, mercury). The states and EPA will explore if this approach could be done on a broader scale, either geographically or for the region. The priority focus is on compliance and environmental results instead of enforcement numbers.

Permit Streamlining to Improve Clarity and Timeliness

EPA will work with the states to improve the clarity and timeliness of the permit processes and permit decisions. Roles and responsibilities between EPA and the state agency will be clarified for permit applicants.

- Idaho: Streamline and clarify air permits (Tier 1, Tier 2 and Operating)
- Oregon: Develop additional wastewater permit categories to provide more efficient permitting vehicles for certain types of sources
- Washington: Streamline permit processes and decision-making for improved environmental results.

Alternatives to Improve Environmental Results

EPA and the states will explore alternative approaches to improve environmental results through economic and non-regulatory incentives to communities and regulated entities. In addition, EPA and the states will work at creating at least one state-selected priority area in which traditional compliance (the numbers of inspection) will be approached and measured differently (through actual compliance rates or actual environmental outcome data).

Each state and EPA has piloted alternative approaches to achieve greater environmental benefit. EPA and the states will work together to assess and document successes for the purpose of expanding successful programs.

- Idaho: Agreements on compliance for industry on a multimedia basis
- Oregon: Alternative approaches for increasing compliance for small businesses and municipalities.
- Washington: Alternative approaches such as Memorandum of Understanding between government and industry and the Industrial Footprint project. Both of these efforts use a collaborative approach to improve environmental outcomes.
- EPA: As are the states, EPA is also continuing pilot work to assess alternatives to the traditional inspection/enforcement response, such as compliance assistance in the area of construction related stormwater requirements.

Tailor Enforcement Approaches to Inherent Differences Between Small Municipal and Industrial Sources

Municipalities often find themselves in non-compliance due to limited resources and staff. Municipalities are inherently different than

industrial sources in that they are not profit-making ventures and they don't have the option of closing down and moving elsewhere.

Assessing large civil penalties against small municipalities can be counter-productive, when those resources are sorely needed to complete facility upgrades, hire staff, etc. EPA and the states will 1) highlight work that has already been done, and 2) capitalize on that work to develop an overarching enforcement approach to treating small municipalities differently. Options to evaluate will include:

- Reduced penalties and use of mutual agreements and orders.
- Compliance teams dedicated to providing technical assistance and on-going technical support.

Priority Setting for Core Work

EPA will dedicate a portion of its resources to support the states in priority work areas. Support could involve either conducting the priority work as partners with the states, work-share, or working on lower priority work that the states are not able to address.

- Idaho: Priority planning for permit development and inspection.
- Oregon: Support efforts to shift the wastewater permitting program to a comprehensive watershed approach, including prioritization of permits based upon highest priority problems in a watershed
- Washington: Mutually develop permit priorities.

Integration of Enforcement with Program Planning and Evaluation Cycles

Region 10 EPA will work with the Region 10 states to become a national model for integration of the enforcement and planning cycles. Region 10 will advocate for one joint set of national priorities (not a separate OECA set) that is to be clearly addressed through the PPA cycle.