

US EPA ARCHIVE DOCUMENT



National Environmental Performance Partnership System

FY 2011 Guidance

**Office of Congressional and Intergovernmental Relations
Office of the Administrator**

**National Environmental Performance Partnership System
FY 2011 National Program Guidance**

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EXECUTIVE SUMMARY

I. Program Office

Office of Congressional and Intergovernmental Relations (OCIR) FY 2011 Guidance for National Environmental Performance Partnership System (NEPPS).

II. Introduction/Context

Performance Partnerships – through which EPA and states and tribes set priorities and design strategies together – are integral to planning and implementing our national environmental programs. To advance the joint planning that is central to Performance Partnerships, the Office of Congressional and Intergovernmental Relations (OCIR) is issuing this guidance to the regions in conjunction with the Agency-wide process for production and review of national program guidance through the Office of the Chief Financial Officer.

This FY 2011 guidance sets out the goals and objectives for Performance Partnerships. In January 2010, the Administrator sent a memorandum to all EPA employees that outlined her top seven priorities. The guidance is aligned with and directly supports these priorities, and contains specific objectives to advance three of the priorities through the NEPPS process: Children's Health, Environmental Justice, and Building Strong State and Tribal Partnerships.

III. Goals and Objectives

Goal I: Conduct joint strategic planning that reflects Performance Partnership principles in PPAs/PPGs or comparable EPA-state and EPA-tribal agreements and grant workplans.

Objectives:

1. Regions should take additional measures to work with states to identify opportunities for enhanced worksharing, resource and workload flexibility and phased implementation of program requirements, especially where budget reductions have negatively affected state programs.
2. Whenever possible, include all the essential elements in PPAs as identified by a joint EPA-state workgroup in 2004. Mutual state-EPA priorities should be clearly articulated and distinguished from specific state and EPA priorities.
3. Identify collaborations to improve state-EPA business processes and promote continuous improvement (for example, by applying LEAN, Kaizen, Value Stream Mapping (VSM) and Six Sigma techniques).
4. Advance Performance Partnership principles through effective collaboration with

states on policy and implementation issues, making full use of the issue resolution process to ensure that requests for flexibility and innovation are addressed and resolved at the highest levels (i.e., RA, AA, DA).

5. Explain and advocate for the use of PPAs and PPGs (including PPAs serving as PPG workplans) as tools for implementing Performance Partnership principles within EPA and with states and tribes.

Goal II: Implement the Administrator's priorities through PPAs, PPGs and other EPA-state and EPA-tribal agreements.

Objectives:

1. Regions should use the NEPPS process to leverage funds and activities to advance children's health.
2. Regions should work with states to advance environmental justice by improving environmental conditions and public health in minority, low-income and other vulnerable communities.
3. Building strong state and tribal partnerships: EPA must do its part to support state and tribal capacity and, through strengthened oversight, ensure that programs are consistently delivered nationwide.
 - A. Regions are encouraged to strategically use PPAs to organize and articulate mutual compliance and enforcement priorities (C/E), and ensure the alignment of commitments in PPGs and other categorical grant workplans to achieve those goals.
 - B. To support state and tribal capacity, regions are encouraged to explore creative new ways to partner with states and tribes that will augment the progress made through NEPPS.
4. Ensure that the Administrator's other enumerated priorities are included in regional-state planning discussions.

Goal III: Foster programmatically sound and fiscally responsible PPG management practices.

Objectives:

1. Ensure the timeliness of state grants: it is a priority for the Agency to ensure the timely award of continuing environmental program (CEP) grant funds.
2. Implement EPA's Grants Policy Issuance 08-05: Burden Reduction for State Grants.

3. Build regional and state capacity to accommodate revisions to state grant workplans and performance measures.
4. Ensure the proper management of grant unliquidated obligations.

IV. Program Contacts

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V. OCIR's Feedback Process

Upon receiving the draft FY 2011 NEPPS National Guidance from OCIR, the Office of the Chief Financial Officer (OCFO) will post it on its website and notify its counterparts in the EPA regional offices. OCFO also will notify the Environmental Council of the States (ECOS) and EPA tribal planning contacts. The review period lasts approximately one month.

EPA's regional offices, states/ECOS and other stakeholders may send their comments directly to OCIR's program office contacts (listed above). Regional, state/ECOS and stakeholder comments and suggestions will be considered by OCIR for the final draft of the guidance to be released in early May.

VI. Explanation of Changes from FY 2010

This guidance was streamlined and reorganized (16 pages shorter) and contains major revisions/rewrites. It is more clear and focused on defining goals and objectives than last year's guidance and includes three goals (each with accompanying objectives):

1. Conduct joint planning and priority setting that reflects Performance Partnership principles in PPAs, PPGs, and other state-EPA agreements. There is one new objective under this goal requesting the regions to identify and support collaborations to improve state-EPA business processes and promote continuous improvement.
2. Implement the Administrator's priorities through PPAs, PPGs, and other state-EPA agreements. This is a new goal with new objectives requesting the regions to leverage funds and activities to advance children's health and environmental justice; advance strong partnerships and accountability, and support state and tribal capacity. There are two new subobjectives under this goal encouraging the regions to (1) use grant agreements, PPGs and PPAs serving as grant workplans to organize and articulate mutual C/E priorities and plans; and (2) explore new ways to partner with states using NEPPS principles.

3. Foster sound PPG management practices. There are three new objectives under this goal requesting the regions to: (a) ensure that EPA's Grants Policy Issuance 08-05: Burden Reduction for State Grants is implemented; (b) work with the states to ensure the proper management of ULOs, as new policy is established; and (c) build regional and state capacity to accommodate revisions to state grant workplans and performance measures.

National Environmental Performance Partnership System FY 2011 National Program Guidance

EPA and states share responsibility for protecting public health and the environment. Since 1995, EPA and states have been implementing the National Environmental Performance Partnership System (NEPPS)¹, an environmental performance system designed to improve the efficiency and effectiveness of state environmental programs and state-EPA partnerships.

Several fundamental concepts underlie NEPPS. Goals, priorities, and strategies should be based on information about environmental conditions, including consideration of local conditions and respecting the need for a "level playing field" across the country. Performance should be evaluated based on results that are achieved in the environment. By taking full advantage of the unique capacities of EPA and states and leveraging our collective resources most efficiently and effectively, we can achieve the greatest results.

Performance Partnerships – in which EPA and states and tribes set priorities, design strategies, and negotiate grant agreements together – are integral to the planning and implementation of our national environmental programs. To advance the joint planning that is central to Performance Partnerships, the Office of Congressional and Intergovernmental Relations (OCIR) is issuing this guidance to the regions in conjunction with the Agency-wide process for production and review of national program guidance through the Office of the Chief Financial Officer (OCFO).

This FY 2011 guidance² sets out overarching goals and objectives for Performance Partnerships. In January 2010, the Administrator sent a memorandum to all EPA employees that outlined her top seven priorities. The guidance is aligned with and directly supports these priorities, and contains specific objectives to advance three of the priorities through the NEPPS process: Children's Health, Environmental Justice, and Building Strong State and Tribal Partnerships.

Goals and Objectives for FY 2011

Goal I: Conduct joint strategic planning that reflects Performance Partnership principles in PPAs/PPGs or comparable EPA-state and EPA-tribal agreements and grant work plans.

¹ See *Joint Commitment to Reform Oversight and Create a National Environmental Performance Partnership System*, at http://www.epa.gov/ocir/nepps/policies_guidance.htm.

² This guidance is a compilation of existing policies and initiatives. It does not impose any legally binding requirements.

Objectives

1. Regions should take additional measures to work with states to identify opportunities for enhanced worksharing, resource and workload flexibility and phased implementation of program requirements, especially where budget reductions have negatively affected state programs.

Given the current economic downturn, states are experiencing severe budget shortfalls and high unemployment. Many state environmental agencies are experiencing severe budget cuts and will be challenged to maintain core programs. In this climate, it is particularly important to emphasize EPA's willingness to work collaboratively with the states to develop agreements that capture achievable priorities and commitments and help address state-federal workload overall.

2. Whenever possible, include all the essential elements in PPAs as identified by a joint EPA-state workgroup in 2004. Mutual state-EPA priorities should be clearly articulated and distinguished from state-specific and EPA-specific priorities.

There is not a list of mandatory PPA elements. The most effective PPAs, however, contain several key elements, as set out by a joint EPA-state work group³ in 2004. These recommended "essential elements" are listed below. [Note: the number in parentheses after each essential element denotes the percentage of 2008 PPAs that include that particular element.]

- A description of environmental conditions (24%), priorities (88%), and strategies (79%);
- Performance measures for evaluating environmental progress (50%);
- A process for joint evaluation on how well the PPA is working and an agreement to implement any needed improvements that are identified (76%);
- A description of the structure/process for mutual accountability, including a clear definition of roles of each party in carrying out the PPA (76%) and an overview of how resources will be deployed to accomplish the work (41%); and
- A description of how the priorities in the PPA align with those in EPA Strategic Plan (53%), and/or the state's own strategic (or other related) plan (71%).

Incorporating each of these elements still allows for a wide range of PPAs, although it may not be feasible for some PPAs to include all the essential elements. The essential elements may be covered at different levels of detail depending on what is appropriate for a particular state. There is also room for variation in content (e.g., PPAs that cover all programs or just a few programs), as well as in organizational structure and format. In

³ State-EPA Planning Alignment/PPA Work Group, now the Partnership and Performance Work Group.

order to clarify the role of each party in carrying out the PPA, to the extent possible, both state and EPA commitments should be delineated.

With these elements, the PPA can become the unifying agreement that sets out the relationship between EPA and the state and how they expect to work together to implement the strategies for achieving the goals and objectives in the agreement.

3. Identify collaborations to improve state-EPA business processes and promote continuous improvement (for example, by applying LEAN, Kaizen, Value Stream Mapping (VSM) and Six Sigma techniques).

Continuous improvement is one of the core principles of the original NEPPS agreement. Viewing the state-EPA working relationship through that particular lens has led to proven improvements in the quality and efficiency of delivered services and programs. LEAN, Kaizen, VSM, and Six Sigma techniques have been successfully used to improve state and EPA programs and processes such as air and water permitting, Brownfields, Leaking Underground Storage Tanks, and Wetlands. Regions are asked to review the areas of federal-state interaction and identify collaborations to improve efficiency and eliminate waste, using the appropriate business process improvement techniques. Regions should review and apply successful state-regional LEAN exercises, as appropriate.

4. Advance Performance Partnership principles through effective collaboration with states on policy and implementation issues, making full use of the issue resolution process to ensure that requests for flexibility and innovation are addressed and resolved at the highest levels (i.e., RA, AA, DA).

The NEPPS issue resolution process (which includes various informal and formal steps culminating in a final decision by the Deputy Administrator) for raising and resolving broad policy and implementation issues related to Performance Partnerships is outlined in EPA's *Best Practices Guide for Performance Partnership Grants*⁴. This is especially appropriate in situations involving denial of a state's request for flexibility and innovation in a PPG.

5. Explain and advocate for the use of PPAs and PPGs (including PPAs serving as PPG workplans) as tools for implementing Performance Partnership principles within EPA and with states and tribes.

PPAs and PPGs are valuable tools enabling states to gain greater flexibility in how they use and manage the funds they receive from EPA. PPGs allow states to direct resources where they are needed most, implement strategies that cut across program boundaries, or try other innovative solutions to environmental problems. PPAs are discussed in objective # 2 above.

⁴ A direct link to the *Guide* can be found in the Highlights box on the NEPPS home page at <http://www.epa.gov/ocir/nepps/>.

For instance, states use funds from one program area to address a budget shortfall in another, and meet cost-share requirements by using overmatch from one program to cover the match from another. Using PPG flexibility, states hire temporary personnel, fund emergency activities such as hurricane response, address permit backlogs, and support staff training and travel. They use PPGs to fund multi-media inspections and permitting, sector compliance/enforcement initiatives, and data system improvements such as participating in the National Environmental Data Exchange Network.⁵

Goal II: Implement the Administrator's priorities through PPAs, PPGs and other EPA-state and EPA-tribal agreements.

Objectives:

1. Children's health: regions should use the NEPPS process to leverage funds and activities to advance children's health.

Regional programs must ensure that policies, programs, activities, and standards address disproportionate risks to children. Opportunities to advance children's health issues include: sponsoring joint meetings with counterparts in state environmental departments and health departments to facilitate coordinated actions to better protect children's environmental health; developing region-wide strategies to focus on addressing critical children's health issues within each region.

2. Environmental justice: regions should work with states to advance environmental justice by improving environmental conditions and public health in minority, low-income and other vulnerable communities.

Regional programs should work with states to advance policies, programs and activities that address risks to minority, low-income and other vulnerable communities. Opportunities to advance environmental justice include: developing region-wide strategies through joint meetings with state counterparts to focus on addressing critical environmental justice issues, e.g., lead poisoning, asthma, air and water pollution from CAFOs, and multiple or cumulative exposures to air pollution within each region.

3. States and tribal nations bear important responsibilities for the day-to-day mission of environmental protection, but they are faced with declining tax revenues and fiscal challenges. 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.

A. Regions are encouraged to strategically use PPAs to organize and articulate mutual compliance and enforcement (C/E) priorities, and ensure the alignment of commitments in PPGs and other categorical grant workplans to achieve those goals.

⁵ More examples of how states have used PPGs can be found at http://www.epa.gov/ocir/nepps/speeches_publications.htm.

The annual planning process with states for C/E is an integral part of state-EPA planning, and should reflect the shared accountability of EPA and states in protecting the environment and public health. Historically, C/E has not been consistently included in the NEPPS planning process. State-EPA C/E commitments were often developed through a different process and memorialized in separate agreements or workplans. During the last 5-10 years, a number of regions and states have included C/E plans and priorities in strategic PPAs and linked them to commitments in PPGs and individual state grant agreements. Therefore, as a best practice, regions are encouraged to organize and articulate C/E priorities and commitments through the NEPPS process to achieve more comprehensive, integrated and flexible work planning, especially during this time of scarce resources and state budgetary constraints.

Enforcement topics should be incorporated into the overall programmatic discussions about priorities, resources and annual commitments in developing PPGs, categorical grant workplans, and PPAs serving as grant workplans. National, regional and state enforcement priorities should be discussed with the goal of identifying the most significant sources and the most serious violations. Regions and states should consider all available options for addressing the most important work within the available resources, including work sharing, innovative approaches, as well as traditional compliance and enforcement tools. Grant workplans should include a clear identification of performance expectations, commitments on targeting, inspection coverage based on the various media Compliance Monitoring Strategies and the flexibilities within each, and the need for timely and appropriate enforcement on the most serious violations at significant sources. Annual commitments should also include corrective actions that have been identified in programmatic reviews as well as the State Review Framework. Finally, regions and states should discuss pilots of innovative approaches for addressing less serious violations that do not directly impact the environment or public health.

B. To support state and tribal capacity, regions are encouraged to explore creative new ways to partner with states and tribes that will augment the progress made through NEPPS.

The regions, for example, can extend the Performance Partnership vision and goals to other agencies that receive EPA funds in order to more fully leverage EPA's resources and those of other agencies to address environmental priorities, such as agriculture and public health agencies. In addition, regions can assess the feasibility of developing other innovative, high-level joint agreements that focus on specific environmental problems (e.g., climate change, agriculture, mercury).

4. Ensure that the following priorities are included in regional-state planning discussions (Note: NPM guidance from OAR, OW, OECA, OPPTS, and OSWER details these priorities with greater specificity):

- Taking Action on Climate Change
- Improving Air Quality
- Assuring the Safety of Chemicals

- Cleaning Up Our Communities
- Protecting America's Waters

Goal III: Foster programmatically sound and fiscally responsible PPG management practices.

Objectives:

1. Ensure the timeliness of state grants: it is a priority for the Agency to ensure the timely award of continuing environmental program (CEP) grant funds.

Delays in awarding PPGs (and other state grants) create a variety of problems that affect the states' ability to implement programs. It is a priority for the Agency to ensure the timely award of continuing environmental program (CEP) grant funds.⁶ This is particularly important during the economic downturn when many states are experiencing budget shortfalls and therefore rely heavily on CEP grant funding. The timely award of state grants continues to be a priority for the Agency. For FY 2011, EPA will issue additional guidance through an Advice of Allowance Letter or communications from OGD, and, as appropriate, provide goals and strategies for the timely award of FY 2011 CEP grants.

2. Implement EPA's Grants Policy Issuance 08-05: Burden Reduction for State Grants (Section C.2 in particular).

This policy codifies and summarizes actions EPA has taken to address major grant-related issues identified under the Agency's State Reporting Burden Reduction Initiative. Section C.2 applies to the reporting frequency of each program included in a PPG (see: [Grants Policy Issuance \(GPI\) 08-05: Burden Reduction for State Grants](#)). In addition, the ECOS-EPA Burden Reduction Subgroup meets on an ongoing basis to address reductions in state reporting burdens. Regions are encouraged to incorporate adopted burden reduction efforts as widely as possible.

3. Build regional and state capacity to accommodate revisions to state grant workplans and performance measures.

In FY 2011 EPA remains committed to strengthening our oversight and reporting of results from state grants, not only linking state grant workplan commitments to EPA's strategic plan, but also enhancing transparency and accountability. EPA and the states will continue working in FY 2011 to achieve this through two related efforts:

⁶ All of the CEPs listed in 40 CFR Part 35 Subpart A are subject to the timeliness policy except: Nonpoint Source Management (Section 319(h)); State Underground Storage Tanks (Section 2007(f)(2)); Pollution Prevention (Section 6605); Water Quality Cooperative Agreements (Section 104(b)(3)); State Wetlands Development (Section 104(b)(3)); and Water Quality Planning (Sections 205(g) and 205(j)(2), and the monitoring portion of Water Pollution Control (Section 106).

State Grant Workplans: The Agency's long-term goal is for EPA and the states to achieve greater consistency in workplan formats. To achieve that goal, the Office of Grants and Debarment (OGD) will convene a state/EPA workgroup of grant practitioners to develop a menu of formats for EPA and states to use when negotiating workplans for the 14 identified categorical grant programs. In developing these formats, the workgroup will build upon the results of the FY 2009 State Grant Workplan Pilot.

The formats will be available for use beginning with the FY 2011 grants cycle. In consultation with the practitioners' workgroup, and recognizing that the formats will need to be phased in over time, OGD will develop performance metrics to ensure that 100% of workplans under the 14 categorical grant programs use one of the approved formats by no later than the FY 2013 grants cycle. If a particular state agency has difficulties under state law in adopting one of the established formats, OGD will work with the affected region and NPM to resolve the issue. Please contact Howard Corcoran, OGD, at 202-564-1903, or Jennifer Bogus, OGD, at 202-564-5294, should you have any questions.

State Grant Performance Measures (formally known as State Grant Template Measures): The current set of measures flagged as State Grant Template Measures in the Annual Commitment System (ACS) will be retained for FY 2011 reporting. As in FY 2010, the use of the template to capture results for these measures is not required. However, reporting on the results remains the responsibility of the regions and states. The Agency and members of ECOS have had ongoing discussions as to whether there is utility in identifying a set of common measures that reflect the primary functional work areas under each of the 14 categorical grants. Issues that have been raised include how the Agency would capture and use these measures. In FY 2011, the Agency, in consultation with ECOS, will evaluate the workplan initiative discussed above and determine whether it sufficiently enhances transparency and accountability such that developing a common set of measures is unnecessary. Please contact Margo Padgett, OCFO/OPAA, at 202-564-1211 should you have any questions.

4. Ensure the proper management of grant unliquidated obligations (ULO).

The Office of Inspector General (OIG) has recommended that EPA designate the management of unliquidated obligations, including the management of grant unliquidated obligations, as a weakness under the Federal Managers' Financial Integrity Act. As EPA develops a policy to address the OIG's concerns, it is important for regions and states to ensure that PPG funds are efficiently utilized to accomplish the priority environmental activities identified in grant workplans. The OGD contact for the ULO policy is Alexandra Raver, who can be reached at (202) 564-5296.

Grant Programs Eligible for Performance Partnership Grants

Grant Program	Required Match
Air Pollution Control – CAA 105	Greater of MOE or 40% **
Radon Assessment and Mitigation –TSCA 306	50%
Water Pollution Control – CWA 106	MOE
Water Nonpoint Source Implementation -- – CWA 319	40%
Wetlands Development Grants Program – CWA 104(b)3 (<i>competitive</i>)	25%
Water Quality Cooperative Agreements – CWA 104(b)3 (<i>competitive</i>)	0%
Public Water System Supervision --SDWA 1443(a)	25%
Underground Injection Control – SDWA 1443(b)	25%
Hazardous Waste Management – SWDA 3011(a)	25%
Brownfields Response – CERCLA 128(a)*	0%
Pesticides Program Implementation – FIFRA 23(a)1	0%
Lead-Based Paint Activities – TSCA 404(g)	0%
Toxic Substances Compliance Monitoring – TSCA	25%
Pesticides Cooperative Enforcement – FIFRA 23(a)1	0%
Environmental Information Exchange Network* – Authority in EPA Appropriations Acts	0%
Pollution Prevention Initiatives – PPA 6605 (<i>competitive</i>)	50%
Sector Program (compliance/enforcement)* (<i>competitive</i>)	0%
Pesticide Applicator Certification and Training	50%
Indian Environmental General Assistance Program	0%
State Underground Storage Tanks	25%

* Program added to list of grants eligible for PPGs after publication of the Part 35 rule.

** MOE = Maintenance of Effort level.