PROJECT SUMMARY

Title:

Region 5 States Environmental Results Program for Autobody Refinishing Shops

Applicant:

Wisconsin Department of Natural Resources, Bureau of Air Management
PO Box 7921
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Project Leads: Commerce

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Total Project Cost: Total Budget: $390,847; Requested from EPA: $340,000; Leveraged, Non-Federally Funded Staff Time: $50,847

Project Period: October 1, 2009 – September 30, 2012

Project Abstract: To reduce emissions of air toxics, state environmental agencies and EPA regional offices must work together to implement dozens of new area source NESHAPs. Thousands of sources previously under limited regulation are now affected by these regulations, but states have limited funding available for implementation. Therefore, a cost effective implementation solution is needed. The Environmental Results Program (ERP) approach offers such a solution. State small business environmental assistance programs (SBEAPs) are experts at providing effective compliance assistance on limited budgets. The Wisconsin Department of Natural Resources and the Wisconsin Small Business Clean Air Assistance Program (a SBEAP) will partner with other state SBEAPs in Region 5 and propose using ERP to implement the area source rule 40 CFR part 63 Subpart HHHHHH (subpart 6H) as it affects autobody refinishing shops and measure the changes in environmental performance that result. While the primary focus of this project will be compliance with subpart 6H, we also will provide education and collect data on best practices in energy efficiency and pollution prevention.

Statutory Authority and Flexibility: None.

Certification of State Agency Support: The Region 5 multi-state project is fully supported by the following state agencies: WDNR, Indiana Department of Environmental Management, Minnesota Pollution Control Agency, and Michigan Department of Environmental Quality. The Illinois Environmental Protection Agency has indicated support for limited involvement by their SBEAP, and the Ohio Environmental Protection Agency SBEAP is still working on obtaining management support for their involvement. Support letters are attached separately.

BUDGET SUMMARY

The proposed budget includes funds to contract with the Wisconsin Department of Commerce (Commerce) and support the Small Business Clean Air Assistance Program (SBCAAP) as the project lead for this proposal in direct partnership with the Wisconsin Department of Natural Resources (WDNR) Bureau of Air Management. The Commerce Contractual funding will be used to provide for staff assistance to the SBCAAP, support training for baseline and compliance inspection staff as well as interstate training of sources, and some related supplies. This contract would follow existing funding practices by which the SBCAAP is currently funded 100% through the WDNR Air Program Title V fees to conduct small business compliance assistance activities.

IT contract funding is intended for upgrade support for the ERP performance analyzer to make it useful for data entry in this multi-state project as well as for any future ERP states. The amount allotted for this contract will not exceed $20,000. Additional contractual assistance will involve outside experts for the following activities: ERP development to assist with universe development, statistical sampling and analysis, data management and data reporting; expenses for learning states interested in participating alongside Region 5 states; expenses to engage experienced inspectors for states unable to conduct their own baseline visits; support for the States ERP Consortium and information sharing events; necessary supplies. A portion of the external contract funding would be through a university program (University of Illinois – Illinois Sustainable Technology Center) with experience conducting facility audits on contract with the IL SBEAP, which is the only state program not committed to conducting their own baseline visits.

State leverage is based on the following commitments: WDNR project lead will coordinate development and reporting with the SBCAAP project lead; SBCAAP will both lead the project and provide staff time for ERP development and site visits.

Category of funding	**Total Project Costs**	**Proposed State Leverage Funds**	**EPA Funding**
Personnel (incl. fringe and overhead)	2,722	2,722	0
Travel	0	0	0
Capital Equipment	0	0	0
Supplies	0	0	0
Contractual: WI Dept of Commerce	388,125	48,125	340,000
TOTAL	390,847	50,847	340,000

PROJECT NARRATIVE

Problem Statement

New federal rules to reduce air toxic emissions affect thousands of very small sources that previously had little or no formal regulation by state or federal environmental agencies. Needed emissions reductions will not be achieved without an effort to help small sources understand and comply with the requirements in the rule. States lack sufficient resources to implement and enforce the new rules. An Environmental Results Program is a more efficient and cost effective method than a traditional permitting and compliance system to reach small businesses and improve their compliance and environmental performance.

Background

In the effort to implement dozens of new area source NESHAPs, state environmental agencies and EPA regional offices find they must work together to achieve results. The area source NESHAPs are promulgated by USEPA to reduce air toxics emissions, particularly in urban areas where additive effects of other pollutants may increase local health risks. Many states are not seeking delegation for the area source rules, so that integration into permitting programs and conventional compliance and enforcement is not funded or feasible. Therefore, a cost effective implementation approach is needed. State small business environmental assistance programs (SBEAPs) are experts at providing effective compliance assistance on limited budgets. Also, there is substantial leverage offered by ERP's educational methods and its statistical approach to assessing sector-wide compliance.

This proposal will support the USEPA Strategic Goals in the following ways:

Goal 1, Sub-Objective 1.1.2: *Healthier Outdoor Air, reducing emissions of air toxics.*
By focusing on implementation of the NESHAP for Area Sources of Paint Stripping and Miscellaneous Surface Coating, 40 CFR part 63 subpart HHHHHH (subpart 6H), the project will assist in ensuring reduction of air toxics throughout the region as opposed to the potential results without the project. Lacking additional funding, states are not planning to take delegation for the area source rules. Ordinarily the SBEAPs would provide some level of outreach on the requirements, as dictated by the individual states' program priorities. The proposed project will ensure widespread outreach concerning the requirements across the Region 5 states. Without outreach, there will be very limited and inconsistent application of the practices outlined in the rule among shops. Improved application of the practices will reduce air toxics throughout the six states.

Goal 5, Sub-objective 5.1.1: *compliance assistance, reducing environmental risks in all areas including those with environmental justice concerns.*
State SBEAPs have been providing compliance assistance to small businesses for over 15 years. Because they often have a measure of confidentiality, they have gained the trust and credibility that allows small business owners a level of comfort in accepting assistance from the programs even though they reside in state agencies. The SBEAPs provide their assistance throughout their respective states. In developing an early partnership with Region 5 EPA staff, they have agreed to focus the baseline and follow-up measurement in the larger urban areas. Compliance assistance will still be available state-wide, but by focusing the ERP presence of state and EPA

staff in urban areas we hope to drive additional reduction of the environmental impact of the shops in the areas with the environmental justice (EJ) concerns. In designing the proposal, we will consult with Region 5 staff to determine overlaps between state and regional EJ areas and the urban areas where we will focus.

Goal 5, sub-objective 5.2.1 and 5.2.2: *prevent pollution, promote environmental stewardship; promote improved environmental performance through project with sector-based and performance-based focus, conducted largely by providing direct assistance to small businesses.* In addition to the key indicators driven by the area source rule requirements, we also will consider as many indicators as possible that will address pollution prevention, energy and/or water efficiency measures and other best practices we may find and individual states may choose to include. Considering other best practices can help lead shops to improve their overall environmental performance and thereby achieve a higher level of environmental stewardship. Our ongoing collaboration with associations and firms representing the autobody refinishing industry will undoubtedly lead those groups to encourage wider environmental protection and stewardship approaches during and after the project. We will convey pollution prevention, efficiency and best practices through the usual compliance assistance techniques SBEAPs are well known for: plain-language materials, comprehensive workshops, measurement of knowledge gained and overall usefulness of the assistance provided. Through ERP, we will focus on performance by producing data on performance changes and related environmental results.

Project Objectives

The objective of the Region 5 States ERP for Autobody Refinishing Shops project is to use the ERP structure to implement a portion of subpart 6H affecting autobody refinishing shops and in doing so, determine the impact of direct compliance assistance, self-assessment and certification, and random-sample site visits or inspections in lieu of traditional permitting and enforcement inspections. Use of plain-language materials to explain the requirements and how to determine if compliance was achieved, as a self-assessment checklist does, is believed by many to be more effective in achieving a positive change in the behavior of a small business than by solely providing them with a permit document written in legal terms with no further explanation until a compliance inspector shows up on their doorstep. Following the ERP design, conducting random sample baseline visits as well as compliance inspections following the compliance assistance phase will measure whether we have achieved the outcome of improving environmental performance of the shops affected by the new area source rule.

Methodology or Technical Approach

The WDNR and WI SBCAAP will partner with Region 5 state SBEAPs and EPA Region 5 Air Program staff to develop an ERP for the autobody refinishing sector affected by the subpart 6H area source NESHAP, which will include compliance assistance, self-certification, and statistical analysis of baseline and post-certification measurement of performance. Four of the six Region 5 states have strong experience leading and/or participating in the development and implementation of an ERP, which greatly improves our chances of success on the proposed project. The Region 5 ERP for autobody shops will develop in the following phases.

Phase One: The first step is to compile the universe of sources in the project. State SBEAPs will compile their best autobody refinishing universe and decide which areas in their state will be

selected for the urban focus; the regional urban universe will be used to select a random sample for the baseline visits to be conducted by SBEAPs in all but Illinois. As soon as possible, a university program that has historically conducted compliance assistance visits on behalf of the IL SBEAP will be brought on board to conduct the baseline visits in Illinois.

EPA Region 5 has stated that urban areas will be their priority in implementation of the area source rules, since they are developed under the EPA Urban Air Toxics Strategy. In addition, an urban area focus will make the best use of time and travel expenses, as well as to achieve the biggest gains on public health impact from the environmental performance improvements and improve the chances of reduced air toxics and collateral emissions (e.g., VOCs) in environmental justice areas. Assessing impact on environmental justice areas is also a regional and USEPA priority.

At the same time as the universe is compiled, the inspection checklist will be developed through discussions among state SBEAPs and EPA regional staff who are interested in participating. WDNR and other state regulatory programs may also participate in checklist development as they see fit or are able to given limited funding for area source work.

Phase Two: State SBEAPS and consultants will conduct the baseline visits. Prior to beginning that effort, SBEAPs and others conducting the baseline visits as well as follow-up compliance inspections will be trained together to ensure common understanding of the measures and statistical principles for data gathering are followed.

Phase Three: Following completion of the baseline visits, SBEAPs along with EPA staff and other stakeholders will develop common materials for the compliance assistance phase of the ERP. There are a number of tools previously created by MI and IN SBEAPs for the autobody sector that can be leveraged to help us create the ERP materials. Workshops will be conducted throughout the six Region 5 states to help the autobody refinishing shops understand the rule requirements and how to implement other efficiency and best management practices.

Phase Four: A self-certification checklist that also meets the needs of the Notification of Compliance Status for subpart 6H will be provided to all shops. These will be due on the compliance deadline in subpart 6H. Region 5 EPA staff will provide any necessary follow up on non-submittals of the Notification of Compliance Status, as needed.

Phase Five: The compliance program in the Air Branch at EPA Region 5 has agreed to conduct the compliance inspections following the self-certification phase. EPA commitment to this effort was outlined in a e-mail from Cheryl Newton, Acting Division Director, Air and Radiation, USEPA Region 5, to state air directors on September 24, 2008, stating “EPA's Air Enforcement and Compliance Assurance Branch has agreed to support the ERP pilot by conducting all post compliance inspections of the sampled facilities in the Region.” The same universe established for the baselines will be used for the EPA random sample for inspecting facilities.

Phase Six: Following completion of the compliance inspections, WI SBCAAP with contractor assistance will compile all data and write a final report.

This project will also leverage the ERP Common Measures for autobody shops already developed in a previous multi-state/EPA partnership project, and will generate ERP results data which will be submitted to the States ERP Consortium and EPA for national ERP results reporting. In addition, the project will test and develop pooled ERP implementation support (in training, materials development and information management) in partnership with the simultaneously-proposed Lean-P2 Partnership and Risk-Based ERP initiative in Rhode Island with the view that the lessons learned and initial infrastructure developed in this Region 5 project will be migrated there for long-term ERP support.

In contrast to previous and current multi-state ERP projects which have had states conducting independent state-by-state ERPs using a common core of topics and indicators, this project proposes to pool autobody facilities across several states into a single universe from which a random sample is chosen. In this way, the sector can be assessed using about 150 site visits total versus over 600 total if conducted by individual states. This lowers the burden on individual states and on EPA during long-term implementation and is a revolutionary application of ERP, which is now emerging as a viable alternative to facility-by-facility conventional permitting/inspection routines. We have consulted ERP experts under EPA contract in preliminary design of the project, and they have supported our planned distribution of site visits to individual states in the region. Given the scope of data management a six state project implies, there will be a need for contractor assistance in this effort.

It is the belief of both Wisconsin and Minnesota project leads that the region 5 project, the "Lean-P2 Partnership and Risk-Based ERP Initiative" proposed by Rhode Island programs, and the "Common Measures Project 2 - An Eight States Project for Analyzing & Improving ERP Measurement Results & Developing Beyond Compliance Programs" proposed by Massachusetts are synergistic efforts which, when coordinated through the States ERP Consortium, will elevate the scale of ERP, build interstate ERP infrastructure, and significantly boost the visibility and viability of ERP. Each of these developing projects builds results and experience in complementary (not overlapping) environmental, programmatic, or functional areas, so that each can learn from the other and strengthen the overall ERP effort. In partnership with these other projects, depending on whether or not funding is awarded to one or more, this proposal includes funding to ensure the ERP performance analyzer application is updated such that it is easily used by states who wish to take advantage of its data analysis and reporting benefits.

The following outlines key milestones for the project:

Federal fiscal year 2010
Fall 2009 (Oct-Dec) 1. Identify universe of facilities 2. Develop site visit checklist, protocol and training, data management 3. In partnership with associations, develop outreach materials to publicize the project 4. Site visit training 5. Begin baseline site visits

Winter 2010 (Jan-Mar) 6. Finish baseline site visits (majority before JAN. 11, 2010: Initial notification for existing sources) 7. Data management and analysis for baseline
Spring 2010 (Apr-Jun) 8. Mail self-certification and workbook to urban universe; 9. Respond to requests for assistance on phone or site
Summer 2010 (Jul-Sep) 10. Conduct workshops and other education
Federal fiscal year 2011
Fall 2010 (Oct-Dec) 11. Help EPA develop post-certification inspection and data management protocol
Winter 2011 (Jan-Mar) 12. Finish development of post-certification inspection protocol and data routines; Begin processing cert data (certs due: MAR. 11, 2011: Compliance notification/date)
Spring 2011 (Apr-Jun) 13. Final cert data processing; Begin post-cert inspections; design transition to Region 5
Summer 2011 (Jul-Sept) 14. Finish post-cert inspections;
Federal Fiscal Year 2012
Fall 2011- Winter 2012 (Oct-Mar) 15. Finalize post-cert data and analysis 16. Create vehicle for annual (or other periodic) submittals and data management between state/fed
Spring – Summer 2012 (Apr – Sept) 17. Finalize project reports.

Public Involvement

To facilitate involvement by anyone interested in the ERP project, we plan to post all public information on the Department of Commerce website. This is a simple avenue to distribute information and can be accessed at any time. We also plan to work closely with the trade associations in each state to ensure that member shops are provided outreach materials in a timely manner and kept up-to-date on the status and goals of the project. Other avenues for public involvement would be through the use of press releases and providing articles to media outlets to inform autobody shops that may not be reached through the trade associations. Those venues would also inform the general public.

Outcomes and Measures

While the primary focus will be compliance with subpart 6H, we also will provide education and collect data on best practices in energy efficiency and pollution prevention. To achieve that goal we will produce the following outputs and measure the following outcomes.

Environmental Outputs

The expected environmental outputs from this project will include not only the standard products expected for a State Innovation Grant (progress reports, statistical methodology and quality assurance plan) but will also include a number of other products. During development of the

ERP a process for gaining stakeholder involvement and input will be laid out. The SBEAPs and Region 5 staff will coordinate outreach and developing the universe through a series of teleconferences.

For the ERP we will create the following documents: facility self-assessment checklist and accompanying detailed workbook, materials and documentation associated with workshops/training sessions to explain environmental requirements to the shops, and possible on-line tutorial to assist facilities with completion of self-assessment. To compare these compliance assistance tools and demonstrate their benefits over the traditional permitting and enforcement system for a small business sector such as autobody shops, we will review how this industry is approached in other states and/or regions and address the findings in our final report. We will also consider conducting an evaluation of the industry perception of our compliance assistance effort, through a survey or similar tool, at the end of the project to guide future use of ERP with not only this industry but also similar small business groups.

Environmental Outcomes

While some of the following outcomes have been added, they are for the most part taken from the Common Measures project for autobody refinishing shops. The project will use these as a starting point, and beyond those measures directly related to the requirements in subpart 6H any additional measures will be included based on consensus of the partnering agencies. Because many of the new requirements are not currently applied by states or are applied but only in non-attainment areas, we can expect to see definite improvements on the control and training measures. The extent of improvement will be hard to predict, since the rule has been effective for nearly a year at the time of this pre-proposal and it is uncertain whether shops will learn about the rule through other means and implement the requirements prior to baseline measurements.

AIR PRACTICES

- % using HVLP or equivalent high transfer efficiency technology
- Average throughput (vehicles painted) per year
- Average and range of coatings used (and HAP content)
- % with high transfer efficiency painting training in place
- % with different components of training
- % using hands-on or classroom-only training
- Rate of documentation of training
- % using dustless vacuum or overhead capture equipment
- % keeping shop doors closed to avoid releasing sanding dust
- % at which all spray-applied coatings used in enclosed booth or prep station
- % of booths/stations fitted with particle filters
- % of booths/stations fitted with filter/system achieving 98% capture
- % where spray gun cleaning is done with enclosed or non-atomizing washers

AIR RECORD KEEPING:

- % maintaining MSDS or formulation records for all solvents/coatings use
- % maintaining records of the amount/content of coatings containing Cr, Pb, Cd, Ni, Mn
- Average and range of listed metals content (% by weight)
- % using paint strippers containing Methylene Chloride

- % keeping records to document annual usage
- Average and range of MeCL used
- Percent of MeCL users with written MeCl minimization plan
- % maintaining records of the amount/content of coatings containing VOC
- Average and range of VOC content (% by weight)

POSSIBLE HAZARDOUS WASTE

- Average and range of maximum amount of RCRA waste the facility generates in a month
- Numbers of facilities in generator classes (CESQG or VSQG, SQG, LQG)

POSSIBLE INDUSTRIAL WASTERWATER INDICATORS

- % of facilities discharging IWW to surface water
- % of facilities discharging IWW to a storm, sanitary or combined sewer system

POSSIBLE POLLUTION PREVENTION INDICATORS

- % of facilities taking one or more actions to conserve water the past three years (distribution across menu of possible actions)
- Average measurable effect of water conservation actions
- % of facilities taking one or more actions to conserve energy over the past three years (distribution across menu of possible actions)
- Average measurable effect of energy conservation actions
- % of facilities taking one or more actions to reduce toxics the past three years (distribution across menu of possible actions)

<u>Other Possible Analyzed Indicators (at least for the Baseline round; from the States ERP Consortium's Core Measures)</u>

- Final certification rate
- Rate of "high-concern" discrepancies with regard to facility certifications on indicators
- Rate of self-disclosed noncompliance
- Rate of return-to-compliance (RTC) plan submission (if RTCs used)
- Rate of self-disclosing facilities submitting one or more return-to-compliance plans (if RTCs used)
- Summary of performance changes for each indicator (if follow-up inspection data is available from Region 5 before project's end)
- Aggregate achievement rate for all indicators
- Achievement rate across all compliance-related measures (commonly called a traditional compliance rate)
- Average facility score for all indicators
- Distribution of facility scores for all indicators
- Average facility score for compliance-related indicators
- Distribution of facility scores for compliance-related indicators
- Average facility score for all compliance-related measures
- Distribution of facility scores for all compliance-related measures
- Rate of managing/controlling certain environmental aspects
- Level of group emissions/waste/discharges/chemical usage related to certain environmental aspects
- Relationship of project activity and typical impact (and changes if follow-up inspection data is available from Region 5 before project's end) on environmental justice areas

SUMMARY OF REPORTING ON PAST PERFORMANCE OF ENVIRONMENTAL RESULTS – OUTPUTS AND OUTCOMES

The WI Department of Natural Resources (WDNR) Bureau of Air Management was awarded a State Innovation Grant for a project titled "Improved Environmental Results and Increased Regulatory Flexibility in Air Permitting for the Printing Sector Using EMS and ERP." All quarterly reports required for that project are up to date. The final report deadline has been extended in order to allow data compilation to be completed.

The WDNR Bureau of Cooperative Environmental Assistance received a State Innovation Grant for a project titled "Use of Whole Farm EMS as a Supplement to CAFO Permits for the Dairy Sector." To date WDNR has submitted three (3) of the four (4) quarterly reports due to US EPA. Feedback on the quarterly reports from US EPA has been positive in areas of content and structure. WDNR anticipates it will satisfy the timeline outlined in the reporting schedule by the end of 2009.

SUMMARY OF PROGRAMMATIC CAPABILITY

William Baumann, at the WDNR, is the Compliance & Enforcement Section Chief within the Air Management Program. This section is responsible for programmatic implementation of EPA MACT standards, including promulgation of MACT standards into state administrative code. Staff in Mr. Baumann's section are responsible for leading the WDNR statewide MACT Team, and staff in his section also assisted with the baseline inspections for the printer ERP project. Mr. Baumann has made presentations at several recent NACAA annual Enforcement and Compliance workshops on the topics of state funding impacts of GACT implementation, and Wisconsin's experience with the printer ERP.

Renee Lesjak Bashel, at the WI Department of Commerce Small Business Assistance Program, has been conducting compliance assistance activities for small businesses with a focus on air pollution regulations for nine years. Ms. Bashel was an Air Management Engineer for the WDNR Bureau of Air Management for eight years prior. As Chair of the Technical Subcommittee for the SBEAP's National Steering Committee, she has been working closely with USEPA OAQPS rule writers on multiple area source rules and in the process worked with members of the subcommittee to provide input and comment on three area source rules since 2007. In partnership with WDNR, Renee has led their SIG printer ERP project since 2004.