

US EPA ARCHIVE DOCUMENT

## COMMENTS BY THE NATIONAL GOVERNORS' ASSOCIATION ON EPA'S PUBLIC PARTICIPATION REGULATIONS AND POLICIES

These comments are submitted in response to the Federal Register notice of November 30, 1999 requesting public comments.

The main purpose of these comments is to address the two issues presented in the notice by applying the official NGA Natural Resources Policy No. 1 entitled "Enlibra: A New Shared Doctrine for Environmental Management." A copy of this NGA policy is attached.

While the entire set of eight Enlibra principles are germane to the subject of public participation, the second principle is especially important: "Collaboration, Not Polarization Use Collaborative Processes to Break Down Barriers and Find Solutions." We urge EPA officials to examine the entire Enlibra doctrine, as well as additional materials on Enlibra on NGA's web site [www.nga.org/center](http://www.nga.org/center).

With respect to EPA's report "Aiming for Excellence Actions to Encourage Stewardship and Accelerate Environmental Progress" that was cited in the notice we have noted a coincidence between the report's themes and the Enlibra doctrine. Close examination of the Enlibra doctrine would fit under the report's "Action 1: Use incentives and voluntary partnerships more widely to encourage better environmental performance." Enlibra very much represents an approach to identify and use incentives to solve problems and it also represents a means to form voluntary partnerships, particularly among local interests.

Also, Enlibra fits under "Action 9: Build leadership capacity in communities to participate in local environmental problem-solving." Enlibra matches the report's recognition that "Often, environmental problems are best addressed at the state, tribal, or local level, where unique social, economic, and cultural priorities can be better recognized and considered in the decision-making process."

With respect to the two main issues cited in the notice we offer the following comments.

1. How does the experience of the past nineteen years suggest the need for improvements in the general procedures for involving the public in EPA programs and decisions?

The following statement from the NGA Enlibra policy explains why NGA believes that EPA should recognize that there is a genuine need to improve the approaches for involving the public in EPA's programs and decisions:

The regulatory tools the nation has been relying on during the last quarter of a century are reaching the point of diminishing returns. In addition, environmental issues tend to be highly polarizing, leading to destructive battles that do not necessarily achieve environmental goals. Successful environmental policy implementation is best accomplished through balanced, open, and inclusive approaches at the ground level, where interested stakeholders work together to formulate critical issue statements and develop locally based solutions to those

issues. Collaborative approaches often result in greater satisfaction with outcomes and broader public support, and they can increase the chances of involved parties staying committed over time to the solution and its implementation. Additionally, collaborative mechanisms may save costs when compared with traditional means of policy development. Given the often local nature of collaborative processes, it may be necessary for public and private interests to provide resources to ensure these processes are transparent, have broad participation, and are supported with good technical information.

The key recommendation, therefore, is that EPA should focus on the need to shift its thinking and strategies away from traditional notions about public participation and toward the central theme of collaborative involvement of all stakeholders to reach consensus solutions wherever possible. The many parties already using and supporting the Enlibra doctrine, particularly local grassroots organizations, generally have articulated their disappointment and frustration with older forms of public participation where information is provided by EPA to stakeholders, where members of the public are given access to EPA officials, and where the public can attend hearings and submit comments to EPA. All of these traditional approaches greatly limit the ability of concerned citizens to participate in a more meaningful and effective way in shaping EPA's decisions. To some degree, the traditional public participation approaches used by EPA have contributed to the high degree of polarization on difficult and complex environmental issues. The traditional approaches have not produced broad public satisfaction with and support of EPA's policies and programs. Collaborative approaches offer the means to achieve better solutions, higher environmental performance, and reduced costs to both the public and private sectors.

2. What are the suggested elements of a strategy to further engage the public in updating requirements and filling gaps in EPA's regulations and policies concerning public participation?

NGA recommends that EPA employ the Enlibra framework of eight principles within a consensus building process involving a broad diversity of stakeholders from public and private organizations. In other words, to further the use of a true collaborative approach for public involvement NGA believes it appropriate and consistent for EPA to now use a collaborative process to discuss and update requirements and to fill gaps in EPA's regulations and policies concerning public participation. Several layers of collaborative efforts could be used. For example, EPA could convene a number of regional groups followed, perhaps, by a very high level group of senior officials from public and private organizations. The overall goal would be to develop consensus positions on how best to use collaborative processes as the principle means of achieving effective public participation.