



April 4, 2011

Ms. Lisa Jackson, Administrator
USEPA Headquarters (MC 1101A)
Ariel Rios Building
1200 Pennsylvania Avenue, N. W.

Washington, DC 20460

Terri L. Goldberg
Executive Director

129 Portland Street
6th Floor
Boston, MA 02114

Tel 617-367-8558
Fax 617-367-0449
www.newmoa.org

RE: EPA's Request for input on designing regulatory review in response to President Obama's Executive Order 13563

Dear Ms. Jackson:

Thank you for providing an opportunity to provide input to EPA regarding regulatory changes to increase the efficiency and effectiveness of government and reduce burdens on business. The state agency members of the Northeast Waste Management Officials' Association (NEWMOA) are commenting on the General Category of the request as our suggestions span multiple categories including air, water, waste, integration, innovation, small business, compliance, economic, science, benefits and costs, and state government.

Our primary input involves the Performance Partnership Agreements and Grants (PPA/PPG) that establish the framework in which state environmental programs implement EPA's federally delegated programs. There are many opportunities within the PPA/PPG to use innovative strategies that improve the effectiveness of state and federal compliance assurance efforts and help businesses comply efficiently with the myriad of environmental requirements. In order for this to happen, EPA must allow states to employ proven innovative compliance approaches.

The traditional compliance model that EPA has required state delegated programs to follow has primarily focused state and federal agency resources on the same group of large facilities year after year. However, state agencies have found that these facilities do not always present the greatest risk to human health and the environment. We have become increasingly concerned about the cumulative impact of the large number of smaller sources of pollution. These sources can be in significant non-compliance and do not have professional environmental health and safety staff to help them understand the requirements and best practices for managing hazardous materials, wastes, discharges, and emissions. State agencies cannot address these smaller sources if they must focus their limited staff almost exclusively on the large and major sources as required in the PPA/PPG. To address this challenge, state programs need greater flexibility in their agreements with EPA to best employ innovative and efficient compliance strategies that they have developed to address smaller sources.

While large sources always require some attention, state agencies would like to be able to focus their resources on the facilities that they have found to pose the greatest risk. For example, we might target inspections based on proximity to environmental justice communities, sensitive habitats, population centers, and other high risk receptors. EPA should consider risk-based and evidence-based approaches to compliance assurance in the states' PPA/PPG framework.

NEWMOA also recommends that proven compliance strategies be integrated into the 12 elements of the OECA State Review Framework (SRF) process.

The Environmental Results Program (ERP) is an evidence-based approach that numerous states have successfully deployed. To achieve improved performance for any selected group, ERP uses a unique combination of:

- Plain language assistance tools that promote compliance and adoption of “beyond compliance” practices
- Facility self-assessment and mandatory or voluntary submittal of compliance status certifications to state regulatory agencies
- Strategic government compliance inspections and enforcement activities
- Statistically based performance measurement

ERP frequently employs a multi-media approach, which can be efficient both for the regulated facilities and for agencies. Please see the attached fact sheet for more information on ERP.

A significant benefit of ERP is the use of random sampling for inspection targeting and statistical analysis that allows the findings of inspections to be extrapolated to a whole group of similar facilities. As a result, agencies can understand the compliance status and non-compliance challenges facing a sector. This enables programs to target their limited compliance assistance and inspection resources to the most important needs.

NEWMOA’s members have successfully implemented ERP initiatives for printers, dry cleaners, auto body shops, auto salvage yards, small quantity hazardous waste generators, facilities with underground storage tanks, and other sectors. EPA has provided critical funding for the development and piloting of ERP projects over the past ten years. More information on state experience with ERP is available at: www.erpstates.org and in the EPA document, *ERP States Produce Results* available at: www.epa.gov/erp/files/2007reportfull.pdf.

In addition, EPA should consider expanding support for electronic reporting and electronic tools within the compliance framework. Electronic reporting, tracking, and permitting would greatly reduce regulatory burden across the board, including the regulated community as well as state and federal regulators. In addition, it would greatly increase transparency of environmental data by allowing public access to expanded information about the compliance status of pollution sources. ERP is primarily implemented with electronic based tools and serves as a solid example as to how electronic reporting increases efficiencies while reducing regulatory burden.

NEWMOA would welcome the opportunity to meet with EPA representatives to discuss ways in which the PPA/PPG framework could provide flexibility to enable states to take greater advantage of the benefits of proven compliance models that improve efficiency, lower regulatory burdens, and increase compliance.

Sincerely,



Sarah Weinstein
Massachusetts Department of Environmental Protection
Chair, NEWMOA Board

cc: Mathy Stanislaus, Assistant Administrator Office of Solid Waste and Emergency Response (MC 5101T)
Cynthia Giles, Assistant Administrator Office of Enforcement and Compliance Assistance (MC 2201A)

NEWMOA is a nonprofit, nonpartisan interstate association that has a membership composed of the hazardous waste, solid waste, waste site cleanup, and pollution prevention program directors for the environmental agencies in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. NEWMOA was established by the Governors of the New England states as an official regional organization and was formally recognized by the U.S. Environmental Protection Agency (EPA) in 1986.