



National Environmental Performance Partnership System

FY 2013 Guidance

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

Publication Number: 270R12001

**National Environmental Performance Partnership System
FY 2013 National Program Guidance**

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EXECUTIVE SUMMARY

I. Program Office

Office of Congressional and Intergovernmental Relations (OCIR) FY 2013 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, 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 2013 guidance sets out the goals and objectives for Performance Partnerships. In January 2010, the Administrator sent a memorandum to all EPA employees outlining her top seven priorities. These are now reflected in the *FY 2011-2015 EPA Strategic Plan* and FY 2013 Budget. 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. In addition, this guidance reflects and supports EPA's commitments and objectives outlined in the Strategic Plan's Cross-Cutting Fundamental Strategy for Strengthening State, Tribal and International 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. Take additional measures to work with states to identify opportunities for enhanced worksharing, resource and workload flexibility, especially where budget reductions have negatively affected state programs.
2. Whenever possible, consider NEPPS principles and include all the essential elements in PPAs as identified by a joint EPA-state work group 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, ensuring that requests for flexibility and innovation are addressed. Resolve any disagreements by making full use of the issue resolution process to elevate issues up to and including 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.
6. Support state and tribal capacity by encouraging exploration of creative new ways to partner with states and tribes that will augment the progress made through NEPPS.

Goal II: Implement the Administrator's priorities as reflected in the FY 2011-2015 EPA Strategic Plan and FY 2013 Budget through PPAs, PPGs and other EPA-state and EPA-tribal agreements.

Objectives:

1. Use the NEPPS process to leverage funds and activities to advance children's health.
2. Work with states to advance environmental justice by improving environmental conditions and public health in minority, low-income, tribal, and other vulnerable communities.
3. Strategically use the NEPPS process to organize and articulate mutual compliance and enforcement priorities, and ensure they are aligned with commitments in PPGs and other categorical grant workplans.
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 grant funds.
2. Implement *Grants Policy Issuance (GPI) 09-01: Burden Reduction for State Grants*.

3. Implement *Grants Policy Issuance (GPI) 11-03: State Grant Workplans and Progress Reports*; continue to report on results of state grant performance measures.
4. Implement *Grants Policy Issuance (GPI) 11-01: Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements*.
5. Ensure that state and tribal PPGs are managed in a manner that is consistent with budget and progress reporting and conducted in accordance with existing workplan and funding requirements of 40 CFR 35, Subparts A and B.
6. Ensure compliance with Title VI of the Civil Rights Act of 1964 in the implementation of state grants.

IV. Program Contacts

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V. OCIR's Feedback Process

Upon receiving the draft FY 2013 NEPPS National Guidance from OCIR, 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 version of the guidance to be released in late April.

VI. Explanation of Changes from FY 2012

This guidance contains minor revisions, updates and two new objectives. It includes: (1) information about an EPA-state worksharing task force in Goal I/Objective 1; (2) updated EJ Objective 2 in Goal II; (3) minor revisions in Objectives 3 and 4/Goal III on state grant workplans, performance measures and grant unliquidated obligations; (4) a new Objective 5 in Goal III on PPG budget, workplan and progress reporting requirements; (5) a new Objective 6 in Goal III about compliance with Title VI of the Civil Rights Act of 1964; and (6) an updated Appendix A on PPG-eligible grants.

National Environmental Performance Partnership System FY 2013 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 can be 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 2013 guidance² sets out overarching goals and objectives for Performance Partnerships. In January 2010, the Administrator sent a memorandum to all EPA employees outlining her top seven priorities. These are now reflected in the *FY 2011-2015 EPA Strategic Plan*³ and FY 2013 Budget. 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. In addition, this guidance reflects and supports EPA's commitments and objectives outlined in the Strategic Plan's Cross-Cutting Fundamental Strategy for Strengthening State, Tribal and International Partnerships.

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

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

³ The *FY 2011-2015 EPA Strategic Plan* can be found at <http://www.epa.gov/ocfo/plan/plan.htm>.

Goals and Objectives for FY 2013

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. Take additional measures to work with states to identify opportunities for enhanced worksharing, resource and workload flexibility, especially where budget reductions have negatively affected state programs.

Many states continue to experience budget shortfalls due to a slowly recovering economy. As a result, state environmental agencies face ongoing resource and staffing challenges 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.

Both EPA and the states fulfill critical roles in protecting and improving human health and the environment. By law and through shared experience, EPA and the states must effectively collaborate in the planning and implementation of environmental programs, and ensure compliance with statutory and regulatory requirements in order to succeed.

In FY 2012, the Agency will continue to work with the states to evaluate alternate work planning approaches (such as worksharing) in order to maintain the current levels of delivery of its environmental and public health programs. In 2011, the national program manager (NPM) members of an EPA-state worksharing task force conducted a review of EPA's statutes and regulations for worksharing prohibitions. In 2012, in addition to finalizing a report regarding the results of the review, the task force also will develop principles for best practices and make recommendations on making EPA's expertise more available to the states through IPAs and web-based/electronic platforms, and expanding training opportunities.

Regions should utilize the approaches identified from this effort in planning for and implementing Performance Partnerships with the states in FY 2013.

Further, the Administrator has placed renewed emphasis on improving the Agency's relationships with the states through the Strategic Plan's Cross-Cutting Fundamental Strategy for Strengthening State, Tribal and International Partnerships. To maintain program performance nationally and to ensure the success of the Cross-Cutting Strategy, the regions are urged to expand the utilization of worksharing with their state partners in developing their FY 2013 program performance commitments.

2. Whenever possible, consider NEPPS principles⁴ and include all the essential elements in PPAs as identified by a joint EPA-state work group in 2004. Mutual state-EPA priorities should be clearly articulated and distinguished from state-specific and EPA-specific priorities.

The most effective PPAs contain several “essential elements” established by a joint EPA-state work group⁵ in 2004. These recommended essential elements⁶ are listed below:

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

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 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.

A PPA is a strategic negotiated plan that articulates joint goals and priorities, key activities, programs, and roles and responsibilities. With the elements enumerated above, a 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.

⁴ See: http://www.epa.gov/ocir/nepps/pdf/joint_commit_create_nepps.pdf for a description of NEPPS principles.

⁵ State-EPA Planning Alignment/PPA Work Group, now the Partnership and Performance Work Group. See: http://www.epa.gov/ocir/nepps/policies_guidance.htm for the Work Group’s findings and recommendations.

⁶ Note that these essential elements are different from the ones listed in Goal III/Objective 3 which are specific to state grant workplans.

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. In March 2010, EPA and the Environmental Council of States (ECOS) signed a Memorandum of Understanding to affirm the use of administrative business process improvement techniques (Kaizen, Six Sigma, Value Stream Mapping and other methods) to enhance the achievement of environmental goals. The *FY 2011- 2015 EPA Strategic Plan* also commits EPA to “work with states to seek efficient use of resources” under the Cross-Cutting Fundamental Strategy for Strengthening State, Tribal and International Partnerships. 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. Tools and resources (“how to” guides, case studies) can be found on the EPA and ECOS websites: www.epa.gov/lean and www.ecos.org.

4. Advance Performance Partnership principles through effective collaboration with states on policy and implementation issues, ensuring that requests for flexibility and innovation are addressed. Resolve any disagreements by making full use of the issue resolution process to elevate issues up to and including 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*.⁷ 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 achieve significant administrative efficiencies, direct resources where they are needed most,

⁷ 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/>.

implement strategies that cut across program boundaries, or try other innovative solutions to environmental problems. Appendix A provides a list of grant programs eligible for inclusion in PPGs. PPAs are discussed in Objective # 2 above.

For instance, under PPGs, states can 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 can 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.⁸

6. Support state and tribal capacity by encouraging exploration of 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).

Goal II: Implement the Administrator's priorities as reflected in the *FY 2011-2015 EPA Strategic Plan* and FY 2013 Budget through PPAs, PPGs and other EPA-state and EPA-tribal agreements.

Objectives:

1. Children's Health: 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.

⁸ See http://www.epa.gov/ocir/nepps/speeches_publications.htm for more examples of how states have used PPGs.

2. Environmental Justice⁹ (EJ): Work with states to advance environmental justice by improving environmental conditions and public health in minority, low-income, tribal, and other vulnerable communities.

Regional programs should work with states and tribes to advance policies, programs and activities that address risks to minority, low-income, tribal, and other vulnerable communities. Opportunities to advance EJ include: (1) developing region-wide strategies through joint meetings with state and tribal 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; (2) identifying specific state and tribal EJ needs, concerns and resources associated with specific programs; (3) collaborating, networking and partnering with states and tribes through EJ coordinators and/or appropriate program contacts to share resources; and (4) supporting community involvement through community engagement initiatives.

Regional programs should incorporate environmental justice considerations, and develop measurements where feasible, into their stated evaluation criteria and reflect those considerations in the terms and conditions of the grant award, as appropriate.¹⁰ Examples of key activities that can be incorporated and evaluated to ensure integration of environmental justice principles include, but are not limited to: (1) identifying EJ communities and vulnerable populations that may be disproportionately impacted by environmental burdens and/or experiencing adverse health impact; (2) sharing and developing resources, tools, and data, for monitoring and tracking of successes; and (3) providing training within programs and tribal agreements, workplans guided by NEPPS goals and objectives that lead to an understanding of expectations and effective implementation that foster best practices; (4) identifying clear performance expectations, commitments on targeting inspections where disproportionately high and adverse human health or environmental effects have been noted; and (5) providing opportunities for enhanced public participation, consideration of limited English proficiency or immigrant, traditional or cultural needs, and ensuring early engagement, meaningful participation and information exchange.

In order to identify barriers that may impede or limit the development of effective partnerships with states and tribes, regions are urged to take advantage of the opportunities mentioned above to ensure that the most vulnerable of populations/areas receive appropriate resources and adequate attention. To the extent applicable, the Agency will pilot and share best practices and resources with states and tribes in order to bridge gaps, maintain transparency, provide support and partnerships where there are limited resources. Additionally, the Agency encourages states and tribes to share appropriate tools, guidance, traditional knowledge and good neighbor practices that will

⁹ See: <http://www.epa.gov/compliance/environmentaljustice/index.html>.

¹⁰ Plan EJ 2014 Legal Tools, p. 92, Section B. See: <http://www.epa.gov/environmentaljustice/resources/policy/plan-ej-2014/ej-legal-tools.pdf>.

contribute to improved public health in minority, low-income and other vulnerable communities.

3. Strategically use the NEPPS process to organize and articulate mutual compliance and enforcement (C/E) priorities, and ensure they are aligned with commitments in PPGs and other categorical grant workplans.

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.

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 worksharing, 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, EPA and states should discuss and identify new approaches for monitoring compliance and addressing less serious violations that do not directly impact the environment or public health.

4. Ensure that the following priorities of the Administrator are included in regional-state planning discussions. (Note: these priorities are detailed in individual NPM guidance from OAR, OW, OECA, OPPTS, and OSWER):

- 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 CEP grant funds.¹¹ This is particularly important when many states are experiencing budget shortfalls and therefore rely heavily on CEP grant funding. For FY 2013, EPA will issue additional guidance through an Advice of Allowance Letter or communications from the Office of Grants and Debarment (OGD), and, as appropriate, provide goals and strategies for the timely award of FY 2013 CEP grants.

2. Implement *Grants Policy Issuance (GPI) 09-01: Burden Reduction for State Grants*.

*Grants Policy Issuance (GPI) 09-01: Burden Reduction for State Grants*¹² 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, in particular, applies to the reporting frequency of each program included in a PPG. Regions are encouraged to incorporate adopted burden reduction efforts as widely as possible.

3. Implement *Grants Policy Issuance (GPI) 11-03: State Grant Workplans and Progress Reports; performance measures*.

*Grants Policy Issuance (GPI) 11-03: State Grant Workplans and Progress Reports*¹³ was developed by the State Grant Workplan Workgroup, composed of EPA and state grant practitioners. It applies to the fourteen state grant programs previously subject to the

¹¹ All of the CEPs listed in 40 CFR 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).

¹² See: http://intranet.epa.gov/OGD/policy/GPI_09-01_final.pdf.

¹³ See: http://www.epa.gov/ogd/grants/final_grants_policy_issuance_11_03_State_Grant_Workplans.pdf.

State Grant Performance Measures Template. For these programs, it requires that workplans and associated progress reports prominently display three *Essential Elements*: the EPA Strategic Plan Goal; the EPA Strategic Plan Objective; and Workplan Commitments plus time frame.

The GPI will go into effect for awards made on or after October 1, 2012. It was issued well in advance of the effective date to allow regions and states sufficient time to adjust to the new requirements. National Program Managers and Regional Program Offices should ensure that the GPI is incorporated in upcoming FY 2013 workplan negotiations, and provide appropriate outreach to state recipients. In addition, OGD will work with the regions on a case-by-case basis to address any implementation challenges.

To further transparency, the GPI calls for the establishment of an information technology application to electronically store workplans and progress reports. OGD is in the process of drafting the requirements for the application and will be discussing them with members of the Workgroup. OGD anticipates having the application operational by the beginning of FY 2013. If you have any questions about the GPI, please contact Jennifer Hublar of OGD at (202) 564-5294.

NPM guidance governs the establishment of regional commitments for annual budget measures and additional operational measures. Since the State Grant Performance Measures Template is no longer required, NPMs have discretion about whether or not to continue those measures as part of their overall set of FY 2013 measures. Please refer to individual NPM guidance for specific requirements.

4. Implement Grants Policy Issuance (GPI) 11-01: Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements.

*Grants Policy Issuance (GPI) 11-01: Managing Unliquidated Obligations and Ensuring Progress under EPA Assistance Agreements*¹⁴ became effective in FY 2011 and addresses the Office of Inspector General's (OIG) concerns about the necessity of internal controls to identify and deobligate unneeded assistance agreement funds, or to prevent unwarranted accumulations of unliquidated obligations. The policy also addresses the Agency's responsibilities under the Federal Managers' Financial Integrity Act (FMFIA) and *EPA Order 5700.6 A2 CHG 2, Policy on Compliance, Review and Monitoring* by including provisions that highlight the need for timely project/program completion and monitoring of unliquidated obligations. The policy includes limits on project periods, development of indicators to assess the effectiveness of funds utilization, requirements for workplan milestones and delivery dates, and "sufficient progress" terms and conditions.

Given the tight budget climate, effective management of ULOs is a high priority for the Agency and OGD will be working closely with the states to implement the ULO reforms.

¹⁴ See: http://intranet.epa.gov/OGD/policy/gpi_11_01_12_02_10_final.pdf.

It is important for the regions to implement GPI-11-01 for effective management of grant ULOs. The OGD contact for the ULO policy is Laurice Jones, who can be reached at (202) 564-0223.

Regions and states should also ensure that PPG funds are efficiently utilized to accomplish priority environmental activities identified in grant workplans. The PPG NPM, OCIR, in coordination with the media program NPMs, Regional Program Offices and OGD, has developed the following PPG-specific “sufficient progress” term and condition to be included in new assistance agreements awarded on or after December 1, 2010:

EPA may terminate the assistance agreement for failure to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project.

The OCIR contact for the ULO policy as it applies to PPGs is Reynold Meni, who can be reached at (202) 564-3669.

5. Ensure that state and tribal PPGs are managed in a manner that is consistent with the budget, workplan and progress reporting requirements of 40 CFR 35, Subparts A and B.

Recent concerns have been raised by PPG recipients about requests from EPA for additional budget information and progress reporting for individual grants included in a PPG that are inconsistent with the workplan and funding requirements of 40 CFR 35. The ability of a state or tribe to combine up to 18 grants in a single PPG provides administrative benefits that include streamlined paperwork and accounting procedures. It is important to note that once grants are combined in a PPG, funds do not have to be tracked by the original program source. In general, 40 CFR Part 35 only requires one budget, financial status report and a negotiated workplan that incorporates commitments for each workplan component funded by the PPG. For most grants included in a PPG, an annual performance report is required, but for some grants a semi-annual performance report is required. However, regions may require more frequent performance reports (not to exceed quarterly reporting) only where agreed to by a state or tribe or where there are performance issues, such as Agency concerns with the timely and appropriate expenditure of funds.

6. Ensure compliance with Title VI of the Civil Rights Act of 1964 in the implementation of state grants.

It is a priority of the Agency to ensure compliance with Title VI of the Civil Rights Act of 1964 (see: <http://www.epa.gov/civilrights/t6lawrg.htm>). This statute prohibits

discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving federal financial assistance.

- EPA's Office of Administration and Resources Management (OARM) will work with the Office of Civil Rights (OCR) and the Office of General Counsel (OGC) in coordination with the grants management community to develop and implement appropriate grant conditions, training programs and monitoring strategies to help achieve compliance with Title VI and implementing regulations and guidance.
- As required by implementing EPA regulations at 40 C.F.R. Part 7, EPA applicants must complete EPA Form 4700-4 to demonstrate compliance with Title VI and other non discrimination statutes and regulations. See: http://www.epa.gov/ogd/forms/adobe/4700-4_sec.pdf. The regulations also impose specific obligations on grant recipients, including providing compliance information, establishing grievance procedures, designating a Title VI Coordinator, and providing notices of non-discrimination. See: <http://www.epa.gov/civilrights/docs/40p0007.pdf>.
- Title VI requires EPA financial assistance recipients to provide meaningful access to LEP individuals. To implement that requirement, and consistent with Executive Order 13166, <http://www.epa.gov/civilrights/docs/eo13166.pdf>, the Office of Civil Rights (OCR) issued guidance to recipients entitled, *"Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons."* See: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2004_register&docid=fr25jn04-79.pdf.
- The regions should encourage the states to consider enhanced public participation. To help states develop public involvement programs, OCR published a Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, <http://edocket.access.gpo.gov/2006/pdf/06-2691.pdf>.
- All recipients of EPA financial assistance have an affirmative obligation to implement effective Title VI compliance programs and ensure that their actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. Recipients should be prepared to demonstrate that such compliance programs exist and are being implemented, or to otherwise demonstrate how they are meeting their Title VI obligations.

Appendix A: 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%
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%
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.