

Schary, Claire

From: Carrie Sanneman [sanneman@willamettepartnership.org]
Sent: Monday, March 25, 2013 4:49 PM
To: Schary, Claire
Subject: Re: More comments on Draft Outline document

Hi Claire,

Thank you for these, I had a talk with Neil this morning highlighting the same thing on our use of the word "compliance". You are right that we used it loosely and broadly and we need to be much more disciplined about that because, as you say, it has a very specific meaning to EPA and the state agencies.

The other comments (who conducts verification, what reporting should look like, how to deal with liability for force majeure) are also noted, we're going to summarize all the comments that we have gotten so that as we dig into each section (like supporting the creation of a reserve pool to reduce programmatic risk for project failure), we know what we need to discuss. I do want to say that the inclusion of different components in the outline is not intended as an indication that EPA should be the one responsible for doing it - like verifying a credit's validity, or reporting how credit purchases lead to compliance - just that it is an important component of a trading program, and we'll talk through a shared approach to addressing it over the series of workshops.

Thanks again for soliciting feedback.

Best
Carrie

On Mon, Mar 25, 2013 at 3:45 PM, Schary, Claire <Schary.Claire@epa.gov> wrote:

Carrie,

I just wanted to share some brief comments/observations Dustan Bott & Chae Park had on the outline document that you should try to think about as you revise the other documents. I'm copying Dustan on this message so that he can clarify anything I didn't quite capture correctly.

First, the word "compliance" is used broadly in the outline to refer to both the credit verification and monitoring steps as well as the point source's status with its permit. That is confusing for us because compliance is, in this context, a term EPA would use only when referring to the permittee and their Clean Water Act obligation to meet the permit limit, etc. What would help us if you could come up with another word to use in describing the steps concerning the credits themselves, and keep the word "compliance" to refer to the permittees and their CWA obligations.

Second, the document needs to be clear that the compliance determination is with the permittee at their point of discharge and not at the project sites creating the reductions used in the credit. The credits are purchased by the

permittee just as if they had purchased a piece of equipment to remove a pollutant from their discharge, and will likely be represented that way on the DMR, so EPA shouldn't have to go to the project site to determine if the permittee is in compliance – that verification of the credits' validity is performed by others, and EPA, in its compliance review process, just needs to review the math as shown on the DMR and other reporting documents. That also means any credit failure – such as from a flood or fire wiping out the restoration project – is the permittee's concern and not ours, and that they will have planned for such an occasion with their own means of insurance or purchase of additional credits.

Third, speaking of DMRs and other reporting documents, EPA hopes the permittee will do all the calculations of how the purchase of credits brings their actual discharge into compliance with the limit in their permit – so, without having actually looked at the Medford DMR yet, we are hoping the system that gets used is one where EPA doesn't have to do the math to see if they really are, built that it's already built into the reporting process. EPA will ask for more information to substantiate the calculations when we do inspections or permit reviews, but don't want a labor intensive process at our end to review the use of credits in the permit.

Dustan – please add your corrections to my statements if needed.

Thanks!

-- Claire

Claire Schary

Water Quality Trading Coordinator

Watershed Unit / Office of Water & Watersheds

schary.claire@epa.gov / [\(206\) 553-8514](tel:(206)553-8514)

USEPA Region 10 / 1200 Sixth Ave, Suite 900 (OWW-135), Seattle, WA 98101