The primary objective of this effort is to secure a multi-state consensus and EPA agreement on regulatory guidance, general standards, procedures and accounting infrastructure for offset credits that can be used in water quality trading for nutrients (nitrogen and phosphorus) and temperature in Oregon, Washington, and Idaho. All three of these states and USEPA have some form of guidance or framework in place to inform water quality trading. This project will help create needed alignment and consistency among trading programs while maintaining essential state flexibility to address unique circumstances. In addition to standardizing program elements in the three-state area, partners will coordinate closely with water quality trading programs currently under development in the Ohio River Valley, in an effort to create consistent, multi-state program elements. Close multi-state coordination will improve the likelihood that standard program elements will work across regions throughout the U.S. – increasing transparency and credibility of programs and minimizing start up and transaction costs.

The Joint Regional Guidance will be outlined as a three-tiered structure that establishes consistent regulatory authorities and processes in Tiers I and II, but allows individual state flexibility for the specific mechanics of trading in Tier III:

* **Tier I Regulatory Guidance:** Legal authorities, guiding principles, and appropriateness of trades based on EPA’s 2003 guidance, but updated based on current trading activity and new authorities for trading in “Pre-TMDL” situations (e.g. hydropower relicensing, concentration-based limits, and mass load limits).
* **Tier II Standard Operating Procedures**: The common processes and mechanics shared across trading programs (e.g. baseline and other eligibility requirements, verifications, and registration/reporting).
* **Tier III State Specific Addenda**: State-specific appendices that include unique baseline procedures, credit calculation methodologies, discounting and ratio factors, minimum quality standards for conservation practices, etc.

Experience in the Chesapeake Bay and with the Climate Registry for carbon reinforces the need for regulatory processes that are state-centered, but coordinated. Done correctly, a Joint Regional Agreement between three states could quickly seed additional participation from neighboring states. It is this project’s intention to offer and encourage the use of this Joint Regional Agreement and its component parts to other Western states.

**TIER ONE - Regional Guidance and Regulatory Authorities**

* **Legal basis and guiding principles for trading.**EPA’s 2003 guidance was completed before many of the active point-nonpoint source trading programs were created. Additionally, Pacific Northwest guidance needs updating based on recent permits and trading activity. The Regional Guidance that articulates general authorities will be the same across all states.
* **Frame conditions and general considerations for “pre-TMDL” based trading.** Most of the 14 trading programs in place now are based on compliance with TMDL allocations. As states set nutrient criteria or cut back new TMDLs because of budget cuts, concentration-based limits and other “pre-TMDL” activities need more regulatory guidance than exists in current EPA and state trading policies. Additionally, hydropower facilities across the West are facing relicensing debates. Many (e.g. Snake River and Klamath River) facilities are considering water quality trading as part of their relicensing efforts. The Regulatory Guidance will also provide guidance for water quality trades involving other sections of the Clean Water Act. The project partners will establish considerations for defining baseline conditions and providing certainty to permittees (credit purchasers) and landowners that credits will be acknowledged when TMDLs are developed.
  + ***Partners to this grant application understand that “pre-TMDL’ trading carries significant challenges and the ability for state or federal water quality regulators to create certainty for producers or early adopters will be difficult.***
  + ***The purpose of this section of work is to evaluate the policy tools available to regulatory agencies that can incentivize actions that improve water quality conditions in the absence of TMDLs or other strong regulatory drivers.***
* **Outline minimum requirements for a water quality trading program.** A minimum set of conditions must be met in order for states to implement successful water quality trading programs.  Under this proposal, partners will work toward developing a common set of basic requirements and a checklist to help guide state agencies in the review of trading programs. This element of the guidance will help ensure programs are consistent with federal laws, are transparent and credible, and will generate the promised water quality improvements. Sub-objectives include:

**TIER TWO – Standard Operating Procedures for Trading**

* **Develop standard crediting procedures and common infrastructure.** Many of the efficiencies and acceleration provided by Regional Guidance will stem from the certainty and ease-of-use inherent in a standardized set of agreed-upon procedures and common definitions for water quality trading. The Willamette Partnership have developed templates for many of these procedures that have been applied in watersheds across the Northwest. Standardization will also help make agency oversight more efficient and require fewer resources to implement.
* **Create standard, specific language, process steps, and considerations for permit writers to include in TMDLs and MPDES permits to support trading.** Experience in the Northwest has shown that clear authorization for trading in TMDL documents and standard NPDES permit language creates a stronger legal footing for trading and easier regulatory implementation. The Regional Mechanics will provide standard language and steps for TMDL developers and permit writers to consider trading early and throughout the regulatory process. Current EPA guidance for permit writers does not get to the level of specificity needed for elear, consistent regulatory agency operations throughout the region. The Standard Operating Procedure will apply region-wide (Idaho, Oregon and Washington) with acceptance and formal agreement by these three states and USEPA.

**TIER THREE – State-Specific Addenda**

Water quality trading programs are shaped by the ecological, economic, and socio-political needs of their given state or watershed, which makes complete standardization difficult. Each state will need to define some elements to trading that are unique. The Joint Regional Agreement will provide for State-Specific Addenda to accommodate these changes, but also make it easier for additional states to “sign on” to the Agreement.

* **Define modifications to the Standard Operating Procedure needed for each state.** Idaho, Oregon and Washington will analyze its programs and define protocols that will address the specifics of water quality trading for each state.
* **Define credit calculation methodologies and minimum quality standards for conservation practices.** Quantifying water quality improvements is trending toward increased standardization, but individual states may need to determine their own crediting procedures.