

Will EPA's new trading policy improve water quality?

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A flexible tool – Mark S. Kieser

Water quality trading is a flexible tool offering a mechanism to achieve additional environment benefits when used in conjunction with our traditional command and control approaches. A permitted wastewater treatment plant facing high costs to accommodate new growth can “trade” for discharge reduction credits with another source having lower costs (e.g., an agricultural producer implementing conservation practices). A portion of the reductions traded are explicitly retired, which addresses uncertainty and results in a net reduction of pollutants (nitrogen, phosphorus, sediments) discharged to the receiving water.

Over a decade in the making, EPA's Final Water Quality Trading Policy identifies the purpose, objectives and limitations of these and other trading opportunities. By design, the policy is not prescriptive, but flexible, allowing states, interstate agencies and tribes to develop their own trading programs that meet Clean Water Act (CWA) requirements and localized needs.

Good concept, bad implementation – Andy Buchsbaum

Water quality trading, done right, can be an excellent tool to reduce pollution in the nation's waterways faster and more cheaply. Trading allows regulated point source dischargers (e.g., industrial outfalls) to “buy” pollutant reductions from dischargers that are not regulated (non-point sources, such as runoff). Well-designed trading programs can protect people and wildlife while saving money: note the cap-and-trade programs under the Clean Air Act and local water quality trading programs like the Kalamazoo River's.

The challenge is to do it right, and that is where the EPA's new trading policy falls woefully short. EPA's program allows trades of real reductions from point sources for ill-defined, uncertain reductions from non-point sources. Although a number of mechanisms are available to ensure that traded reductions are real (trading ratios, defined pollution quantification

Trading has been criticized as a “license to pollute,” with critics saying that it creates local “hot-spots,” is a rollback of regulations, an attempt to replace traditional permitting authorities and that it should not occur unless there are existing caps on discharges (e.g., TMDLs). In my seven years of trading policy and program implementation experience, trading has been a “bottom up” process where diverse local stakeholder groups have defined how trading can best serve their needs while explicitly avoiding these long-standing criticisms through local program design.

Additionally, there is no evidence to suggest these criticisms are substantiated from the more than 50 pilot trading programs or projects conducted to date. EPA has drawn upon these demonstrations to formulate trading policy consistent with the CWA that addresses commonly leveled concerns and still allows flexibility to meet local needs. Though this debate will continue, experience and this policy will guide the development of sound trading programs.



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methods), it fails to use them. The result: many dischargers will “game” the system by claiming paper reductions.

For impaired waterways, it gets worse: the EPA policy is cap-and-trade without the cap. Because it allows trading without first setting a cap on the pollution allowed in the waterway, there's little to stop water quality from worsening.

Finally, the EPA policy allows (and in fact funds) the trading of toxic pollution, which can easily lead to toxic hotspots where there are none now.

Despite our nation's water pollution problems, experts agree that the Clean Water Act is one of the most effective anti-pollution programs in the world. Done right, trading can improve the Clean Water Act. But the EPA trading policy has not been done right; on balance, it is likely to leave the nation's waters more polluted than they are now.



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