

United States Environmental Protection Agency Water Quality Trading Policy: February 6th Update



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The United States Environmental Protection Agency (“EPA”) issued on February 6th what it describes as an update to the federal agency’s Water Quality Trading Policy.

The document is titled:

Updating the Environmental Protection Agency’s (EPA) Water Quality Trading Policy to Promote Market-Based Mechanisms for Improving Water Quality (“Updated Policy”)

The *Updated Policy* originated from David P. Ross, Assistant Administrator for the Office of Water and was transmitted to EPA’s Regional Administrators.

A number of areas in the country are utilizing water quality trading as one approach to address water quality goals. Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permits issued at both the federal and state level are increasingly including stringent limits applicable to certain pollutants such as nutrients (i.e., phosphorus or nitrogen).

The costs associated with removing nutrients from a point source can be significant. Non-point source discharges may often be reduced at a lower cost on a pollutant basis than the point source discharges. Therefore, trading programs may allow facilities facing higher pollution costs to meet that regulatory obligation by purchasing environmental equivalent (or superior) pollution reductions from another source at a lower cost.

Arkansas is one of a number of states that has enacted legislation providing the authority to establish and regulate water quality trading.

The EPA *Updated Policy* notes the federal agency’s belief that:

... market-based programs, including water quality trading, as well as incentive- and community-based programs can be used more effectively than they have to date to achieve water quality improvements.

It further concludes that such programs can “operate independent of or in coordination with the EPA’s traditional regulatory programs to maximize environmental outcomes.”

EPA states that it is issuing the *Updated Policy* to:

... provide additional flexibility to states and tribes to encourage states, tribes, and stakeholders to consider how market-, incentive-, and community-based programs may supplement their water quality improvement efforts.

The goal is stated to be the development by states and tribes of “robust and defensible water quality trading programs that comply with the Clean Water Act and result in water quality improvements.”

The specific purposes of the *Updated Policy* include:

- To reiterate the EPA’s strong support for water quality trading and other market-based programs to maximize pollutant reduction efforts and improve water quality.
- To accelerate the adoption of market-based programs that will incentivize implementation of technologies and land use practices that reduce nonpoint pollution in our Nation’s waters.
- To provide additional guidance to states, tribes, and stakeholders regarding the use of market-based programs to reduce water pollution at lower overall cost.
- To promote increased investment in conservation actions.

The components of the *Updated Policy* include:

- Background
- Market-Based Principles
- States, tribes and stakeholders should consider implementing water quality trading and other market-based programs on a watershed scale.
- The EPA encourages the use of adaptive management strategies for implementing market-based programs.
- Water quality credits and offsets may be banked for future use.
- The EPA encourages simplicity and flexibility in implementing baseline concepts.
- A single project may generate credits for multiple markets.
- Financing opportunities exist to assist with deployment of nonpoint land use practices.

A copy of the *Updated Policy* can be found [here](#).