

As this option was not described in the January 23, 2002, **Federal Register** notice, EPA seeks public comment on this point.

## VII. Miscellaneous Issues

In its January 23, 2002, **Federal Register** notice, EPA solicited comments on a number of other issues, including possible ways (such as fencelining) to reduce the States' burden of developing and implementing a comprehensive environmental compliance assistance program for small local governments, incentives for States and local governments to participate in such programs, the relationship between the policy and environmental management systems, and if a separate compliance assistance policy is needed for Tribal governments. With the exception of comments related to fencelining, the comments EPA received on these issues did not indicate a need for substantive revisions to the policy in these areas.

### A. Burden on States

In addition to fencelining, EPA specifically asked for comment on four other possible ways to reduce a State's burden of developing and implementing a comprehensive environmental compliance assistance program: In-kind contributions from EPA; shifting costs to communities; tiering; and streamlining.

The commenters supported development and dissemination of in-kind contributions (*i.e.* compliance assistance materials, tools, and services that help implement a comprehensive environmental compliance assistance program) by EPA. Commenters advised against shifting costs to small local governments by requiring local governments to evaluate their own compliance status and devise a strategy to achieve and sustain environmental compliance as a prerequisite to receiving compliance assistance from the State. Commenters favored tiering, the provision of different levels of service to different classes of local governments, as a way to focus intensive compliance assistance where it is most needed. Streamlining drew little comment except from those commenters who pointed out that different branches of Federal government should always attempt to coordinate related mandates to the maximum extent possible.

Commenters' support for in-kind contributions from EPA was tempered by their belief that such contributions would be of limited value, as State environmental standards often differ from Federal regulations in some details, and federally-produced materials would not provide

information on State contacts. Shifting costs to small local governments drew negative comment. Respondents asserted that this approach, by requiring small local governments to identify their environmental responsibilities and develop a plan to address their environmental concerns before requesting assistance from the State, would be antithetical to the policy's goal of providing compliance assistance to small local governments unable to understand and address their environmental responsibilities. Respondents also questioned the reliability of compliance evaluations performed by untrained individuals—even if conducted with checklists and guidance materials provided for that purpose.

EPA generally agrees with these comments. While the Agency's in-kind assistance may not be able to meet every need of States and local governments, EPA believes, in most instances, States will need to make only minor modifications to incorporate essential State details the Federal materials may lack. For this reason, EPA will continue its efforts to make its compliance assistance materials as useful as possible, and to facilitate dissemination of the assistance to local governments. EPA also agrees that requiring small local governments to identify compliance concerns and a strategy for addressing them as a prerequisite of participation in a State's comprehensive compliance assistance program could effectively bar entry of the very local governments the policy was intended to reach. We acknowledge, however, that States with limited available resources can always establish eligibility criteria intended to restrict the number of qualifying applicants. One option would be for a State to establish tiers of service that allow the local governments defined as small to participate without first identifying a compliance concern while requiring larger, more capable local governments to make such a showing as part of an application process.

In an attempt to promote streamlining, EPA has been an active participant in the U.S. Small Business Administration's E-Government project. E-Government is joining Federal agencies together to develop and pilot an on-line, interactive one-stop compliance assistance information source for businesses and local governments. Users will enter the system and complete a profile that describes their operations. E-Government will then generate links to compliance assistance resources available from the various Federal

agencies that regulate the user's activities.

Because EPA believes flexibility will allow Federal and State agencies to make best use of in-kind contributions from EPA, strategies for shifting costs to local governments, tiering levels of service, and streamlining among related government mandates, the proposed revised policy does not require States to take specific actions in these areas. EPA welcomes comments on this approach.

### B. Incentives for Participation

EPA's January 23, 2002, **Federal Register** notice described potential benefits of a comprehensive environmental compliance assistance program for States and small local governments. Benefits to an implementing State include more complete and accurate assessments of the environmental compliance status of its small local governments, measurements of progress toward reducing risks to the health of its citizens and the environment, and improved ability to plan and budget for future environmental and infrastructure needs. EPA also discussed options for recognizing States for their efforts to provide comprehensive environmental compliance assistance to small local governments, providing priority access to EPA compliance assistance tools and services, and the likelihood of EPA funding for pilot projects.

All comments EPA received in response focused on Federal grants, which the commenters perceived as the only effective incentive for States to implement the policy.

To provide an incentive for local government participation, the *Small Communities Policy* contemplates that States will reduce or waive the normal noncompliance penalties for local governments that participate in their comprehensive environmental compliance assistance programs. Seven years of limited participation by local governments has shown this to be an ineffective incentive. In the January 23, 2002, **Federal Register** notice, EPA noted that achieving and sustaining comprehensive environmental compliance created other benefits for local governments. A participating local government can expect to identify all its environmental compliance concerns; develop a plan for achieving and sustaining environmental compliance; learn how to build the technical, managerial, and financial capacity necessary to meet its compliance goals; gain assurance it is keeping its residents safe from environmental risks; and plan and budget for the future operations confident they will not face surprise