



Resolution Number 00-2
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Philadelphia, Pennsylvania

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By mail vote

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Charleston, South Carolina

As certified by
R. Steven Brown
Executive Director

ON REGULATORY INNOVATION

WHEREAS, the implementation of existing environmental laws and regulations plays an indispensable role in the protection of human health and the environment. In fact, the substantial environmental gains we have achieved over the past three decades are the direct result of compliance with our traditional regulatory and non-regulatory programs; and

WHEREAS, environmental commissioners and officials believe that all Americans deserve a federal regulatory process that is efficient, effective, understandable, accessible, and open to the public. The federal regulatory process should respect the rights and concerns of the public and protect its citizens in a cost-effective manner; and

WHEREAS, State environmental commissioners and officials also agree that the federal regulatory process must take into account unique State or regional impacts and be structured to provide the maximum degree of flexibility consistent with underlying statutory objectives; and

WHEREAS, State environmental commissioners recognize that innovative regulatory approaches hold great promise for building upon environmental successes and are often necessary to address our most pervasive environmental problems. Regulatory innovation can recognize environmental excellence, harness market forces, and in some cases, achieve environmental goals that otherwise may be unattainable; and

WHEREAS, pollution prevention, incentive-based alternative compliance strategies, cross-media approaches, joint strategic planning, and outcome/performance-based oversight are all examples of innovative approaches that can produce collaborative solutions among levels of government, regulators, and the regulated community; and

WHEREAS, the federal government and States need to work together to encourage the development of more efficient, cost-effective, and common-sense strategies. States have already demonstrated leadership in promoting such new, effective ways of achieving desirable environmental objectives; and

WHEREAS, State environmental commissioners recognize that effectively addressing the environmental problems of the twenty-first century requires greater flexibility, prudent risk-taking, decentralized decision-making, and value-added experimentation, as well as demonstrated performance; and

WHEREAS, the States are committed to ensuring that any new approaches will not lead to a weakening of environmental and public health protection;

WHEREAS, the U.S. Environmental Protection Agency (EPA) has established the National Performance Track Program, a voluntary partnership program that is based on the premise that government should complement existing programs with new tools and strategies that not only protect people and the environment, but also capture opportunities for reducing cost and spurring technological innovation; and

WHEREAS, the Cross Media Committee of the Environmental Council of the States assisted the U.S. Environmental Protection Agency's Innovation Action Council in developing a methodology for promptly elevating issues identified by States, Tribes, or within EPA that are impeding progress on an innovation project. This partnership has resulted in the U.S. Environmental Protection Agency's announcement of a new process for the timely resolution of innovation issues in February 2005;

NOW, THEREFORE BE IT RESOLVED THAT the Environmental Council of the States affirms that:

First, commissioners urge the federal government to avoid "one-size-fits-all" standards and to maximize limited resources. States must have the flexibility to prioritize environmental problems and to allocate resources on a "worst-first" basis, as well as the authority to shift U.S. Environmental Protection Agency-administered grant funds among programs to target state priorities. In addition, EPA should look at the cumulative impacts of rules and guidance across program areas to avoid unintended burdens.

Second, a climate that encourages regulatory innovation is critical as we face the next generation of environmental problems. The U.S. Environmental Protection Agency and state environmental commissioners have agreed on the need to experiment with new approaches to improve our nation's environment. These new approaches can help us identify cleaner, cheaper, smarter ways to ensure that all Americans enjoy a clean environment and healthy ecosystems. Through this joint commitment, EPA and the States agree to encourage, evaluate, implement, and disseminate ideas that seek better ways of achieving our environmental goals.

The commissioners reaffirm their support for the Joint EPA/State Agreement to Pursue Regulatory Innovation, signed in April 1998. It is critical that EPA meets its commitment to its newly established process to ensure timely review and decision-making on state innovation proposals based on implementation of the seven principles contained in the 1998 Joint Agreement. The States pledge to consult early with EPA, to develop proposals consistent with the Joint Agreement, and to involve stakeholders. EPA and the States must work together to establish and maintain a clearinghouse of regulatory innovations so that promising ideas can be shared across state lines and within EPA.

ECOS and EPA need to carefully examine the legislative and regulatory changes needed to effectively enable the development and implementation of innovative programs. The work should establish a balanced, joint state/federal dialogue that identifies issues that prevent effective and efficient environmental performance and proposes legislative and regulatory options to address the issues identified.

Third, the appropriate use of risk assessment and cost-benefit analysis will improve environmental decision-making. The commissioners believe that the appropriate use of risk assessment and cost-benefit analysis will enable Congress and EPA to ensure that increasingly limited public resources are used most effectively and efficiently in achieving environmental objectives.