

## **States Go to Forefront as EPA Chips Away at Backlog of Decisions**

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By [Amena H. Saijid](#)

*Agency wants to halve backlog of overdue permit, environmental standards by 2022  
States question how that would work*

Shifting the burden of environmental protection to states could speed approvals of air and water permits that businesses need to operate, as the EPA tries to halve its backlog of overdue decisions.

“It’s embarrassing” that the Environmental Protection Agency doesn’t have a system for tracking its legal deadlines for state implementation plans for air pollutants, approving permits, setting water and air quality standards, and developing plans to clean up polluted waters, Henry Darwin, the EPA’s operations chief, recently told state officials.

“That’s actually an incredibly heavy lift for those of you who know how much of a backlog we have,” Darwin added.

One way of speeding those reviews might be for the EPA to re-evaluate its relationship with states. Although states are receptive to the idea, they question how it will work and whether that initiative will outlive the Trump administration.

“It is helpful to have a strong federal research program and we would like to see that function continue, but not at the expense of other programs,” California Environment Secretary Matt Rodriquez told Bloomberg Environment.

The EPA should acknowledge the environmental expertise that states have developed during the past 40 years, Darwin told state environmental agency heads at the annual Environmental Council of the States meeting in St. Paul, Minn. Bloomberg Environment sponsored the ECOS spring meeting.

The EPA should instead take more of a support role and provide the necessary research and development that states lack the resources to conduct themselves, he said.

### **Some Reservations**

John Linc Stine, commissioner for the Minnesota Pollution Control Agency, saw the EPA’s call to redefine its relationship with states as an opportunity to identify and address areas that the agency and states are duplicating.

He asked whether both state-appointed and EPA-appointed scientists need to verify calculations of pollutants released under air and water permits.

“EPA should take more of an auditor’s role instead of trying to review each and every permit that a state issues,” Stine said.

Part of speeding up the approvals that states need will be measuring how long it takes the EPA to respond, according to Darwin.

States end up waiting months for federal approvals, and any effort the EPA can make to improve coordination and consistency in its approval and permitting process will benefit both

states and companies like Duke Energy Co. and Hampton Roads Sanitation District, which rely on those permits.

It's "good governance" on the EPA's part to ask whether it's meeting deadlines and how it can improve the process, the National Association of Manufacturers told Bloomberg Environment.

Businesses also need the certainty, consistency, and predictability that permits will be issued in time to treat wastewater, generate electricity, or manufacture goods, said Ross Eisenberg, the association's senior vice president for energy and natural resources policy.

Duke Energy and Honeywell Corp. told Bloomberg Environment that they supported the EPA's efforts to streamline state-issued permits.

### **Halving the Backlog**

The EPA is now promising to halve by 2022 the backlog of pending approvals and reviews of states' permits and plans.

Wastewater utilities said the EPA can't meet deadlines for state-issued permit removals or review lists of impaired waters in a timely fashion if it scrutinizes every single state action, Ted Henefin, general manager for the municipal-owned Hampton Roads Sanitation District, told Bloomberg Environment in an email.

Wastewater utilities would prefer that the EPA take a back seat to the states when it comes to setting water and air quality standards, or writing water restoration plans and "only help when requested," Henefin said.

### **Is EPA Abdicating?**

While Nevada, Rhode Island, and Arkansas are on board with Darwin's plans, California is on the fence.

Rodriguez told Bloomberg Environment that he couldn't help but contrast the EPA's call to work more with states with its aggressive agenda to roll back protective environmental regulations, such as the first-ever carbon dioxide standards for power plants.

"It appears what is going on is that the EPA is handing over its responsibility to the states in the name of cooperative federalism," he told Bloomberg Environment.

Advocacy groups, including the nonprofit Environment America, are skeptical of the EPA's intentions because they found that states often fall behind in enforcing laws due to lack of resources.

"Relegating EPA to an R&D role is a recipe for more dead zones, algal blooms, fish kills, and drinking water contamination," John Rumpler, Environment America's clean water director, told Bloomberg Environment in an email. "Just look what happened in Flint when EPA failed to hold state and local officials accountable. Conversely, it took a strong federal role to start making progress in restoring the Chesapeake Bay."

Even supporters of the shift question whether it will survive a change in the administration. Greg Lovato, administrator for the Nevada Division of Environmental Protection, told

Bloomberg Environment that, although he was supportive of Darwin's actions, he wondered whether the next administration will continue these efforts, or "will states get whipsawed?"

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