

**RESOLUTION ON THE ADMINISTRATION OF  
ENVIRONMENTAL LAWS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: Bill Wright**

A CONCURRENT RESOLUTION OF THE LEGISLATURE AND THE GOVERNOR REQUESTING THE ENVIRONMENTAL PROTECTION AGENCY TO REFRAIN FROM OVERFILING ON STATE-NEGOTIATED COMPLIANCE ACTIONS AND TO DEFER TO STATE AND LOCAL PRIORITIES IN TAKING COMPLIANCE ACTION; AND REQUESTING CONGRESS TO INVESTIGATE ENFORCEMENT ACTIVITIES OF THE ENVIRONMENTAL PROTECTION AGENCY AND REQUIRE THE AGENCY TO DEFER TO STATE ENFORCEMENT AND COMPLIANCE ACTIONS WHERE ACTIONS ACHIEVE COMPLIANCE AND ARE PROTECTIVE OF HEALTH AND THE ENVIRONMENT.

*Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:*

WHEREAS, protection of public health and the environment are among the highest priorities of state governments;

WHEREAS, Congress has provided by statute for the delegation of certain federal program responsibilities to the states;

WHEREAS, to obtain delegation of federal environmental programs, a state must demonstrate that it has adopted laws, regulations, and policies as stringent as federal laws, regulations, and policies;

WHEREAS, over the past 25 years, the states have developed and demonstrated expertise in operation of federal environmental programs enabling states to obtain and maintain the delegations;

WHEREAS, the states of Utah, Colorado, Montana, Wyoming, North Dakota, and South Dakota constitute an area designated by the Environmental Protection Agency (EPA) as Region VIII;

WHEREAS, the states in Region VIII make compliance with environmental laws, rules, and permits the highest priority;

WHEREAS, the state of Utah has full delegation in all federal environmental programs;

WHEREAS, the EPA and the states have bilaterally developed over the past 25 years policy agreements which reflect roles and which recognize that the primary responsibility for enforcement and compliance resides with the states, with the EPA taking enforcement action principally when the state requests assistance or is unwilling or unable to take timely and appropriate enforcement action;

WHEREAS, inconsistent with these policy agreements, the EPA has conducted direct federal inspections within programs delegated to states, has taken direct enforcement actions, has levied fines and penalties against regulated entities in cases where the state previously took appropriate action consistent with the agreements to bring the entities into compliance, and has failed to notify the states in advance of their action;

WHEREAS, the EPA has begun to use its enforcement authority in cases where the state had worked with the regulated entity to achieve compliance, and the overfiling by the EPA accomplished no further protection of the public health or environment but only imposed an additional penalty on the regulated entity;

WHEREAS, the EPA's current enforcement practices and policies and the resultant detailed oversight and overfiling of state actions substantially weaken the state's ability to take compliance actions and resolve environmental issues;

WHEREAS, the EPA's enforcement practices and policies have had an adverse impact on working relationships between the EPA and states;

WHEREAS, the EPA's reliance on the threat of enforcement action to force compliance may not result in environmental protection, but rather may result in delay and litigation, cripple incentives for technological innovation, and provoke animosity between government, industry, and the public; and

WHEREAS, the Western Governor's Association has adopted "Principles for Environmental Protection in the West," which encourages collaboration not polarization, advocates the replacement of command and control with economic incentives and rewarding results, and encourages the weighing of costs against benefits in environmental decisions:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, requests the EPA to refrain from overfiling or threatening to overfile on state-negotiated compliance actions if the actions achieve compliance with applicable state and federal law and are protective of health and the environment.

BE IT FURTHER RESOLVED that the Legislature and the Governor request that the EPA, in taking enforcement and compliance actions, recognize and defer to individual state and local priorities that are important for the protection of the environment.

BE IT FURTHER RESOLVED that the EPA should work with and assist states in evaluating the overall effectiveness of state compliance programs and not focus on the detail of individual actions.

BE IT FURTHER RESOLVED that the Legislature and the Governor request the Congress of the United States to investigate EPA enforcement activities and require the EPA to defer to state enforcement and compliance actions in delegated states where the actions achieve compliance and are protective of health and the environment.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Utah congressional delegation, the Administrator of the U.S. Environmental Protection Agency, the Assistant Administrator of the U.S. EPA Office of Enforcement and Compliance, the Regional Administrator of the U.S. EPA Region VIII, the National Governor's Association, the National Council of State Legislators, the Council of State Governments, the Western Governor's Association, and the Environmental Council of the States.