



## Advancing Environmental Justice Through Compliance and Enforcement



**Plan EJ 2014** is EPA's roadmap for integrating environmental justice into its programs and policies.



# ADVANCING ENVIRONMENTAL JUSTICE THROUGH COMPLIANCE AND ENFORCEMENT

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## Implementation Plan

September 2011

**Led by**

Office of Enforcement and Compliance Assurance  
and Region 5

U.S. Environmental Protection Agency  
Washington, D.C. 20460



## PLAN EJ 2014 AT A GLANCE

Plan EJ 2014 is the U.S. Environmental Protection Agency (EPA)'s roadmap to integrating environmental justice into its programs and policies. The year marks the 20<sup>th</sup> anniversary of the signing of Executive Order 12898 on environmental justice. Plan EJ 2014 seeks to:

- Protect the environment and health in overburdened communities.
- Empower communities to take action to improve their health and environment.
- Establish partnerships with local, state, tribal, and federal governments and organizations to achieve healthy and sustainable communities.

As the EPA's overarching environmental justice strategy, Plan EJ 2014 has three major sections: Cross-Agency Focus Areas, Tools Development Areas, and Program Initiatives.

### **The Cross-Agency Focus Areas are:**

- Incorporating Environmental Justice into Rulemaking.
- Considering Environmental Justice in Permitting.
- Advancing Environmental Justice through Compliance and Enforcement.
- Supporting Community-Based Action Programs.
- Fostering Administration-Wide Action on Environmental Justice.

### **The Tools Development Areas are:**

- Science.
- Law.
- Information.
- Resources.



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## Goals At-A-Glance

To fully integrate consideration of environmental justice concerns into the planning and implementation of OECA's program strategies, case targeting strategies, and development of remedies in enforcement actions to benefit overburdened communities.

## 1.0 INTRODUCTION

This implementation plan sets forth goals, strategies, and activities to advance environmental justice through compliance and enforcement, under the U.S. Environmental Protection Agency (EPA)'s Plan EJ 2014. It was developed by the Office of Enforcement and Compliance Assurance (OECA) and EPA Region 5, as Lead Region for OECA for Fiscal Year (FY) 2011-13, in consultation with all EPA regions, the Office of Environmental Justice, and the Office of General Counsel.

### 1.1 Goals

OECA and the EPA regions, in collaboration with other EPA offices and the U.S. Department of Justice (DOJ), are committed to taking action to further ensure that our most overburdened communities<sup>1</sup> are given particular consideration as we implement the Agency's enforcement and compliance program. Through this implementation plan, we intend to focus and accelerate our efforts to identify, assess, and address environmental justice concerns in these communities when developing and implementing OECA's program strategies, civil and criminal enforcement activities, and compliance activities.

Our goal for the next three years is to fully integrate consideration of environmental justice concerns into the planning and implementation of OECA's program strategies, case targeting strategies, and development of remedies in enforcement actions to benefit these communities. We also plan to accelerate our ongoing efforts to communicate more effectively with these communities about our enforcement actions and program activities. Through these efforts, we hope to further advance the Agency's environmental justice goals of fair treatment and meaningful involvement, and to help address environmental justice concerns in overburdened communities.

### 1.2 Organizational Structure

OECA and Region 5 (as OECA Lead Region) share responsibility for developing this implementation plan. This work is co-chaired by OECA's Principal Deputy Assistant Administrator and Region 5's Deputy Regional Administrator. The co-chairs called upon OECA's standing Environmental Justice Council, consisting of the Directors and/or Deputy Directors of all OECA offices, the Lead Region Enforcement and Environmental Justice Manager and supporting staff to develop this plan. The Associate General Counsel, Cross-Cutting Issues Law Office, Office of General Counsel, participates regularly in the OECA Environmental Justice Council meetings and has been of invaluable assistance in developing this plan.

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<sup>1</sup> In Plan EJ 2014, EPA uses the term "overburdened" to describe the minority, low-income, tribal, and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks as a result of greater vulnerability to environmental hazards. This increased vulnerability may be attributable to an accumulation of both negative and lack of positive environmental, health, economic, or social conditions within these populations or communities.



OECA and regional managers conducted an open discussion of this plan at the January 26, 2011, Senior Enforcement Managers meeting in New Orleans, Louisiana. Following that discussion, the draft plan was revised to incorporate agreed-upon modifications and additions. OECA and all EPA regions will use this implementation plan as a dynamic document, making improvements as we learn through experience in implementation.

## 2.0 IMPLEMENTATION

### 2.1 Strategies

OECA has five major strategies for *Advancing Environmental Justice through Compliance and Enforcement*:

- Advance environmental justice goals through selection and implementation of National Enforcement Initiatives.
- Advance environmental justice goals through targeting and development of compliance and enforcement actions.
- Enhance use of enforcement and compliance tools to advance environmental justice goals in regional geographic initiatives to address the needs of overburdened communities.
- Seek appropriate remedies in enforcement actions to benefit overburdened communities and address environmental justice concerns.
- Enhance communication with affected communities and the public regarding environmental justice concerns and the distribution and benefits of enforcement actions, as appropriate.

#### Enforcing the Clean Water Act

An EPA enforcement settlement in December 2010 requires that the Cleveland-area Northeast Ohio Regional Sewer District take steps to stop the flow of untreated sewage into local waterways and Lake Erie. Among other requirements, the District is required to take several specific steps to address concerns in overburdened communities. For example, the District must reduce pollutant discharges much more quickly in these areas.

In addition, several vacant lands will be transformed into green space and recreational areas to help capture storm water discharges, perhaps leading to increased property values and employment opportunities. Also, the District will operate a household hazardous waste collection center each month as a supplemental environmental project, providing local citizens with a place to properly dispose of used motor oil, paints, batteries, and other items that could otherwise end up in storm water discharges.

### 2.2 Activities

**Strategy 1:** *Advance environmental justice goals through selection and implementation of National Enforcement Initiatives.*

**Background.** Every three years, OECA selects a limited number of high priority national environmental and compliance problems to address through concentrated, nationwide enforcement efforts. In selecting these areas of focus, OECA looks for important environmental and public health problems that are caused, at least in part, by widespread failure of regulated sectors to comply with federal environmental laws, where it believes that a concentrated federal enforcement effort can make a difference in correcting violations and reducing pollution. OECA and the regions solicited input from state agencies to identify potential areas of focus, and sought public comment on the final list of proposed candidates. The selected areas of focus are called “National Enforcement Initiatives.”





OECA has been, and continues to be, committed to taking environmental justice factors into consideration when it selects and implements these National Enforcement Initiatives. One of OECA's primary program goals is to aggressively go after pollution problems that make a difference to communities, and we place a high priority on benefits to overburdened communities in selecting our National Enforcement Initiatives.

Activity 1.1: Selection of National Enforcement Initiatives for FY 2011-13. In 2010, OECA selected the following six National Enforcement Initiatives for implementation in FY 2011-2013 after input from the public, states, and tribes:

- Keeping raw sewage and contaminated stormwater out of our nation's waters.
- Preventing animal waste from Concentrated Animal Feeding Operations (CAFO) from contaminating surface and ground waters.
- Cutting toxic air pollution that affects communities' health.
- Reducing widespread air pollution from the largest sources, especially the coal-fired utility, cement, glass, and acid sectors.
- Reducing pollution from mineral processing operations.
- Assuring energy extraction sector compliance with environmental laws.

In selecting these areas of focus, OECA gave significant weight to problems that affect overburdened communities. For example, raw sewage discharges from municipal sewer systems often affect poor and minority communities by contaminating urban waters or causing sewage backups into their homes. CAFOs are often located near poor rural communities, and animal waste that gets into ground water can contaminate nearby residents' drinking water supplies. Toxic air pollution can affect the health of poor and minority communities that often are located closest to industrial facilities with toxic air emissions. Widespread air pollution from coal-fired power plants and other industries can travel long distances and contributes to respiratory illnesses, such as asthma, that afflict poor and minority populations and children. Large mineral processing facilities, which can cause significant contamination of ground and surface waters with hazardous waste, are often located near poor and minority communities. Energy extraction activities, which often occur on or near tribal lands in the west, can cause air or water pollution problems that affect tribal communities.

- Activity 1.2: Implementation of National Enforcement Initiatives for FY 2011-13. OECA will look for opportunities to address environmental justice concerns as it implements the Agency's National Enforcement Initiatives for FY 2011-13. A "Strategy Implementation Team," consisting of OECA Headquarters and regional representatives, is responsible for developing implementation strategies and performance measures for each of the National Enforcement Initiatives. Each initiative's strategy will consider how environmental justice concerns can be addressed in carrying out its activities, e.g., by giving priority in case selection to overburdened communities affected by the pollution problems we seek to address in each of the initiatives. In developing remedies in our enforcement cases for the





initiatives, we will seek judicial and administrative remedies that will reduce or eliminate pollution that may have a disproportionate effect on minority, low-income, tribal and indigenous<sup>2</sup> populations (see further discussion under Strategy 4 below). As of the date of the publication of this plan, OECA has finalized the National Enforcement Initiative strategies and measures.

- **Activity 1.3:** Selection of National Enforcement Initiatives for FY 2014-16. In 2013, OECA will call for nominations for the FY 2014-2016 National Enforcement Initiatives, with emphasis on those with potential opportunities for addressing environmental justice concerns, and will then select the new initiatives. As we have done previously, OECA will solicit state input and public comment on the proposed FY 2014-2016 initiatives before they are selected.

***Strategy 2: Advance environmental justice goals through targeting and development of compliance and enforcement actions.***

EPA will continue to place a high priority on addressing environmental justice concerns as it develops the specific targeting and case selection strategies for both National Enforcement Initiative cases and the many other enforcement cases that EPA brings in FY 2011-13. As discussed above, the Strategic Implementation Teams (SITs) for each National Enforcement Initiative will identify opportunities to protect and benefit overburdened communities when selecting and developing specific cases. For example, when selecting specific CAFO facilities for enforcement action, priority may be given to facilities that are affecting or threatening the drinking water supplies of poor rural communities.

EPA will also give specific consideration and priority to environmental justice concerns and overburdened communities when selecting enforcement actions to address other important compliance problems, regardless of whether they are part of a National Enforcement Initiative. For example, in selecting enforcement actions to address violations of drinking water standards, we will give high priority to addressing violations at water supply systems that serve poor and tribal communities, as well as children, one of the most vulnerable populations.

- **Activity 2.1:** Issue internal guidance requiring analysis and consideration of environmental justice in EPA's compliance and enforcement program. EPA's enforcement program is already giving significant consideration to environmental justice concerns in selecting enforcement areas of focus and targets. For example, as described above, environmental justice considerations played a significant role in our selection of national compliance problems to address through National Enforcement Initiatives. To ensure that EPA enforcement staff and managers consistently and effectively consider environmental justice concerns in all their work under EPA's national compliance and enforcement program, OECA will issue national guidance in 2011 to reinforce, guide, and accelerate these efforts.

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<sup>2</sup> When these terms are used in this document, they refer to entities and individuals in the United States only.



The Agency's national guidance will direct EPA's compliance and enforcement staff and managers to consider and give significant weight to environmental justice concerns when they select compliance problems to focus on, select specific civil or criminal enforcement case targets, and develop and conduct civil litigation or criminal prosecution. Given limited resources, EPA managers must make many strategic choices as they decide which problems to focus on and how to address them. Protection of the public health is OECA's highest priority, and protection of the health of overburdened communities is especially important. While OECA cannot address every problem with our limited resources, we can ensure that we consider and give significant weight to the protection of overburdened communities as we make strategic choices.

For example, in carrying out our National Enforcement Initiative to address pollution of underground or surface water caused by CAFOs, EPA must make strategic choices about which watershed areas to focus on and which particular CAFOs to inspect. A number of factors are considered in that decision-making process, *e.g.*, the relative severity of the environmental and public health problems, the degree to which facilities are known or suspected to have violations that are contributing to the problem, and the degree to which enforcement action is likely to be an effective and appropriate tool to correct that problem. Environmental justice concerns should be considered and given significant weight in making this decision. For example, if there is a poor or minority overburdened community whose drinking water supply is contaminated or at risk of contamination from a nearby CAFO, that factor weighs in favor of selecting that CAFO as one of our enforcement case targets.

To ensure that all EPA enforcement personnel consider and address environmental justice concerns early in the enforcement process, the Agency, in consultation with DOJ, is revising its internal Model Litigation Report guidance to call for increased analysis and discussion of environmental justice considerations in civil case referrals that EPA sends to DOJ. In addition, EPA will issue guidance calling for analysis and discussion of environmental justice considerations in the requests for prosecutorial assistance that the Agency provides to DOJ. These guidances will be issued in 2011.

In order to implement the direction to consider environmental justice concerns in selecting and conducting enforcement cases, case teams will need guidance on how to identify areas of potential environmental justice concern. EPA has developed a number of screening tools to assist in identifying areas of potential environmental justice concern. These include the online mapping tool "EJ View" (formerly known as the Environmental Justice Geographic Assessment Tool, or EJGAT), which uses demographic, environmental, health, and facility-level information to assist in identifying areas with potential environmental justice concerns. OECA has also developed a screening tool called the Environmental Justice Strategic Enforcement Assessment Tool (EJSEAT), which uses these same categories of



data to assist in identifying areas of potential environmental justice concern that may be appropriate for enforcement action to address the effects of noncompliance on overburdened communities. A number of EPA's regions have also developed their own analytic tools and methods for this purpose.

With all of these screening tools, it is important to remember that they can only provide a starting point for analysis and decision making as to whether a community has environmental justice concerns or whether any enforcement action is appropriate. "Ground truthing" is needed before drawing any conclusions regarding any particular community or environmental compliance problem, and, as described above, a number of other important factors must be taken into consideration when deciding whether and where to take enforcement actions.

In addition to OECA's efforts to develop screening tools for use in the enforcement and compliance program, the Agency's Information Tools Development Workgroup is undertaking a larger effort to develop guidance on identifying areas of potential environmental justice concern as a separate effort under EPA's Plan EJ 2014. It will be important to ensure that OECA's guidance to enforcement case teams is consistent with the approach(es) developed by the Agency-wide Environmental Justice Screening Committee. Therefore, upon completion of the Screening Committee's work, OECA will review its guidance to ensure that it is consistent with the final Agency decisions based on the Environmental Justice Screening Committee's work.

- Activity 2.2: Review OECA's Enforcement Response Policies to determine whether any revisions are needed to ensure that environmental justice concerns are addressed in case development and resolution. OECA will review its Enforcement Response Policies for the various statutory and regulatory programs to assess whether any revisions are needed to ensure environmental justice concerns are addressed. A plan for the review will be developed by June 30, 2011.
- Activity 2.3: Reevaluate use of EJSEAT, as appropriate, in response to recommendations of the NEJAC and conclusions of the EPA Environmental Justice Screening Committee. EPA's National Environmental Justice Advisory Council (NEJAC) thoroughly reviewed OECA's screening tool, EJSEAT, and provided technical and policy recommendations to improve this tool in May 2010. OECA responded to and discussed the NEJAC's recommendations at the NEJAC meeting in July 2010, and is implementing some of its technical recommendations. Many of the NEJAC's recommendations raised policy issues that have broad application and implications for all of the Agency's environmental justice work. To ensure Agency-wide consistency, OECA will await the outcome of the Environmental Justice Screening Committee's work before making final decisions on the NEJAC's policy recommendations. However, as OECA and the regions continue to use EJSEAT pending the outcome of the Environmental Justice Screening Committee's work, the OECA Environmental Justice Council will assess whether additional changes to



EJSEAT recommended by the NEJAC's review of the tool should be made on an interim basis.

- Activity 2.4: Seek opportunities to advance environmental justice goals in implementing the Clean Water Act Action Plan. OECA and the Office of Water (OW) have developed a Clean Water Act Action Plan to revamp the Agency's permitting, compliance and enforcement programs so that we more effectively focus our limited resources on addressing the most important environmental and public health problems facing the nation. Many of these problems disproportionately affect poor and minority communities. For example, urban waters pollution is most likely to affect the health and welfare of poor communities located along urban waterways. As OECA, OW, and the regions develop and implement new strategies and plans under the Clean Water Act Action Plan, we will identify specific opportunities to address environmental justice concerns.

Many of the opportunities to address environmental justice concerns in implementation of the Clean Water Act Action Plan will come through the development of targeting strategies and specific case selection. The Clean Water Act Action Plan also offers other opportunities to address environmental justice concerns, such as our increased attention with state agencies, to the relationship between effective permitting and enforcement in assuring compliance with the Clean Water Act. Often, the concerns that are raised to EPA by overburdened communities relate to the effectiveness of the permit regulating a particular facility, which is an essential underpinning for effective compliance and enforcement.

- Activity 2.5: Seek opportunities to advance environmental justice goals in conducting the National Enforcement Strategy for RCRA Corrective Action. OECA's Corrective Action program has set an aspirational goal of achieving remedy construction at 95 percent of 3,747 RCRA facilities by the year 2020. The National Enforcement Strategy for Corrective Action (NESCA) provides direction to the regions, and guidance to states, for assessing, targeting, and prioritizing the EPA-lead Corrective Action facilities to help meet the 2020 Corrective Action goal. EPA regions are encouraged to focus attention on identifying and addressing disproportionate effects that RCRA facilities needing corrective action may have on adjacent or nearby overburdened populations.

NESCA identifies a variety of mapping tools that regions, states, and communities can use to view and identify environmental justice concerns. Each EPA regional office is developing a RCRA Corrective Action 2020 strategy. As part of these strategies, the regions should identify what tools they plan to use to address environmental justice concerns in their prioritization. To assist regions with addressing environmental justice concerns, OECA provided each region with a list of all potential facilities. OECA used EJSEAT to screen and prioritize each facility on these lists of facilities. The regions will assess their 2020 Corrective Action Universe to ensure consideration of environmental justice and provide updated RCRA Corrective Action 2020 strategies in the Spring of 2011.

- **Activity 2.6:** Improve compliance at federal facilities where violations may affect overburdened communities. Where federal facilities are located adjacent to or nearby overburdened communities, illegal pollution or hazardous waste contamination can have a disproportionate effect on those communities. As part of Plan EJ 2014, OECA, together with Federal Facility Program Managers in each EPA region, will accelerate efforts to identify communities with these types of problems and take enforcement action to ensure that federal facilities comply with the law and address pollution problems that affect the communities. In FY 2011 OECA will use EJSEAT and other tools and information to identify overburdened communities located near federal facilities that have significant violations of federal environmental laws. These facilities will be given priority in regional targeting efforts for compliance and enforcement.
- **Activity 2.7:** Develop tools to identify and track facilities located in areas with potential environmental justice concerns, and report on enforcement actions that address environmental justice concerns. To ensure the success of Activities 2.1-2.6, it will be important to ensure that environmental justice screening information is available to case teams, and to track the enforcement and compliance activities that we implement under this Plan. Therefore, in 2011, OECA will develop and implement technical programming for the Integrated Compliance Information System (ICIS) database, an internal tracking system, to allow for automated reporting on OECA regional and Headquarters review of EPA civil enforcement cases for potential environmental justice concern. OECA is in the process of developing this capacity and will determine in 2011 whether the reporting mechanism in ICIS is adequate for its needs.

To support OECA's program efforts to improve tracking and reporting of environmental justice aspects of EPA criminal enforcement case work, OECA will in 2011 analyze its current docket of investigations for potential environmental justice concerns, and will revise its internal Criminal Case Reporting System (CCRS) to capture information concerning potential environmental justice concerns in criminal enforcement investigations and prosecutions. OECA will consider environmental justice data, along with other criminal case tiering information.

***Strategy 3: Enhance use of enforcement and compliance tools to advance environmental justice goals in regional geographic initiatives to address the needs of overburdened communities.***

EPA regions have developed and continue to develop integrated strategies to focus on particular geographic areas in their regions with overburdened communities that are disproportionately affected by environmental problems. Beginning in 2008, for example, each region identified a "Showcase Community" to focus efforts to address environmental justice concerns. The regions used integrated strategies for this purpose that considered the full range of EPA's tools, and a number of these projects include use of enforcement and compliance assurance tools. Under this strategy, the regions will ensure that they use their

enforcement and compliance assistance tools effectively to identify and address environmental and public health problems in areas of environmental justice concern that are caused or made worse by violations of federal environmental laws. For example, EPA Regions 3, 4, and 5 are leading a geographic enforcement initiative focused on Huntington Port, which was selected in part because screening analysis results indicated a high potential for environmental justice concerns. This initiative incorporates enforcement and compliance assistance to reduce pollution and increase compliance. It also includes workshops to build the community's capacity to help ensure long-term protection of the environment and public health.

- **Activity 3.1:** Regions will include use of enforcement tools as part of integrated problem-solving strategies that are focused on particular geographic areas. OECA and the regions, together with state and other agencies as appropriate, will evaluate facility compliance in overburdened communities selected for strategic focus. These evaluations should be targeted using the best available data and methods in light of the overall objectives of EPA's enforcement and compliance assurance work. In this way, community-focused initiatives can complement the national enforcement initiatives and other sector-based and program-specific enforcement activities, meeting OECA's goal of strategically using limited enforcement resources to address the most significant issues first.

OECA and the regions will tailor compliance evaluation and enforcement actions as part of integrated strategies to maximize EPA's ability to gain environmental and public health benefits in overburdened communities. For example, this could include use of multi-media inspections or process inspections to comprehensively address potential impacts from violations at a given facility.

- **Activity 3.2:** Regions will include use of compliance assistance tools as part of integrated problem-solving strategies focused on particular geographic areas. OECA and the regions will consider and use compliance assistance activities to effectively reach large numbers of small sources with environmental violations that have significant local impacts on overburdened communities. Compliance assistance tools, such as counseling, online resource centers, fact sheets, guides, training, and monitoring, are particularly appropriate, at least as initial compliance efforts, when widespread violations are found among small businesses, which often have limited resources and less ability than major industrial facilities to understand and comply with the requirements of federal environmental regulations. The EPA and states have often been successful in improving small businesses' compliance with environmental regulations through focused outreach and education efforts.

***Strategy 4: Seek appropriate remedies in enforcement actions to benefit overburdened communities and address environmental justice concerns.***

- **Activity 4.1:** Increase efforts to address environmental justice concerns through use of injunctive relief, including mitigation, and Supplemental Environmental Projects in civil enforcement actions, as appropriate. OECA, the EPA regions, and DOJ are jointly heightening their focus in civil



enforcement cases on potential options to obtain meaningful environmental and public health benefits to specific overburdened communities affected by violations of federal environmental laws. These efforts go beyond traditional injunctive relief to stop illegal pollution, to mitigate the environmental and public health harm caused by illegal pollution and, where appropriate and agreed to by defendants, to include Supplemental Environmental Projects (SEPs) that provide benefits to communities. For example, in a case involving illegal discharges of pollutants from a facility that damaged a tribal fishing area, the relief ordered (in addition to stopping the illegal discharges) included restocking the fishing ground. EPA has also been successful in obtaining SEPs from defendants to retrofit diesel school buses, to reduce the air pollution that children are exposed to. We will continue and accelerate these types of efforts to reduce pollution burdens that have a disproportionate impact on minority, low-income, tribal and indigenous populations.

- Activity 4.2: Increase efforts to benefit affected communities through use of community service and the Crime Victims' Rights Act in criminal actions. OECA will work with DOJ to (1) explore innovative uses of criminal sentencing options, e.g., community service or environmental compliance plans, and (2) take into account information obtained pursuant to the Crime Victims Rights Act when developing environmental crimes case resolutions (e.g., restitution).
- Activity 4.3: Look for opportunities to work with other federal agencies, state and local governments, and the business community to complement and leverage community benefits resulting from enforcement activities. In addition to the benefits that can be obtained for overburdened communities through judicial and administrative enforcement actions, there may be other, parallel opportunities to obtain additional benefits for the community through cooperation with other federal agencies, state or local governments, or the business community. For example, the U.S. Department of Housing and Urban Development (HUD) may be able to provide housing assistance or other community benefits in a "brownfields" area where EPA has taken enforcement action to clean up environmental contamination.

State or local governments may have projects or grant funding that can be used to improve the community's infrastructure or environment in an area that is also the focus of EPA compliance or enforcement action. In situations where air emissions from individual or multiple industrial facilities continue to adversely affect community health despite their compliance with emission limitations, some businesses may be willing to take voluntary action to further reduce the emissions that adversely affect the community. Examples of such voluntary actions include: a health clinic established and operated together with local, state, and community members; a household hazardous waste collection drive; a local company voluntarily agreeing to post compliance monitoring information directly on a public website, to allow community members to check on compliance; and "good neighbor agreements" between local companies and communities to address facility effects not regulated by a permit or other law.





EPA will identify specific opportunities, in cases or regional geographic initiatives, to work with other federal agencies, state and local governments, and the business community to complement and leverage benefits resulting from enforcement activities. EPA will document and share recommendations and best practices for taking action on these opportunities.

***Strategy 5: Enhance communication with affected communities and the public regarding environmental justice concerns and the distribution and benefits of enforcement actions, as appropriate.***

OECA and the EPA regions with DOJ will increase their efforts to communicate with affected communities and the public about enforcement strategies and actions that may affect overburdened communities. EPA recognizes that communities have a legitimate need to be informed and to understand the federal government's enforcement activities to protect their environment and public health, and to have their voices heard when solutions are being considered to redress environmental and health problems caused by violations of federal environmental laws that affect their community. As OECA implements these strategies for Plan EJ 2014, we commit to increase outreach to communities and to provide more information about environmental and public health problems caused by failure to comply with federal environmental laws, efforts to address those problems, and available judicial and administrative solutions to those problems that can address the communities' concerns and needs.

At the same time, it is important for communities to understand the legitimate and essential need to protect the confidentiality of enforcement activity when a case is under development and in settlement negotiations. This is essential to assure that effective enforcement, and its ultimate benefits for the community, will not be undermined and adversely affected by premature disclosure of confidential enforcement information. While this consideration will necessarily limit the amount and kind of information that EPA is able to share with the community at various stages of enforcement activity, we are committed to sharing as much information as possible, to enable communities to be informed and to have their voices heard in the determination of appropriate resolutions for violations of federal environmental laws that affect them.

While increased communication efforts are important, it is no less important to receive input from communities on potential violations. OECA will continue to invite tips and complaints, including through such means as EPA's on-line reporting badge and the EPA fugitives web page.

- **Activity 5.1:** Provide affected communities with information about enforcement actions and meaningful opportunities for input on potential environmental justice concerns and remedies to be implemented. As OECA and the regions develop and implement our enforcement actions, we will seek to identify communities with environmental justice concerns that could benefit from enhanced communication and consultation regarding enforcement activities, and provide the communities with additional information (consistent with the confidentiality requirements needed to protect the integrity of enforcement actions). As appropriate, OECA and the



regions will also provide opportunities for communities to provide input on environmental justice concerns and remedies to be sought in enforcement actions that affect their communities. This information will be provided through EPA's website, local information repositories, and other appropriate means.

- Activity 5.2: Improve website information and other public information materials to explain EPA's site cleanup enforcement processes. OECA and the regions recognize that the Agency's enforcement processes concerning hazardous waste site cleanup that affect communities with potential environmental justice concerns, are often complicated and can be difficult for the public to understand and to follow. To increase communities' ability to understand our enforcement processes, we will coordinate across EPA offices to maximize website information on cleanup enforcement at specific sites, develop and make available fact sheets to better explain EPA's cleanup enforcement process, and prepare for internal EPA use a compendium of "best practices" that will encourage and facilitate EPA employees' efforts to make cleanup enforcement information more available to the public.
- Activity 5.3: Enhance communication of the environmental justice benefits of EPA's enforcement actions. EPA's enforcement actions frequently provide significant benefits to overburdened communities, including reduction of air or water pollution, cleanup of toxic and hazardous waste, and additional community benefits such as diesel bus retrofits and other benefits made available through SEPs. However, the community is best able to appreciate these benefits when they have good information about these actions. Therefore, OECA and the regions will accelerate efforts to communicate, through press releases, EPA's website, and other means, the benefits of our enforcement actions for overburdened communities. To ensure nationwide consistency in this effort, we will issue internal guidance for this purpose in 2011.



### 3.0 DELIVERABLES

**Strategy 1:** Advance environmental justice goals through selection and implementation of National Enforcement Initiatives.

ACTIVITIES	DELIVERABLES	MILESTONES
<b>Activity 1.1:</b> Consider environmental justice in selecting National Enforcement Initiatives (NEIs) for FY 2011-13.	<ul style="list-style-type: none"> <li>• Selection of National Enforcement Initiatives for FY 2011-13.</li> </ul>	<ul style="list-style-type: none"> <li>• Completed</li> </ul>
<b>Activity 1.2:</b> Advance environmental justice goals through implementation of NEIs.	<ul style="list-style-type: none"> <li>• Strategic Implementation Team (SIT) strategies to include opportunities to advance environmental justice goals.</li> </ul>	<ul style="list-style-type: none"> <li>• April 30, 2011</li> </ul>
<b>Activity 1.3:</b> Consider environmental justice in nominating and selecting National Enforcement Initiatives for FY 2014-16.	<ul style="list-style-type: none"> <li>• Call for nominations for FY 2014-16 NEIs to include request to identify opportunities to advance environmental justice goals.</li> </ul>	<ul style="list-style-type: none"> <li>• In 2013</li> </ul>

**Strategy 2:** Advance environmental justice goals through targeting and development of compliance and enforcement actions.

ACTIVITY	DELIVERABLES	MILESTONES
<b>Activity 2.1:</b> Issue internal guidance calling for analysis and consideration of environmental justice in EPA's compliance and enforcement program, including using available tools and approaches to identify areas of potential environmental justice concern.	<ul style="list-style-type: none"> <li>• Issue guidance to EPA managers and staff that calls for consideration of environmental justice in EPA's compliance and enforcement program.</li> <li>• Revise Model Litigation Report Guidance to call for increased analysis and discussion of environmental justice in judicial referrals.</li> <li>• Consider environmental justice data, along with criminal case tiering information.</li> <li>• Issue guidance calling for discussion of environmental justice issues in requests for prosecutorial assistance.</li> </ul>	<ul style="list-style-type: none"> <li>• April 30, 2011</li> <li>• Draft by June 30, 2011; Final by Sept. 30, 2011</li> <li>• Ongoing</li> <li>• August 31, 2011</li> </ul>



ACTIVITY	DELIVERABLES	MILESTONES
<p><b>Activity 2.2:</b> Review OECA's Enforcement Response Policies to determine whether any revisions are needed to ensure that environmental justice concerns are addressed in case development and resolution.</p>	<ul style="list-style-type: none"> <li>▪ Develop a plan and timetable for review of Enforcement Response Policies.</li> </ul>	<ul style="list-style-type: none"> <li>▪ June 30, 2011</li> </ul>
<p><b>Activity 2.3:</b> Re-evaluate use of EJSEAT, as appropriate, in response to recommendations of the NEJAC and conclusions of the EPA Environmental Justice Screening Committee.</p>	<ul style="list-style-type: none"> <li>▪ Finalize implementation of the NEJAC technical recommendations for EJSEAT already accepted.</li> <li>▪ Reconsider and finalize response to the NEJAC recommendations on EJSEAT following issuance of final work product by Environmental Justice Screening Committee (to ensure consistency).</li> </ul>	<ul style="list-style-type: none"> <li>• June 30, 2011</li> <li>• Within 180 days following issuance of final work product of Environmental Justice Screening Committee</li> </ul>
<p><b>Activity 2.4:</b> Seek opportunities to advance environmental justice goals in implementing the Clean Water Action Plan.</p>	<ul style="list-style-type: none"> <li>• As EPA develops and implements new strategies and plans under the Clean Water Act Action Plan, we will identify specific opportunities to address environmental justice concerns.</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing</li> </ul>
<p><b>Activity 2.5:</b> Seek opportunities to advance environmental justice goals in conducting the National Enforcement Strategy for RCRA Corrective Action.</p>	<ul style="list-style-type: none"> <li>• Screen all facilities in the 2020 Corrective universe that are subject to the National Enforcement Strategy for RCRA Corrective Action for potential environmental justice concerns.</li> <li>• Identify as priorities for enforcement, Corrective Action sites using the potential for environmental justice concerns as a factor.</li> </ul>	<ul style="list-style-type: none"> <li>• Completed</li> <li>• Ongoing</li> </ul>



ACTIVITY	DELIVERABLES	MILESTONES
<p><b>Activity 2.6:</b> Improve compliance at federal facilities where violations may affect overburdened communities.</p>	<ul style="list-style-type: none"> <li>• Use EJSEAT to identify overburdened communities located near federal facilities. Identify those that have significant environmental violations for priority consideration by regional federal facility program targeting efforts, for compliance assistance and potential enforcement.</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing</li> </ul>
<p><b>Activity 2.7:</b> Develop tracking and reporting tools on potential environmental justice concerns and results in enforcement actions.</p>	<ul style="list-style-type: none"> <li>• Develop and implement technical/programming requirements for the ICIS database.</li> <li>• Develop reporting guidance.</li> <li>• Revise the Criminal Case Reporting System (CCRS) to capture information concerning potential environmental justice concerns in criminal enforcement investigations and prosecutions.</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing; Draft guidance by March 30, 2012</li> <li>• Ongoing</li> <li>• Ongoing</li> </ul>

**Strategy 3:** Enhance use of enforcement and compliance tools to advance environmental justice goals in regional geographic initiatives to address the needs of overburdened communities.

ACTIVITY	DELIVERABLES	MILESTONES
<p><b>Activity 3.1:</b> Regions will include use of enforcement tools as part of integrated problem-solving strategies that are focused on particular geographic areas.</p>	<ul style="list-style-type: none"> <li>▪ Regions will be asked to include enforcement efforts (e.g., through targeting and inspections) when applying integrated problem-solving strategies in selected geographic areas with environmental justice concerns. For example, some regions incorporated such an approach into their Environmental Justice Showcase Community projects.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ongoing</li> </ul>

ACTIVITY	DELIVERABLES	MILESTONES
	<ul style="list-style-type: none"> <li>Document accomplishments and future plans for including enforcement in these geographic initiatives.</li> </ul>	<ul style="list-style-type: none"> <li>December 31, 2011</li> </ul>
<p><b>Activity 3.2:</b> Regions will include use of compliance assistance tools as part of integrated problem-solving strategies (e.g., as applied in the Showcase Communities), that are focused on particular geographic areas.</p>	<ul style="list-style-type: none"> <li>Regions will be asked to evaluate appropriate compliance assistance tools when applying integrated problem-solving strategies in selected geographic areas with environmental justice concerns. For example, some regions incorporated such an approach into their Environmental Justice Showcase Community projects.</li> <li>Document accomplishments and future plans for including compliance assistance in these geographic initiatives.</li> </ul>	<ul style="list-style-type: none"> <li>Ongoing</li> <li>December 31, 2011</li> </ul>

**Strategy 4:** Seek appropriate remedies in enforcement actions to benefit overburdened communities and address environmental justice concerns.

ACTIVITY	DELIVERABLES	MILESTONES
<p><b>Activity 4.1:</b> Increase efforts to address environmental justice concerns through use of injunctive relief, including mitigation, and SEPs in civil enforcement actions.</p>	<ul style="list-style-type: none"> <li>On case-specific basis, coordinate with DOJ on potential options in judicial cases for injunctive relief, including mitigation, and SEPs that will deliver substantial and meaningful environmental benefits to specific environmental justice communities.</li> <li>Assess opportunities for increasing environmental justice benefits in remedies in administrative actions.</li> </ul>	<ul style="list-style-type: none"> <li>Ongoing</li> <li>Ongoing</li> </ul>
<p><b>Activity 4.2:</b> Increase efforts to benefit overburdened communities through use of community service and the Crime Victims' Rights Act (CVRA) in criminal actions.</p>	<ul style="list-style-type: none"> <li>Work with DOJ to (1) explore innovative uses of criminal sentencing options, e.g., community service and/or environmental compliance plans, and (2) take into account information obtained pursuant to the CVRA when</li> </ul>	<ul style="list-style-type: none"> <li>Ongoing</li> </ul>



ACTIVITY	DELIVERABLES	MILESTONES
	developing environmental crimes case resolutions (e.g., restitution).	
<b>Activity 4.3:</b> Look for opportunities to work with other federal agencies, state and local governments, and the business community to complement and leverage community benefits resulting from enforcement activities.	<ul style="list-style-type: none"> <li>▪ Provide comments on the DOJ/Attorney General's CVRA Guidelines.</li> <li>▪ Coordinate with DOJ in their implementation of CVRA guidelines for federal environmental prosecutions.</li> <li>▪ Evaluate use of restitution, community service, and CVRA in federal environmental prosecutions, and issue guidance to investigators.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Completed</li> <li>▪ Ongoing</li> <li>▪ Ongoing</li> </ul>
	<ul style="list-style-type: none"> <li>▪ Identify specific opportunities, in cases or regional geographic initiatives, to work with other federal agencies, state and local governments, and the business community to complement and leverage benefits resulting from enforcement activities.</li> <li>▪ Document and share recommendations and best practices for taking action on these opportunities.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ongoing</li> <li>▪ December 31, 2011</li> </ul>

**Strategy 5:** Enhance communications with affected communities and the public regarding environmental justice concerns and the distribution and benefits of enforcement actions, as appropriate.

ACTIVITY	DELIVERABLES	MILESTONES
<b>Activity 5.1:</b> Provide affected communities with information about enforcement actions and meaningful opportunities for	<ul style="list-style-type: none"> <li>▪ Identify communities where enhanced communication and consultation regarding enforcement matters is appropriate.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ongoing</li> </ul>





ACTIVITY	DELIVERABLES	MILESTONES
input on potential environmental justice concerns and remedies to be sought, as appropriate.	<ul style="list-style-type: none"> <li>▪ Provide communities with information about enforcement actions and meaningful opportunities for input on potential environmental justice concerns and remedies to be sought, as appropriate</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ongoing</li> </ul>
<p><b>Activity 5.2:</b> Improve website information on cleanup enforcement, develop fact sheets to better explain the cleanup enforcement process, and prepare a compendium of best practices.</p>	<ul style="list-style-type: none"> <li>▪ Coordinate across EPA offices to maximize website information on cleanup enforcement at specific sites.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ongoing</li> </ul>
	<ul style="list-style-type: none"> <li>▪ Participate in the development of fact sheets that explain the cleanup enforcement process.</li> <li>▪ Prepare compendium of best practices.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Ongoing</li> <li>▪ December 31, 2011</li> </ul>
<p><b>Activity 5.3:</b> Enhance communication of environmental justice benefits of EPA's enforcement actions.</p>	<ul style="list-style-type: none"> <li>▪ Develop policy on communicating in press releases and similar statements the environmental justice benefits of EPA's enforcement actions.</li> </ul>	<ul style="list-style-type: none"> <li>▪ August 31, 2011</li> </ul>



## 4.0 REPORTING

OECA will report annually on progress in implementing the strategies outlined in this implementation plan, and will update as necessary, the activities and deliverables outlined here. For information, please contact Loan Nguyen, 202-564-4041, [Nguyen.Loan@epa.gov](mailto:Nguyen.Loan@epa.gov); or Eileen Deamer, 312-886-1728, [Deamer.Eileen@epa.gov](mailto:Deamer.Eileen@epa.gov).



## ACRONYMS

<b>Agency</b>	U.S. Environmental Protection Agency
<b>CAFO</b>	Concentrated Animal Feeding Operation
<b>CCRS</b>	Criminal Case Reporting System
<b>CVRA</b>	Crime Victims' Rights Act
<b>DOJ</b>	U.S. Department of Justice
<b>EJGAT</b>	Environmental Justice Geographic Assessment Tool
<b>EJSEAT</b>	Environmental Justice Strategic Enforcement Assessment Tool
<b>EPA</b>	U.S. Environmental Protection Agency
<b>FY</b>	Fiscal Year
<b>HUD</b>	U.S. Department of Housing and Urban Development
<b>ICIS</b>	Integrated Compliance Information System
<b>NEI</b>	National Enforcement Initiative
<b>NEJAC</b>	National Environmental Justice Advisory Council
<b>NESCA</b>	National Enforcement Strategy for Corrective Action
<b>OECA</b>	Office of Enforcement and Compliance Assurance
<b>OW</b>	Office of Water
<b>RCRA</b>	Resource Conservation and Recovery Act
<b>SEP</b>	Supplemental Environmental Project
<b>SIT</b>	Strategic Implementation Team

**For more information on Plan EJ 2014, visit the U.S. Environmental Protection Agency's Office of Environmental Justice website at: <http://www.epa.gov/environmentaljustice/plan-ej/>**