FY 2014

Office of Enforcement and Compliance Assurance Draft National Program Manager Guidance

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I. Agency Overview to the FY 2014 NPM Guidance

The *Overview* to the National Program Manager (NPM) Guidances communicates important agency-wide information and should be reviewed in conjunction with each of the draft FY 2014 NPM Guidances as well as other applicable requirements. The *Overview* also includes relevant background information and the cross-program areas that are important to effective implementation of EPA's environmental programs in FY 2014. Read the overview at: http://www2.epa.gov/planandbudget/fy2014.

II. OECA's Introduction

This National Program Manager Guidance applies to the Office of Enforcement and Compliance Assurance (OECA), all U.S. Environmental Protection Agency (EPA) regional enforcement programs, and states and federally-recognized Indian tribes (tribes) implementing EPA-approved inspection and enforcement programs.[1] OECA coordinates with the regions, states and local agencies and consults with tribal governments as it designs, develops, implements and oversees national compliance and enforcement programs. Regional offices also work with states and local agencies and consult with tribes to implement and review these programs.[2] *OECA's National Program Manager (NPM) Guidance* provides clear direction for fiscal year (FY) 2014. It identifies the national compliance and enforcement priorities for FY 2014, discusses national direction for all compliance assurance programs, identifies activities to be carried out by authorized programs, and describes how the EPA should work with states and tribes to ensure compliance with environmental laws. Once implemented, the priorities and activities described in the NPM Guidance serve to protect the Nation's environment and public health and provide a level playing field for responsible businesses. Most of the work in the NPM Guidance is accomplished under the agency's Goal 5 - "Enforcing Environmental Laws" in the FY 2011-2015 EPA Strategic Plan.

The EPA's national enforcement and compliance assurance program assures compliance with ten distinct federal environmental statutes using a variety of tools, including civil and criminal enforcement. These tools are used to achieve OECA's overall national goals for:

- Tough civil and criminal enforcement for violations that threaten communities and the environment.

- Next Generation Compliance: achieve greater compliance and protection using advanced monitoring and information technologies.

- Strong EPA/State/Tribal environmental protection: work together toward shared environmental goals.

[1] When referring to states and tribes throughout this NPM guidance, OECA is referring to states and tribes authorized to implement federal programs. EPA implements programs in states and Indian country unless and until EPA approves the state or tribe to implement the inspection and enforcement program.
[2] EPA consults with tribes consistent with the EPA Policy on Consultation and Coordination with Indian Tribes and Executive Order 13175.

To help achieve these enforcement goals, in FY 2014 OECA will focus on high priority work where significant environmental risk and noncompliance patterns are known to exist or where there are important opportunities to improve performance. This work includes:

1. Implementing Clean Air Act National Enforcement Initiatives
2. Implementing Clean Water Act National Enforcement Initiatives
3. Assuring Safe Drinking Water
4. Reducing Pollution from Mineral Processing Operations
5. Assuring Energy Extraction Sector Compliance with Environmental Laws
6. Implementing the Clean Water Action Plan
7. Advancing Next Generation Compliance, and
8. Strengthening State Performance and Oversight.

OECA is investing in a new paradigm called *Next Generation Compliance* to dramatically improve compliance and how OECA performs its work. Robust compliance monitoring and enforcement are critically important for addressing violations and promoting deterrence. But this alone will not solve our noncompliance problems. To address these problems, OECA developed and is implementing Next Generation Compliance which will enable the EPA and states to better address large regulated universes with approaches that go beyond traditional single facility inspections and enforcement. Advances in emissions monitoring and information technology are foundations of this new approach. The EPA will increase the use of advanced monitoring technologies in rules, permits and inspections to detect, correct and report pollution problems. Use of advanced emissions/pollutant detection technology will make pollution that is currently "invisible," "visible." Industry can then more effectively prevent and reduce pollution and often make their operations more efficient. Developing more effective regulations and permits using electronic reporting, public accountability, third party verification and other tools is a critical part of Next Generation Compliance. Those components and developing innovative enforcement approaches are all encompassed under Next Generation Compliance. The EPA, states, and other partner agencies propose to design and implement this transformation together -- realizing both efficiencies and cost savings from a coordinated design while protecting public health and the environment.

III. National Areas of Focus Guidance

Every three years, the EPA sets National Enforcement Initiatives (NEIs) to focus enforcement resources and expertise on serious pollution problems affecting communities. The FY 2011-2013 initiatives were chosen after state and public input. This section discusses each of OECA's existing NEIs, as well as other national priorities, and identifies critical supporting activities, responsibility for implementation, and associated measures for tracking. The EPA is now in the process of considering whether the existing NEIs should be continued or revised in FY 2014-2016, and whether other initiatives should replace any of the existing ones. Those discussions are occurring now, and the results may have an impact on the discussions of NEIs in this guidance document. For purposes of discussion, this draft assumes that the existing NEIs will continue for FY 2014-2016; that may change once the discussion about NEIs is completed.

1. Implementing Clean Air Act (CAA) National Enforcement Initiatives

Description: The following is a preliminary discussion of work in 2 CAA-specific National Enforcement Initiative areas. (Note to reviewers: All NEIs are under discussion and may change.)

Cutting Toxic Air Pollution that Affects Communities' Health:

In 1990, Congress identified hazardous air pollutants (HAPs), currently totaling 187, that present significant threats to human health and have adverse ecological impacts (http://www.epa.gov/ttn/atw/188polls.html). The CAA and EPA's regulations impose strict emission control requirements (known as "Maximum Achievable Control Technology" or "MACT") for these pollutants, which are emitted by a wide range of industrial and commercial facilities. The EPA will target and reduce emissions of toxic air pollutants in three areas where the agency has determined there are high rates of noncompliance: (A) leak detection and repair; (B) reduction of the volume of waste gas to flares and improvements to flare combustion efficiency; and (C) excess emissions, including those associated with startup, shut down and malfunction. Through this Air Toxics Initiative, the EPA will undertake compliance monitoring and enforcement activities to maximize environmental and human health benefits, which is particularly important for disproportionately burdened communities. OECA will utilize innovative monitoring and evaluation techniques and partner with the EPA's Office of Air and Radiation (OAR) and Office of Research and Development. OECA will also provide equipment and training to inspectors to enhance the effectiveness of on-site activities.

Reducing Widespread Air Pollution from the Largest Sources, Especially the Coal-fired Utility, Cement, Glass, and Acid Sectors:

The New Source Review/Prevention of Significant Deterioration (NSR/PSD) requirements of the CAA require certain large industrial facilities to install state-of-the-art air pollution controls when they build new facilities or make "significant modifications" to existing facilities. However, many industries have not complied with these requirements, leading to excess emissions of air pollutants such as sulfur dioxide, nitrogen oxides and particulate matter. These pollutants can be carried long distances by the wind and can have significant adverse effects on human health, including asthma, respiratory diseases and premature death. These effects may be particularly significant for communities overburdened by exposure to environmental risks and vulnerable populations, including children. In recent years, the EPA has made considerable progress in reducing excess pollution by bringing enforcement actions against coal-fired power plants, cement manufacturing facilities, sulfuric and nitric acid manufacturing facilities, and glass manufacturing facilities. However, work remains to be done to bring these sectors into compliance with the CAA and protect communities burdened with harmful air pollution.

Activities:

EPA regions will:

- Implement the strategy for the Air Toxics National Enforcement Initiative.

- Implement the strategy for the National Enforcement Initiative on New Source Review – Coal Fired Electric Utilities, Cement, Glass, Sulfuric and Nitric Acid.

Measures: For the Air Toxics Initiative, see ACS measures PBS-ATX03 and ATX04. For the initiative addressing the largest sources, see ACS measures PBS-NSR01-NSR09. Both sets of measures are in Appendix I, pages 1-2.

2. Implementing Clean Water Act (CWA) National Enforcement Initiatives

Description: The following is a preliminary discussion of work in 2 CWA-specific National Enforcement Initiative areas. (Note to reviewers: All NEIs are under discussion and may change.)

Keeping Raw Sewage and Contaminated Stormwater Out of Our Nation's Waters: The EPA will continue its enforcement focus on reducing discharges of raw sewage and contaminated stormwater into our nation's rivers, streams and lakes. This National Enforcement Initiative focuses on reducing discharges from combined sewer overflows (CSOs), sanitary sewer overflows (SSOs), and municipal separate storm sewer systems (MS4s) by obtaining cities' commitments to implement timely, affordable solutions to these problems. In FY 2012, the EPA developed the Integrated Municipal Stormwater and Wastewater Planning Approach Framework, which is posted at http://cfpub.epa.gov/npdes/integratedplans.cfm to provide further guidance on developing and implementing effective integrated planning solutions to municipal wastewater and stormwater management. This approach allows municipalities to prioritize CWA requirements in a manner that addresses the most pressing public health and environmental protection issues first, while maintaining existing regulatory standards. All or part of an integrated plan may be incorporated into the remedy of enforcement actions. These remedies may include expansion of collection and treatment system capacity and flow reduction measures including increased use of green infrastructure and other innovative approaches. The EPA is committed to working with communities to incorporate green infrastructure, such as green roofs, rain gardens, and permeable pavement, into permitting and enforcement actions to reduce stormwater pollution and sewer overflows where applicable. Regions should consider and promote the opportunity to utilize green infrastructure controls in municipal enforcement actions. See information on green infrastructure at: http://cfpub.epa.gov/npdes/home.cfm?program_id=298.

Preventing Animal Waste from Contaminating Surface and Ground Waters:
Concentrated animal feeding operations (CAFOs) are a subset of livestock and poultry animal feeding operations (AFOs) that meet the regulatory thresholds of number of animals for various animal types. The EPA's goal is to take action to reduce animal waste pollution from livestock and poultry operations that impair our nation's waters, threaten drinking water sources, and adversely impact vulnerable communities. EPA's regulations require permit coverage for any CAFO that discharges manure, litter, or process wastewater into waters of the U.S. CAFOs that discharge to U.S. waters but do not have National Pollutant Discharge Elimination System (NPDES) permits are in violation of the CWA. The EPA will continue to focus federal enforcement investigations primarily on existing large and medium CAFOs identified as discharging without a permit to waters of the U.S., particularly in areas of concern due to impacts from CAFO/AFO wastes. In addition, EPA's resources will be used to assure that

CAFOs that already have permits are in compliance with those permits. Each EPA region, in coordination with their states where appropriate, will consider a variety of factors to prioritize its CAFO activities. These factors include, but are not limited to, identifying watersheds or water bodies where CAFO/AFO wastes are negatively affecting surface water quality, proximity of CAFOs to drinking water sources and vulnerable communities, and status of NPDES-authorized states' CAFO programs.

Activities:

EPA regions, coordinating with their states where appropriate, will:

- Implement the strategy for the Municipal Infrastructure National Enforcement Initiative.
- Identify appropriate opportunities for implementing EPA's Integrated Municipal Stormwater and Wastewater Planning Approach Framework.
- Implement the strategy for the Concentrated Animal Feeding Operation (CAFO) National Enforcement Initiative.

Measures: For the initiative addressing raw sewage and contaminated storm water, see ACS measures PBS M105-M108 in Appendix 1, page 2. For the CAFO initiative, see ACS measures PBS-CAF002, CAF007 and CAF008 in Appendix I, page 2.

3. Assuring Safe Drinking Water

Description: The EPA's focus on public water systems (PWS), including those in Indian country, protects the public from the potential acute and chronic health effects of drinking water that fails to comply with the Safe Drinking Water Act (SDWA). The EPA's Enforcement Response Policy (ERP)[3] has the ultimate goal of returning non-compliant PWS to compliance. More specifically, the ERP provides that based on the identification and prioritization of non-compliant PWS, those PWS identified as a priority must return to compliance (RTC) or be issued a formal enforcement action within six months of being identified as a priority system. The Enforcement Targeting Tool (ETT) generates a score for each PWS with unresolved violations based upon the number, severity and length of violations.

A quick response to SDWA violations decreases the risks to public health and allows primacy agencies flexibility to use a variety of tools such as assistance and informal enforcement actions. Primacy agencies should be proactive in addressing violations to prevent systems from reaching an ETT score of 11 or greater. This approach is especially important in Indian country, as it allows for timely and appropriate consultation with the tribal government as soon as a violation is identified. It is also particularly important in responding to violations at small and medium-sized PWS which may require more assistance to return to compliance. Inaccurate and incomplete data result in incorrect and inconsistent ETT scores within and across states. The Government Accountability Office (GAO) in FY 2011 highlighted the seriousness of underreporting SDWA data and recommended action by the EPA to improve the quality of data

[3] The ERP is available at http://www.epa.gov/enforcement/water/documents/policies/drinking_water_erp_2009.pdf

reported by states.[4] OECA continues to coordinate with and support the Office of Water (OW) to improve data quality. Regions and primacy agencies should also continue their efforts to improve the accuracy and timeliness of data reported to the EPA. Coordination between OW's Office of Groundwater and Drinking Water and OECA will enable the leveraging of resources to help assure safe drinking water.

Activities:

EPA regions will:

- Ensure that primacy agencies fulfill the enforcement conditions of their primacy agreements.
- Promote accurate, timely and complete reporting by primacy agencies.
- Ensure that primacy agencies use the ETT and implement the ERP.
- Collaborate with primacy agencies to ensure that the PWSs with the most serious violations are addressed and returned to compliance in a timely and appropriate manner, particularly where PWSs are in substantial noncompliance with state, territorial, or tribal enforcement orders.
- Using the quarterly ETT, hold in-depth regular discussions with primacy agencies regarding compliance and enforcement matters that include, but are not limited to, progress in returning systems to compliance, monitoring compliance progress on orders, number of systems addressed, number of systems in violation, and overall performance in implementing the ERP.
- Apply the ERP in Indian country, Wyoming, and the District of Columbia. When serving as the primacy agency for Indian country, ensure the ERP timeline for RTC is accomplished while simultaneously implementing *OECA's Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy (January 17, 2001),* which can be found at: http://www.epa.gov/compliance/resources/policies/state/84indianpolicy.pdf. Application of the the guidance, which contains procedures for consultation with tribes, should not result in a lesser degree of human health and environmental protection in Indian country than elsewhere in the United States and must address and resolve drinking water violations on a schedule consistent with the ERP.
- Ensure that state and tribal inspectors who inspect on behalf of the EPA are trained and credentialed consistent with agency guidance, including the *Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA* (2004). Consistent with the EPA Order 3510, annually conduct an inventory of federal credentials which includes an annual physical possession check of 10 percent of the federal credentials issued to state and tribal inspectors and a count of unused credentials stock.
- Perform the activities listed below under "State, territories and tribes with primacy" in circumstances where the EPA is the primacy agency.

States, territories and tribes with primacy will:

- Fulfill the enforcement conditions of their primacy agreements.

[4] The GAO report is available at http://www.gao.gov/assets/320/319780.pdf

- Use the ETT and implement the ERP to ensure that priority systems, within six months of having reached a score of 11, either return to compliance or receive formal enforcement actions that compel the systems to return to compliance in a timely fashion.
- Work to reduce their backlog of systems that have already been at a score of 11 or higher for more than six months.
- Return to compliance or address violations at non-complying PWSs before they become priority systems with a focus on schools and daycares, as resources allow.
- Report compliance and enforcement data to ensure that it is entered into SDWIS in a complete, accurate and timely manner.
- Coordinate internally among enforcement programs in all media to protect drinking water sources.

Measures: See ACS measure SDWA02 in Appendix I, page 3.

4. Reducing Pollution from Mineral Processing Operations

Description: The following is a preliminary discussion of work in this National Enforcement Initiative area. (Note to reviewers: All NEIs are under discussion and may change.)

Mining and mineral processing facilities generate more toxic and hazardous waste than any other industrial sector, based on the EPA's Toxic Release Inventory. Many of these facilities have impacted surrounding communities and continue to pose high risk to human health and the environment. For example, 95 mining and mineral processing sites are on the Superfund National Priorities List and more sites are being added every year, including operating facilities. The EPA has spent over $2.4 billion to address the human health and environmental threats to communities, such as exposure to asbestos and lead poisoning in children, as a result of mining and mineral processing. In some cases, the EPA has had to relocate families because of these threats, including impacts to children in low income communities. The EPA has inspected 65 mining and mineral processing sites that pose significant risk to communities and found many to be in serious non-compliance with hazardous waste and other environmental laws. Contamination of groundwater and potable water has occurred at many sites, sometimes requiring alternative drinking water supplies or removal of lead-contaminated soil from residential yards. In other cases, toxic spills into waterways from mining and mineral processing caused massive fish kills and impacted the livelihood of low income communities. Some workers at mining and mineral processing facilities have been exposed to spills and mismanagement of toxic and hazardous waste. The EPA will continue its enforcement initiative to bring these facilities into compliance with the law and protect the environment and nearby communities.

Activities:

EPA regions will:

- Implement the strategy for reducing pollution through the Mineral Processing National Enforcement Initiative.

Measures: See ACS measure PBS-MNP05 in Appendix I, page 2.

5. Assuring Energy Extraction Sector Compliance with Environmental Laws

Description: The following is a preliminary discussion of work in this National Enforcement Initiative area. (Note to reviewers: All NEIs are under discussion and may change.)

Vast natural gas reserves, unlocked through technological advances in horizontal drilling and hydraulic fracturing, are a key part of the nation's energy future. The full promise of this resource will be realized only if it is developed responsibly and the new technologies controlled in a manner that protects the nation's air, water and land. For example, an unprecedented acceleration of natural gas development has led to a significant rise in air pollution throughout the intermountain West. Geospatial analysis suggests that a similar rise in air pollution is possible elsewhere as unconventional gas development grows in other shale plays. Meanwhile, citizens continue to voice concern that drilling and hydraulic fracturing pose a risk to drinking water sources, either through improper well construction, wastewater management or otherwise.

OECA initiated its Energy Extraction National Enforcement Initiative in FY 2011 to address these concerns and to take action where violations of environmental law lead to air and water impacts that pose a potential risk to human health. The EPA will continue to utilize a wide range of authorities, including the Clean Water Act, the Clean Air Act and the Safe Drinking Water Act, among others, to ensure that natural gas development proceeds in a manner protective of human health.

Activities:

EPA regions will:

- Implement the Strategy for the Land-Based Gas Extraction and Production National Enforcement Initiative.

Measures: See ACS measures PBS-EE01 and EE03 in Appendix I, pages 2-3.

6. Implementing the Clean Water Act (CWA) Action Plan

Description: OECA, together with the EPA regions, the Office of Water and states with program authorization, continues to implement the CWA Action Plan issued in October 2009. The CWA Action Plan Steering Committee oversees implementation of the Action Plan through regular communication with and feedback to the EPA/state workgroups who are leading the individual action items associated with the four fundamental changes. The changes are designed to revamp the NPDES permitting, compliance and enforcement program to better address today's serious water quality problems. They are:

1. Switch from existing paper reporting to electronic reporting, resulting in increased efficiency and improved transparency of the NPDES program.
2. Use *Next Generation Compliance* approaches to create a new paradigm in which regulations and permits compel compliance via public accountability, self-monitoring, self-certification, electronic reporting and other methods.

3. Address the most serious water pollution problems by re-tooling key NPDES permitting and enforcement practices, while continuing to vigorously enforce against serious violators.
4. Conduct comprehensive and coordinated permitting, compliance, and enforcement programs to improve state and EPA performance in protecting and improving water quality. (Related activities are discussed under *Strengthening State Performance and Oversight* on pages 12-13.)

Activities:

EPA regions should:

- Prepare for implementation of the draft proposed NPDES Electronic Reporting Rule, including working to:
  a. Actively market and implement the use of NetDMR by permittees for the electronic transfer of Discharge Monitoring Reports (DMR) to ICIS-NPDES, supported by the National Environmental Information Exchange Network (Exchange Network). The regions should implement EPA's NPDES Electronic Reporting Tool (NeT) as general permits are added to this tool (e.g., oil and gas, and the multi-sector general permit);
  b. Ensure their states are preparing for the implementation of the electronic reporting rule by adopting the use of EPA electronic reporting tools (NetDMR, NeT), or developing their own state e-reporting tools; and
  c. Coordinate closely with the Office of Compliance to individually evaluate their states' readiness to implement the electronic reporting rule, including: Cross-Media Electronic Reporting Regulation (CROMERR) compliant electronic reporting tools compliant with EPA's electronic reporting regulations; state system readiness; and level of participation using the state e-reporting tools (e.g., 90 percent participation by NPDES-regulated facilities).
- Require electronic reporting, as appropriate, for all data required by enforcement actions, where appropriate and in accordance with national guidance.
- Provide relevant feedback to permitting offices regarding permit prioritization and modifications to consider when new permits are developed or a permit is renewed. Request that permit writers consider comments provided by inspectors and/or enforcement personnel in developing appropriate permit conditions.
- Actively participate in CWA Action Plan projects including those to address effluent violations reported on Discharge Monitoring Reports (DMRs) using new strategies and tools, such as expedited administrative enforcement actions and electronic compliance assistance. Consider innovative approaches to deal with more routine paperwork violations.
- As prescribed by the CWA Action Plan, OECA is leading an effort to draft new approaches for a revised CWA/NPDES Enforcement Management System (EMS) framework that supports the principles described in the 2009 CWA Action Plan. This framework will supersede the existing CWA/NPDES EMS that is used to prioritize violations for appropriate enforcement responses. Full implementation of the NPDES electronic reporting rule will be a critical element to implementing the new EMS. Both staff and managers in regions and states and tribes with program approval are encouraged to participate actively in this workgroup to develop this framework.
- Include in targeting, monitoring, enforcement and state oversight the complete array of the NPDES regulated universe, going beyond the historic focus on traditional NPDES majors.

Targeting tools, such as the DMR Pollutant Loading Tool, can be used to determine the source, location and amount of discharged pollutants. It currently includes a subset of non-major facilities, and can be found at: www.epa.gov/pollutantdischarges.

State and EPA representatives on the CWA Action Plan Steering Committee and the various associated workgroups should:

- Attend and participate in regular meetings.
- Assist in numerous aspects of workgroup responsibility including, as appropriate, drafting work products and deliverables and identifying appropriate timing for raising issues with the Steering Committee.
- Represent states and regions, respectively, by engaging and providing meaningful input and direction on implementation issues.

7. Advancing Next Generation Compliance

Description: The health and environmental benefits envisioned by our statutes, regulations, and state and tribal programs are not being fully achieved. Though the data available are not complete, high noncompliance is evident in much of the data we do have. Because the data is incomplete, noncompliance may be even greater than what is currently known. State and federal resources for onsite compliance assistance, individual inspections, and enforcement actions are not adequate to address the large universe of regulated sources, especially the numerous small sources that are important contributors to environmental problems. Robust compliance monitoring and enforcement are critically important for identifying and addressing violations and promoting deterrence. While individual facility inspections and enforcement actions remain a critically important part of addressing noncompliance, this alone is not sufficient to achieve the improvements in compliance we need. Field operations and EPA regulations must consider emerging approaches and technology to be effective and efficient. Together with the program offices, regions, and states, OECA is developing and will implement a new paradigm called *Next Generation Compliance*, which takes advantage of advances in emissions monitoring and information technology. To implement Next Generation Compliance, as recommended by the General Accounting Office (GAO) (GAO-13-115; December 10, 2012), OECA will develop a Next Generation Compliance Strategic Plan by the end of FY 2013, In addition, OECA and the regions need to perform work in five areas:

1. **Design more effective regulations and permits that are easier to implement, and result in higher compliance and improved environmental outcomes.** OECA is working with the program offices and regions to design more effective regulations and permits that include Next Generation Compliance tools and approaches for better compliance and environmental outcomes.
2. **Use advanced emissions/pollutant detection technology so that regulated entities, the government, and the public can more easily see pollutant discharges, environmental conditions and noncompliance.** This technology will make pollution that is currently "invisible," "visible." Industry can more effectively prevent and reduce pollution, and often make their operations more efficient, while government can better target significant pollution and noncompliance problems. Private sector development of monitoring technology that can be used by the public could empower citizens and encourage industry

and government to reduce pollution. In addition, advanced monitoring technology, coupled with electronic reporting, will produce more complete universe data on regulated sources, their emissions and discharges, and environmental conditions. This data will support the development of new and improved compliance measures, allowing for more evidence-based approaches to compliance work and better assessment of compliance rates.

3. **Require electronic reporting by regulated entities so that we have more accurate, complete, and timely information on pollution sources, pollution, and compliance.** Electronic reporting should not be simply emailing files to the government. It is taking advantage of advances in IT to improve and streamline information submission, improving government while saving money. For example, an electronic "smart" form or web tool will be developed that guides the regulated entity through the process. Error prevention and two-way communication can be integrated into the reporting tool, allowing electronic compliance assistance and alerts on new regulations and helping to ensure that only necessary data is collected.
4. **Expand transparency** by making the information we have today more accessible, and making new information obtained from advanced emissions monitoring and electronic reporting publicly available. This will empower communities to play an active role in compliance oversight and improve the performance of both the government and regulated entities.
5. **Develop and use innovative enforcement approaches to achieve more widespread compliance**. We are developing new enforcement approaches that help to increase the effectiveness of our compliance work, such as greater use of fenceline monitoring and publication of pollution information, to both track pollution that is important to communities and to engage the community in monitoring compliance. We are also using advanced monitoring and electronic reporting in our enforcement investigations and settlements and making greater use of targeted deterrence approaches, and self and third party certification tools, to help drive better compliance and reduce pollution.

Activities:

EPA regions should:

- Participate on regulation development workgroups to provide real-world inspection, compliance monitoring, and enforcement knowledge and advocate for Next Generation Compliance approaches in the agency's rules.
- Actively participate in agency and OECA workgroups related to implementing Next Generation Compliance components, such as electronic reporting, advanced monitoring and enforcement settlements.
- Identify and implement best practices to improve rule and permit implementation. Include Next Generation Compliance principles, tools, and approaches when issuing permits, reviewing permits, and training permit writers.
- Work with OECA to ensure inspectors are trained in the effective use of advanced monitoring equipment.

- Incorporate Next Generation Compliance tools such as electronic reporting, advanced monitoring at the facility and fence-line, third party verification, and public accountability in enforcement settlements.
- Identify and use innovative enforcement approaches.
- Coordinate with OECA to establish advanced field compliance reporting systems that improve the quality of our inspections and allow us to electronically submit inspection reports.
- Participate in the EPA-state collaboration to implement the new governance structure for E-Enterprise, including promoting electronic reporting.

States and tribes should:
- Expand their understanding and use of Next Generation Compliance.
- Identify and implement e-reporting ideas to expand transparency and improve environmental outcomes

8. Strengthening State Performance and Oversight

Description: Our nation's environmental laws are based on the principle of cooperative federalism under which the EPA and states work in partnership to protect human health and the environment. Most major federal environmental laws require the EPA to establish minimum, nationwide standards, and then allow the agency to delegate authority to implement these standards to the states. The EPA retains broad enforcement authority under federal law, and provides oversight of delegated state programs.

As part of its oversight responsibilities, the EPA must clearly articulate expectations for state program performance and evaluate the states in a fair, consistent and equitable manner. This National Program Manager Guidance, working in conjunction with national enforcement policies and program grant agreements, is one place where these expectations are articulated. To evaluate state enforcement performance, states and the EPA worked in partnership to create the State Review Framework (SRF). The SRF is designed to ensure the EPA conducts oversight evaluations of state CWA, CAA and RCRA compliance and enforcement programs in a nationally consistent and efficient manner. Where regions directly implement the federal program in states that do not have authorized programs, OECA conducts the SRF review of the regions' program using the same process and procedures as for all SRF reviews. A national approach to enforcement of the nation's environmental laws assures that: (1) all states are treated equitably and held to the same standards as the EPA regions; (2) a level playing field exists across states and for regulated businesses; (3) the public has similar protection from impacts of pollution regardless of where they live or work; and (4) timely compliance with national environmental laws and regulations is widely achieved.

In FY 2012, regions piloted the SRF Round 3 process which included integrated NPDES Permit Quality Reviews. Based on that experience, OECA, the EPA regions and states are currently exploring ways to improve SRF effectiveness while reducing the resources necessary to conduct reviews. OECA, regions and states are also reviewing a draft document entitled *National Strategy for Improving State Enforcement Performance*. The draft Strategy is intended to clarify that an integral part of the SRF is a consistent national approach for dealing with significant state

enforcement performance issues, once they have been identified. The draft describes three proposed sets of actions aimed at improving state enforcement performance to achieve the above-stated goals: (1) an escalation approach to problem-solving; (2) the State Review Framework evaluation process; and (3) transparency efforts. The draft Strategy likely will be revised before it becomes final. Consequently, some of the activities identified below may change or be modified, or different activities added, once the SRF process is revised and the Strategy is finalized.

Activities:

EPA regions will:

- Conduct all Round 3 SRF reviews of state CAA, CWA, and RCRA enforcement programs scheduled for FY 2014, following Round 3 headquarters guidance, including integrated CWA permit and enforcement reviews. (These activities also support *Implementing the Clean Water Act (CWA) Action Plan* discussed on page 9.)
- Review MOAs as part of the CWA-NPDES integrated review process, using the OW/OECA criteria and checklist. Ensure identified issues are addressed as needed by the end of FY 2017.
- Enter complete draft and final SRF reports, including data metric analyses, file reviews, recommendations and state comments into the SRF Tracker.
- Monitor progress of states in carrying out the recommendations and record progress quarterly in the SRF Tracker, including tracking results of integrated CWA reviews.
- Implement the *National Strategy for Improving State Enforcement Performance*.
- Use data verification and annual data metric analyses to inform regular discussions with states and to track performance.
- Focus oversight resources on the most pressing performance problems in states, working with them to demonstrably improve state performance. Where progress toward resolving significant state performance issues is not being made, regions should escalate their responses in accordance with OECA's Escalation Strategy.
- Ensure commitments to implement recommendations for program improvements are captured in appropriate negotiated PPAs, PPGs, categorical grant agreements or other written documents.
- Per the June 22, 2010 memorandum from Cynthia Giles and Peter Silva "Interim Guidance to Strengthen Performance in the NPDES Program" and the October 22, 2010 memorandum from Lisa Lund and Jim Hanlon "Using the Results of NPDES Permit and Enforcement Reviews to Address Significant Issues," regions should work with authorized states to conduct an integrated planning process that brings together different program components (e.g., standards, permitting and enforcement). In follow-up, convene routine and regular meetings between the EPA region and authorized state to discuss progress towards meeting annual permitting and enforcement commitments and how the state has been performing overall.
- Review the number of SNCs/HPVs identified (and percent of universe) by state and the number (and percent) addressed in a timely and appropriate manner, using the Watch List as a discussion tool.

State and local agencies should:

- Work cooperatively with the EPA regions to conduct SRF reviews as scheduled.
- Implement recommendations within agreed upon time frames in the final SRF reports provided to the state or local agency.
- Implement additional necessary work to resolve issues impeding effective implementation of their enforcement program.
- Where EPA regions' review of state-EPA MOAs determines that MOAs might require revision, updating or supplementation, states should work cooperatively with the EPA regions to identify and complete appropriate actions.

Measures: See ACS measure SRF01 in Appendix I, page 3.

IV. Program-Specific Guidance

This section provides critical national direction on specific program areas not addressed in the preceding section. For each program area, the guidance identifies critical supporting activities, responsibility for implementation and associated measures for tracking implementation. We recognize the tight budget situation faced throughout EPA at present. If resources do not allow for activities in the guidance to be implemented, then regional management should raise the specific activities for discussion with the appropriate OECA office director(s). This discussion is necessary to help ensure EPA consistency, as appropriate, in implementing critical activities across media programs and ensuring a level playing field nationally.

1. Environmental Justice

Description: In addition to being the National Program Manager for the agency's Environmental Justice (EJ) Program, OECA oversees the implementation of environmental justice within the compliance and enforcement program. In its enforcement role, OECA ensures that facilities in communities disproportionately impacted by environmental problems are complying with the law. OECA aggressively applies regulatory tools to protect these communities, engages our regional, federal, state and tribal partners to meet community needs, and fosters community involvement in the EPA's decision-making processes by making information available, as appropriate.

OECA and all regions are implementing the strategies and activities outlined in *Advancing Environmental Justice through Enforcement and Compliance*, one of the five cross-cutting areas identified for agency-wide action in EPA's Plan EJ 2014. OECA's goals under this Plan are to fully integrate consideration of EJ concerns into the planning and implementation of program strategies, case targeting strategies, and development of remedies in enforcement actions to benefit overburdened communities. OECA has developed five strategies for Advancing Environmental Justice through Enforcement and Compliance:

1. Advance EJ goals through selection and implementation of National Enforcement Initiatives.
2. Advance EJ goals through targeting and development of compliance and enforcement actions.

3. Enhance use of enforcement and compliance tools to advance EJ goals in regions' geographic initiatives to address overburdened communities.
4. Seek appropriate remedies in enforcement actions to benefit vulnerable and overburdened communities and address EJ concerns.
5. Enhance communication with affected communities and the public regarding EJ concerns and the distribution and benefits of enforcement actions, as appropriate.

The link to OECA's Plan EJ 2014 implementation plan is:
http://www.epa.gov/environmentaljustice/plan-ej/ce-initiatives.html

The EPA's Environmental Justice Small Grants Program supports and empowers communities working on solutions to local environmental and public health issues. Applicants must be incorporated non-profits, federally recognized tribal governments, or tribal organizations working to educate, empower and enable their communities to understand and address local environmental and public health issues. Additional information can be accessed at:
http://www.epa.gov/compliance/environmentaljustice/grants/ej-smgrants.html

Activities:

Regions, together with states, tribes and other partners as appropriate, will:

- Implement the National Enforcement Initiatives, consistent with national strategies, to maximize environmental and human health benefits for overburdened communities.
- Specifically consider overburdened communities and potential disproportionate impacts to these communities, including those in Indian country, when selecting enforcement actions to address other important compliance problems. Targeting evaluations should always use the best available data and methods to achieve enforcement program objectives.
- Review civil enforcement cases to be initiated in FY 2014 for potential EJ concerns using the agency's EJ SCREEN tool, and record the results of these reviews in ICIS, in accordance with the *Technical Directive: Reviewing EPA Enforcement Cases for Potential Environmental Justice Concerns and Reporting Findings to the ICIS Data System.* (Note: The Technical Directive will be reviewed and updated as appropriate in FY 2013.)
- Continue to develop area-wide initiatives: integrated (cross-program) strategies that focus on particular geographic areas with overburdened communities, and evaluate facility compliance in these areas.
- Identify specific opportunities to work with other federal agencies, state and local governments, tribal governments, and/or the business community to leverage the benefits resulting from enforcement activities, both in particular cases and as part of area-wide initiatives. Document and share recommendations and best practices for taking action on these opportunities.
- Where appropriate, design compliance and enforcement actions to gain the greatest possible environmental benefits in overburdened communities. For example, this could include use of multi-media inspections and/or process inspections to comprehensively address potential impacts from violations at a given facility.
- Consider activities to effectively reach large numbers of small sources with environmental violations that have significant local impacts on overburdened communities.
- Identify and address EJ concerns as appropriate when consulting with tribal governments.

- Enhance communication with communities with EJ concerns and the public about enforcement strategies and actions that may affect them, consistent with the confidentiality requirements needed to protect the integrity of the enforcement process.
- Specifically provide opportunities for community input on EJ concerns and remedies to be sought in enforcement actions affecting communities through the EPA's website, local information repositories, and other appropriate means.
- Effectively communicate the benefits of our enforcement actions for vulnerable and overburdened communities, consistent with the internal memorandum entitled "*Guidance on Characterizing and Communicating Environmental Justice Benefits Achieved in Enforcement Actions*" (September 2011).

Measures: See proposed revisions to ACS measure EJ01in Appendix I, page 4. The OECA EJ Council, managers and the regions will consider the following new proposed measures:

- Number of enforcement cases brought by the EPA requiring an enhanced review for potential EJ concerns based on EJ SCREEN flag (i.e. meeting enhanced review threshold).
- Number of enforcement cases brought by the EPA receiving an enhanced review for potential EJ concerns.
- Number of enforcement cases brought by the EPA in areas determined by the EPA to have potential EJ concerns.

2. Federal Facilities

Description: The EPA's compliance and enforcement program involves more than 30,000 federal facilities and installations spread across nearly 30 percent of the nation's territory, among which are some 10,000 currently regulated under the agency's various statutes. The EPA holds these federal agencies accountable to the same standard of environmental compliance as other members of the regulatory community. This equal accountability is required by CERCLA, envisioned by most other statutes and affirmed under Presidential executive order. Federal agencies are now expected to go beyond compliance and serve as an example to others regarding environmental stewardship and management, as Presidential Executive Order No. 13514 on federal environmental sustainability makes clear. The EPA's federal facilities enforcement and compliance programs are at http://www.epa.gov/compliance/federalfacilities/index.html. The agency's primary focus in this sector has been on monitoring and enforcement, given the extensive compliance assistance now offered by others, especially at ***FedCenter***, http://www.fedcenter.gov/, the sector's on-line environmental stewardship and compliance assistance center sponsored by more than a dozen federal agencies.

Activities:

EPA regions should:

- Consult with Federal Facilities Enforcement Office (FFEO) on all federal facility enforcement actions. FFEO will focus its resources to make these consultations timely and effective, and bring clear value to these regional actions.
- Utilize FFEO's new inspection targeting capabilities for improved monitoring, especially of vulnerable communities associated with federal facilities.

- Target federal facilities, as appropriate, as part of implementing the EPA's National Enforcement Initiatives and regional priorities.
- Integrate OECA's federal facility *Integrated Strategies* into the region's inspection and enforcement efforts. These integrated strategies align enforcement, compliance, and stewardship activities for maximum effect and help achieve environmental and health benefits by addressing those problems that matter to communities.
    - Continue to implement *Integrated Strategies* dealing with storm water, RCRA corrective action sites, hazardous medical waste at federal facilities, disposal of excess federal property and vulnerable communities, where environmental justice issues are often most prevalent.
    - Continue to pursue exploratory *Integrated Strategy* areas identified in FY 2013, including at Government Owned/Contractor Operated/Government Owned/Privately Operated (GOCO/GOPO) facilities and other potential areas still under consideration by FFEO and the Regional Federal Facility Program Managers.
- Continue to implement a 2011 enforcement settlement with the Department of the Interior's Indian Affairs program for violations at its schools and water treatment plants across Indian country.
- Sustain a vigorous enforcement program at federal facilities, especially focused on National Enforcement Initiatives, *Integrated Strategy* areas and regional priorities.
    - Include, where appropriate, environmental management system (EMS) improvements and Supplemental Environmental Projects (SEPs) as part of enforcement action settlements.
- Collaborate with FFEO to identify and implement Next Generation Compliance opportunities to create more effective and efficient enforcement in this sector.
- Promote greater public awareness and consider greater public engagement through increased transparency of federal facility compliance activity, violations and enforcement actions, including press releases for enforcement actions.
- Project at mid-year the number of formal: (1) federal facility enforcement case initiations; and (2) federal facility settlements for FY 2014. (These projections, which need not include Records of Decision at federal facility CERCLA sites, are not commitments but rather indicators of regional progress.)

<u>EPA regions and states</u> should:

- Continue to work to ensure adequate coverage of the federal facility sector through compliance monitoring and enforcement activity. Coordinate inspections or enforcement activity where appropriate. Regions should be a resource when questions of enforcement authorities arise, including questions of sovereign immunity.

Measures: See ACS measure FED-FAC05 in Appendix I, page 4. Please note that the references to the UST Integrated Strategy and exploratory HCFCs/CFCs area have been deleted in the FY 2014 version of FED-FAC05.

3. CWA National Pollutant Discharge Elimination System (NPDES) Program for Compliance Assurance and Enforcement

Description: There are essential activities under the Clean Water Act NPDES program that help ensure compliance with the Clean Water Act (CWA) and associated regulations.

Activities:

EPA regions with direct implementation responsibilities (e.g., non-authorized states, federal facilities and Indian country) and authorized states and tribes, should:

- Target serious sources of pollution and serious violations. Use appropriate tools, including those developed pursuant to the CWA Action Plan and the NPDES Compliance Monitoring Strategy (NPDES CMS) for the Core Program and Wet Weather Sources (issued October 17, 2007) to target the most significant sources of pollutants affecting those water bodies and watersheds where compliance and enforcement tools will be effective in addressing the problem. Give priority to discharges that affect: (1) water bodies that are not meeting water quality standards; (2) drinking water sources; or (3) individual communities. Available tools include ambient monitoring data, the Discharge Monitoring Report (DMR) Pollutant Loading Tool (http://cfpub.epa.gov/dmr/), the Inspection Targeting Model (available to EPA and states at www.epa-otis.gov/otis/itm) and other GIS resources.
- Develop annual compliance monitoring plans that take advantage of the flexibility available in the NPDES CMS. Provide FY 2014 CMS plans to OECA by December 31, 2013.
- Implement activities that the EPA initiates as part of the evaluation of the 2007 NPDES CMS (final document anticipated during FY2013).
- Implement the guidance resulting from the compliance monitoring national dialogue on what activities count as "compliance monitoring" under the 2007 NPDES CMS.
- Ensure that all available data regarding violations are evaluated to determine the seriousness of the violation. Take appropriate enforcement responses to address violations discovered. Ensure that civil enforcement actions are taken, where appropriate, to address serious violations contributing to a community's water quality problems.
- Ensure compliance with civil judicial consent decrees and administrative orders where applicable.
- Implement targeted "real time" (quick response) enforcement activities to address CWA violations impacting communities' waters where appropriate.
- Ensure all required compliance and enforcement data are input or transmitted to the national data base in a timely manner consistent with EPA national policy and, if promulgated, the NPDES e-reporting rule. All other data related to compliance and enforcement should be tracked and managed, as appropriate, to allow the region or state to effectively manage their program. The EPA encourages states to expand their use of the national database to include compliance and enforcement data that pertains to the entire NPDES universe.
- Continue implementation of integrated planning in accordance with EPA's 2012 *Integrated Municipal Stormwater and Wastewater Planning Approach Framework*, available at http://www.epa.gov/npdes/pubs/integrated_planning_framework.pdf.

EPA regions should also:

- Implement existing CWA compliance and enforcement strategies for specific geographic areas, as applicable, including the Chesapeake Bay Compliance and Enforcement Strategy and other region-specific initiatives.
- Conduct a sufficient number of oversight NPDES inspections to ensure the integrity and quality of each authorized state's or tribe's compliance monitoring program.
- Ensure the full regulated universe of NPDES permittees is addressed in the state's CMS plan, focusing on the most important sources and most serious noncompliance.
- Track compliance monitoring activities and submit annual end of year (EOY) reports for each state and for regional direct implementation to OECA by December 31, 2014, or a later date if one is negotiated through the ACS process. EOY reports should account for all compliance monitoring activities conducted in the prior year in accordance with the NPDES CMS.
- Coordinate with their states to ensure that state partners who do not directly input data into ICIS-NPDES continue to use the National Environmental Information Exchange Network to report data to the EPA. [The Permit Compliance System (PCS) was archived in 2013.]
- Utilize multi-sector general permit (MSGP) violation and benchmark data when available through EPA's NPDES Electronic Reporting Tool (NeT) to support monitoring, targeting and enforcement in areas where the EPA has direct implementation authority.
- Routinely review all DMRs and non-compliance reports received for compliance with permit requirements where the region directly implements the program, including Indian country.
- Work with OECA to identify and evaluate new priority areas that could become CWA enforcement initiatives in the future. Assist OECA in collecting and reviewing data about core program areas that warrant further review and consideration as national initiatives.
- With regard to regional direct implementation in Indian country, apply the NPDES CMS, applicable enforcement policies, and *OECA's Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy (January 17, 2001)* (http://www.epa.gov/compliance/resources/policies/state/84indianpolicy.pdf). The latter policy contains procedures for consultation with federally-recognized tribes in the civil compliance monitoring and enforcement context and contains threshold criteria for EPA's consideration of formal civil enforcement actions. The threshold criteria should not result in a lesser degree of human health and environmental protection in Indian country than elsewhere in the United States.
- Ensure that state and tribal inspectors who inspect on behalf of the EPA are trained and credentialed consistent with agency guidance, including the *Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA* (2004). Consistent with the EPA Order 3510, annually conduct an inventory of federal credentials which includes an annual physical possession check of 10 percent of the federal credentials issued to state and tribal inspectors and a count of unused credentials stock.
- Fully implement and oversee the pretreatment program:
  - In non-authorized states, oversee all approved POTW pretreatment programs consistent with the NPDES CMS, including audits and inspections, and inspect Industrial Users (IUs) that discharge into POTWs without approved pretreatment programs.
  - In states authorized to implement the pretreatment program, evaluate the effectiveness of the state's (i.e., the approval authority) program by inspecting and auditing POTWs with approved pretreatment programs (i.e., control authorities). In conjunction with POTW

inspections, ensure that POTWs with control authority are carrying out their responsibilities, including annual inspections and sampling of all Significant Industrial Users (SIUs).
    - Where states are the control authority, assess each state program's performance in conducting annual inspections and sampling of all SIUs.
- Coordinate with the Center of Excellence for Biosolids to respond to work that may arise in this program.
- Investigate the CWA compliance status of surface mining facilities within each region, including mountaintop removal mining operations. Evaluate the compliance status of such facilities with respect to NPDES permitting requirements and CWA section 404 permitting requirements. Take appropriate enforcement actions in response to CWA violations.
- Oversee compliance with the Vessel General Permit and Small Vessel General Permit (anticipated to be in effect in FY 2013). As necessary, coordinate with Coast Guard in implementing the Vessel General Permit MOU and review of Coast Guard deficiency data. Coordinate as necessary with Coast Guard sector offices on conducting joint inspections with Coast Guard.
- Continue implementing the Federal Facility Integrated Strategy on Stormwater.
- Support the agency's Next Generation Compliance by promoting advanced monitoring and electronic reporting to improve compliance and enhance the ability to identify violations that may harm public health and/or the environment. Increase transparency and improve targeting for noncompliance. Develop innovative enforcement approaches and participate in agency rulemaking workgroups to ensure regulations are designed to promote compliance and are implementable.
- Conduct SRF consistent with the schedule outlined in the agreed-upon ACS commitments. Provide recommendations and conduct follow-up as appropriate in accordance with national SRF guidance.
- Implement specific actions designated in OECA's Climate Change Adaptation Plan, scheduled for completion in June 2013, to more fully integrate climate change adaptation activities into the compliance and enforcement program where appropriate.
- As necessary, work with OECA to identify and evaluate programs areas that could become national priorities/enforcement initiatives in the future.

Measures: See ACS measure CWA07 in Appendix I, page 5.

4. CWA Section 404 - Discharge of Dredge and Fill Material

Description: The compliance and enforcement activities related to CWA section 404 which should be implemented are described below.

Activities:

EPA regions should:

- Work with OECA in implementing the Section 404 Enforcement and Coordination Strategy.
- Coordinate, as appropriate, with other federal agencies [e.g., U.S. Army Corps of Engineers, Natural Resources Conservation Service (NRCS), and Fish and Wildlife Service] which have

significant roles in wetlands protection through the use of MOUs/MOAs or other appropriate mechanisms.

- Meet with Corps Districts on an annual basis to establish regional priorities and communicate priorities to OECA.
- Review field level agreements with Corps Districts, and revise them to ensure consistency with the Section 404 Enforcement and Coordination Strategy, as appropriate.
- Utilize the Office of Water's DARTER (Data on Aquatic Resources Tracking for Effective Regulation) system as well ICIS (Integrated Compliance Information System) in targeting efforts to identify potential repeat and flagrant violators. (ICIS continues to be the data base of record for tracking EPA information on CWA section 404 enforcement actions.)
- Develop methods to effectively leverage other program resources to more systematically identify potential serious Section 404 violations and take appropriate enforcement responses to address these violations. Share effective techniques with OECA for use in developing the national wetlands enforcement strategy.
- Utilize existing regional cross training opportunities as well as opportunities identified by OECA to cross-train inspectors and to train other federal and state agencies and stakeholders to identify CWA section 404 violations.

5. CWA Section 311 – Oil Pollution Act

Description: The compliance and enforcement activities which should be implemented to help ensure compliance with the Oil Pollution Act are described below.

Activities:

EPA regions should, where appropriate:

- Participate in judicial enforcement cases to address spills from inter-state pipelines and others, such as production facilities, on a company-wide basis. Ensure these spill cases include company-wide injunctive relief requirements to prevent future spill violations at all facilities of the owner or operator.
- Participate in judicial enforcement cases to address facility response plan (FRP) violations at facilities owned or operated by the same company. Ensure these FRP cases include company-wide injunctive relief requirements to improve facility response planning and implementation at all facilities of the owner or operator.
- Target and investigate facilities subject to the EPA spill prevention and facility response planning regulations, including offshore platforms within EPA jurisdiction, and take appropriate enforcement responses to address non-compliance with these regulatory requirements.
- As necessary, target, investigate, and develop enforcement actions to address discharge violations (spills) wherever the violation occurs, whether or not the spill occurred at a facility subject to the EPA's spill prevention or facility response planning regulations.
- Conduct spill enforcement investigations to identify noncompliance and build cases for enforcement actions.
- Whenever enforcement is pursued at facilities subject to EPA regulations, the case development staff should evaluate all potential violations of CWA Section 311 and

underlying regulations and include claims in the enforcement case to address all noncompliance in these areas. Include penalties, injunctive relief and/or enforceable administrative obligations to prevent future violations from similar causes across all facilities of the same owner or operator.
- Participate in OECA-led coordination and strategy meetings, as appropriate.

6. SDWA Underground Injection Control (UIC) Program

Description: The EPA plans to focus UIC enforcement efforts on violations that pose the greatest threat to public health. Data generally show good compliance at most facilities that the EPA inspects, supporting a strategy of focusing our attention on the worst problems. Additionally, the agency will invest in new pollution detection and e-reporting technologies to more effectively address the large universe of pollution sources and empower communities.

The EPA has delegated primacy for well classes I - V to 33 states and 3 territories; it shares responsibility in 7 states. The agency implements the UIC program for all well classes in 10 states, 2 territories, the District of Columbia, and for most of Indian country. For Class VI wells, the EPA implements the program in all states, tribes, and territories.

Activities:

EPA regions should:
- Directly implement the program where the EPA retains primacy.

Authorized state and tribal programs should:
- Implement the UIC program consistent with their specific authorization codified in 40 CFR Part 147.

7. CAA Program for Compliance Assurance and Enforcement

Description: The CAA compliance assurance and enforcement activities, described below, should be implemented to help ensure compliance with the CAA and implementing regulations.

OECA continues to support the agency's climate strategy by recognizing reductions of global warming pollution in settlements of enforcement actions. OECA and OAR, in coordination with the regions, will develop a national strategy to address noncompliance issues that arise in the Greenhouse Gas (GHG) Reporting Program, as appropriate. OECA will also ensure that sources undertaking certain process changes or modifications that result in significant GHG emissions go through proper New Source Review permitting.

Activities:

EPA regions and delegated state, tribal and local agencies should:

- Implement programs in accordance with existing national compliance and enforcement policy and guidance [e.g., the CAA Stationary Source Compliance Monitoring Strategy (CMS), the CAA National Stack Testing Guidance, the Area Source Implementation Guidance, the Timely and Appropriate Enforcement Response to High Priority Violations (HPV Policy)[5], the asbestos NESHAP Demolition and Renovation Enforcement Strategy and the Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources[6]] to address air pollution problems that adversely affect impacted communities.
- Identify and evaluate all violations, determine an appropriate response, address and ultimately resolve air violations in order to bring sources into compliance which includes taking timely and appropriate actions against facilities determined to have High Priority Violations.
- Initiate civil and criminal enforcement actions, as appropriate, and whenever necessary to protect communities.
- Ensure complete, accurate and timely compliance and enforcement data is reported into the Air Facility System (AFS) consistent with agency policies, the AFS Information Collection Request (ICR) and agreements incorporated in documents such as Memorandums of Understanding (MOUs), State Enforcement Agreements (SEAs), Performance Partnership Agreements (PPAs)/Performance Partnership Grants (PPGs) or Section 105 grant agreements. This reporting effort includes the verification of data used by the State Review Framework (SRF) and made available to the public.
- Negotiate settlements and track compliance with consent decrees and administrative orders and take all necessary actions to ensure compliance with the terms of enforcement actions.
- Implement the results of the CAA Compliance Monitoring National Dialogue.
- Continue work with EPA headquarters to provide input into the AFS modernization effort and participate in testing of the modernized AFS system prior to its production release.
- Participate in the Integrated Project Team (IPT) to develop and test the schema for exchanging CAA stationary source data from the state/local/tribal system to the Integrated Compliance Information System (ICIS).
- Take action to prepare for data migration from AFS to ICIS, the modernized system. The legacy AFS will be merging with ICIS to establish a third component of the system, ICIS-AFS.

EPA regions should also:

- Implement their component of the national strategy to enforce noncompliance issues that arise in the Greenhouse Gas (GHG) Reporting Program, as appropriate.
- Identify the most important air pollution problems and the most serious violations, using targeting tools and other information, including, but not limited to, the National Air Toxics Assessment (NATA) data, chemical toxicity data, non-attainment areas, and EJ SCREEN. Consider EJ information, tips/complaints, and community input.
- Conduct evaluations as outlined in the agreed-upon ACS commitments, initiate enforcement actions to address non-compliance, and seek penalties, where appropriate, consistent with the CAA Civil Penalty Policy (including the Amendments) and in accordance with the 2008 Civil Monetary Penalty Inflation Adjustment Rule.

[5] Policy is being revised in FY 2013.
[6] Policy under discussion in FY 2013 and is likely to be revised.

- AFS will remain the data system of record for the national CAA compliance and enforcement program until it is modernized into ICIS. The regions should continue entering federal evaluations and enforcement actions, including penalties, into ICIS, as well as AFS.
- Continue any on-going investigations and initiate new ones, as appropriate. Report both initiated and completed investigations in AFS. Reported investigations should meet the definition in the CMS and minimum data requirements.
- Review state implementation plan (SIP) submissions for enforceability and approve/disapprove as necessary.
- Review Title V permits consistent with national guidance and ensure the delegated agencies/tribes are reviewing the certifications consistent with the CMS. Ensure that Title V permits do not shield sources subject to a pending or current CAA enforcement action or investigation, and that draft Title V permits include appropriate placeholder language for the applicable requirement at any affected units. Ensure that consent decree requirements, including required schedules of compliance, are incorporated into underlying federally enforceable non-Title V and Title V permits.
- Perform CAA section 112(r) inspections at regulated facilities in the region, including high risk facilities meeting the agency's definition in accordance with the 2011 *"Guidance for Conducting Risk Management Program Inspections under Clean Air Act Section 112(r)."* Inspections should also include an evaluation of compliance with applicable EPCRA and CERCLA requirements. Regional program managers may, after consultation with and approval by headquarters, alter the population and/or hazard index thresholds for their region in order to include additional facilities on the regional high-risk list.
- Evaluate facilities that experience significant chemical accidents to determine compliance with CAA sections 112(r)(1) and (7) and pursue appropriate enforcement responses for violations.
- Focus on identifying RMP non-filers and initiating enforcement in accordance with the June 30, 2010 memorandum titled '*Identification of Facilities Subject to 40 CFR Part 68'*. Settle or litigate cases filed in years prior to FY 2014.
- Ensure compliance with environmental statutes in Indian country unless and until a tribe obtains primacy. With regard to regional direct implementation in Indian country, apply the various CAA compliance monitoring strategies, enforcement policies, and OECA's *Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy (January 17, 2001) (*http://www.epa.gov/compliance/resources/policies/state/84indianpolicy.pdf), which contains procedures for consultation with federally-recognized tribes in the civil compliance monitoring and enforcement context and contains threshold criteria for EPA's consideration of formal civil enforcement actions. The threshold criteria are not intended to, and should not result in a lesser degree of human health and environmental protection in Indian country than elsewhere in the United States.
- When appropriate, authorize state and tribal inspectors to conduct compliance evaluations on EPA's behalf. Ensure that state and tribal inspectors who inspect on behalf of EPA are trained and credentialed per the *Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA* (2004).
- Consistent with the EPA Order 3510, annually conduct an inventory of federal credentials which includes an annual physical possession check of 10 percent of the federal credentials issued to state and tribal inspectors and a count of unused credentials stock.

- In accordance with the HPV Policy, have frequent discussions with delegated agencies to ensure consistent implementation of the Policy, including consideration of the Watch List.
- Negotiate facility-specific CMS plans with all delegated agencies and ensure delegated agencies are aware of the flexibilities available within the CMS. Evaluate progress throughout the year and work with delegated agencies to revise such CMS plans as necessary. Work with headquarters to ensure that when delegated agencies use the flexibilities offered in the CMS to tailor their strategy to state/tribal/local specific circumstances, such use of flexibility is taken into account to accurately represent delegated agency performance in program reviews and to the public.
- Communicate to state, tribal and local agencies that they are expected to use the Exchange Network to report AFS data as soon as the system is in production and schema is available.
- Conduct a sufficient number of oversight inspections to ensure the integrity and quality of each authorized state's or tribe's compliance monitoring program.
- In follow-up to annual planning meetings with senior federal and state management, convene routine and regular (several times per year) meetings with senior state management to assess progress in how the state has been performing overall in its implementation of the program.
- Ensure facility performance data is accessible to the public consistent with agency policy and regulations.
- Support the agency's Next Generation Compliance by promoting advanced monitoring and electronic reporting to improve compliance and enhance the ability to identify violations that may harm public health and/or the environment. Increase transparency and improve targeting for noncompliance. Develop innovative enforcement approaches and participate in agency rulemaking workgroups to ensure regulations are designed to promote compliance and are implementable.
- Conduct SRF consistent with the schedule outlined in the agreed-upon ACS commitments. Provide recommendations and conduct follow-up as appropriate in accordance with national SRF guidance.
- Implement specific actions designated in OECA's Climate Change Adaptation Plan, scheduled for completion in June 2013, to more fully integrate climate change adaptation activities into the compliance and enforcement program where appropriate.
- As necessary, work with OECA to identify and evaluate program areas that could become national priorities/enforcement initiatives in the future.

Measures: See ACS measures CAA04 and CAA06 in Appendix I, page 5.

8. RCRA Subtitle C Hazardous Waste Program

Description: The critical compliance monitoring and enforcement activities for the Resource Conservation and Recovery Act (RCRA) Subtitle C Hazardous Waste Program are described below.

Activities:

EPA regions, in their oversight and direct implementation roles, including in Indian country, and the authorized states should:

- Address RCRA problems that matter to communities, especially tips and complaints, and identify and follow-up on the highest priority concerns.
- Meet statutory requirements to conduct a minimum number of thorough inspections annually including financial assurance requirements for Treatment, Storage, and Disposal Facilities (TSDF), operated by state/local governments, and biennially for non-governmental TSDFs.
- Follow the RCRA Compliance Monitoring Strategy (CMS). States may use the flexibility policy in the RCRA CMS to deviate from their large quantity generator (LQG) requirements.
- Undertake timely and appropriate enforcement actions that produce significant environmental benefits.
- Complete on-going work in the mining/mineral processing priority area, consistent with the national strategy, unless continued noncompliance is detected.
- Consider the following focus areas as a high priority when developing strategies for targeting compliance assurance work and annual plans for respective activities in the regions:
    - Surface Impoundments: hazardous waste in unlined surface impoundments.
    - Centralized Wastewater Treatment Facilities: mismanagement of hazardous wastes, and treatment and discharge of wastes without permits.
    - Zinc Hazardous Secondary Materials Recyclers: zinc fertilizer manufacturing that use hazardous waste; sham recycling and recycling.
    - Waste Analysis Plans at Commercial TSDFs: treatment and stabilization techniques and the sampling and analysis of hazardous waste treated to meet the Land Disposal Restriction (LDR) treatment standards for land disposal.
    - RCRA Corrective Action: facilities that have not made meaningful progress in achieving remedial objectives, and on financially marginal or bankrupt facilities. Monitor compliance with orders and permits, identify substantial noncompliance with such instruments, and take enforcement actions where appropriate.
    - Mercury from specific sources: sectors such as universal waste lamp handlers and recyclers.

EPA regions should also:

- Ensure that the most serious instances of noncompliance are addressed through planning with states, state oversight, regular (e.g. quarterly) meetings, targeted inspections and enforcement, and through direct implementation in states and Indian country.
- Conduct a sufficient number of oversight inspections to ensure the integrity and quality of each state's compliance monitoring program.
- Support the agency's Next Generation Compliance by promoting advanced monitoring and electronic reporting to improve compliance and enhance the ability to identify violations that may harm public health and/or the environment. Increase transparency and improve targeting for noncompliance. Develop innovative enforcement approaches and participate in agency rulemaking workgroups to ensure regulations are designed to promote compliance and are implementable.
- Conduct SRF consistent with the schedule outlined in the agreed-upon ACS commitments. Provide recommendations and conduct follow-up as appropriate in accordance with national SRF guidance.
- Take enforcement action where states are not addressing serious noncompliance.
- Use electronic reporting tools as feasible when monitoring compliance with orders/permits.
- Screen for potential environmental justice concerns at RCRA facilities.

- Support, and encourage states to support RCRA inspector training development.
- Ensure regional direct implementation in states and Indian country includes applying the RCRA compliance monitoring strategies and enforcement policies and OECA's *Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy (January 17, 2001)* (http://www.epa.gov/compliance/resources/policies/state/84indianpolicy.pdf), which contains procedures for consultation with federally-recognized tribes in the civil compliance monitoring and enforcement context and threshold criteria for EPA's consideration of formal civil enforcement actions. The threshold criteria should not result in a lesser degree of human health and environmental protection in Indian country than elsewhere in the United States.
- Ensure that state and tribal inspectors who inspect on behalf of EPA are trained and credentialed consistent with agency guidance, including the *Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA* (2004). Consistent with the EPA Order 3510, annually conduct an inventory of federal credentials which includes an annual physical possession check of 10 percent of the federal credentials issued to state and tribal inspectors and a count of unused credentials stock.
- Implement specific actions designated in OECA's Climate Change Adaptation Plan, scheduled for completion in June 2013, to more fully integrate climate change adaptation activities into the compliance and enforcement program where appropriate.
- As necessary, work with OECA to identify and evaluate program areas that could become national priorities/enforcement initiatives in the future.

Measures: See ACS measures RCRA02, RCRA02s and OSRE04 in Appendix I, pages 7 and 9. Measures RCRA 01, RCRA 01s, RCRA03 support the statutory and regulatory requirements and are listed on pages 6-7.

9. RCRA Underground Storage Tank (UST) Subtitle I Program

Description: A major focus of the RCRA UST program is to maintain an enforcement presence concerning leak prevention, leak detection, corrective action, closure and financial responsibility violations. States have primary responsibility for determining facility compliance, ensuring adequate inspection coverage of the regulated universe, taking appropriate actions in response to non-compliance and playing a vital role in alerting the EPA to regulatory implementation problems. The agency will address violations that pose the greatest threat to health where a federal response is necessary and shift away from enforcement work on more routine UST violations. The EPA intends to maintain compliance monitoring and enforcement resources to directly implement the UST program in Indian country. The enforcement program will also continue to support the Office of Underground Storage Tanks in promulgating any UST regulations and help develop innovative approaches to promote and maintain compliance using next generation compliance and enforcement methods.

Activities:

EPA regions will focus on:

- UST inspections that will produce the greatest environmental and human health benefits. Factors to consider in identifying facilities for inspection under the UST program include:
    - Owners and operators of USTs located in Indian country;
        - Regional direct implementation in Indian country should take place pursuant to the applicable enforcement policies and *OECA's Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy (January 17, 2001),* which contains procedures for consultation with federally-recognized tribes in the civil compliance monitoring and enforcement context and threshold criteria for EPA's consideration of formal civil enforcement actions. The threshold criteria should not result in a lesser degree of human health and environmental protection in Indian country than elsewhere in the United States.
        - Inspections in Indian country will be conducted consistent with the Energy Policy Act 3 year inspection requirement.
    - Owners and operators managing UST facilities in multiple states;
    - Mid-level distributors operating multiple UST facilities;
    - Problem non-compliers (i.e. repeat violators; owners/operators who fail to cooperate in an effort to return to compliance);
    - Owners and operators of facilities with USTs that endanger sensitive ecosystems or sources of drinking water;
    - Corporate, government-owned and federal central fueling facilities; and
    - Owners and operators of UST facilities in areas with potential environmental justice concerns.
- Issuance of enforcement actions and assessment of penalties, as appropriate. Focus on developing large complex cases involving noncompliance on a corporate-wide basis or noncompliance in multi-state operations. Regions will consult with the states on use of delivery prohibition, when appropriate, to address significant noncompliance. This tool may not be an option for states and tribes that do not have delivery prohibition programs.

10. RCRA Corrective Action

Description: RCRA corrective action is implemented by the EPA and 43 authorized states and territories. On April 27, 2010, OECA and OSWER jointly issued the "*National Enforcement Strategy for Corrective Action"* (NESCA). This strategy encourages the EPA and states to continue to work in partnership to achieve the 2020 Corrective Action goals and emphasizes the need for close communication and coordination between EPA and states to meet these goals. NESCA provides guidance to regions and states for targeting enforcement efforts and addressing special considerations that arise in the enforcement arena, such as ensuring enforceable requirements and deadlines in permits and orders are clearly identified, focusing on companies having financial difficulties, using CERCLA authorities, where appropriate, ensuring institutional controls are effective and enforceable and long-term stewardship requirements are met, and increasing the transparency and community involvement of enforcement efforts. OECA will continue to provide training to regions and states on how to review financial assurance submissions for compliance, and in particular, the financial test and corporate guarantee. To help achieve the RCRA Corrective Action program goals and ensure that meaningful progress is being made at facilities subject to corrective action, regions and authorized states should work closely together and continue implementing NESCA in FY 2014. On September 27, 2012, the

EPA issued a NESCA assessment report that recommended the following future actions: increase emphasis on communication and coordination within the EPA and with state partners, explore opportunities for compliance monitoring, and increase the state role in corrective action compliance monitoring and enforcement (see http://www.epa.gov/compliance/resources/publications/cleanup/rcra/nesca-assessment-2012.pdf). One of the next steps included in the September 27, 2012 NESCA assessment report is to explore the development of new compliance measures that are consistent with and measure progress toward the agency's goals for the 2020 universe. OECA is not proposing any such measures at this time. However, Region 5 is piloting corrective action compliance monitoring activity in FY 2014.

Activities:

Regions and authorized states should:

- Enhance coordination within your offices and amongst regulatory partners. When permits or orders are being developed, renewed or modified, coordinate to ensure that they contain clear schedules for corrective action and enforcement processes as appropriate.
- Emphasize compliance monitoring, including reviewing permits and orders to determine whether noncompliance with cleanup milestones exists, and taking appropriate action in cases of noncompliance.
- When establishing potential enforcement targets, regions are encouraged to focus attention on identifying and addressing disproportionate impacts on minority, low income, tribal and other vulnerable populations.

Measures: See ACS measure HQ-VOL in Appendix I, page 8. The HQ ACS commitment for Volume of Contaminated Media Addressed (VCMA) has been adjusted from 300 to 275 million cubic yards per year.

11. TSCA Lead Risk Reduction Program

Description: The EPA regions and authorized states are expected to implement the National Compliance Monitoring Strategy (CMS) for Lead Based Paint (LBP)[7], which focuses on work being done to protect children's health. For FY 2014, 90 percent of the region's TSCA resources should focus on the lead compliance assurance program. However, up to 20 percent of these same resources may be shifted by the region to other Toxic Substances Control Act (TSCA) compliance assurance activities consistent with this NPM Guidance. The intent here is to provide flexibility for regional TSCA initiatives and to take into account unique regional situations. Where regions choose to exercise this flexibility they should provide a rationale and articulate how this flexibility is consistent (or why inconsistent) with the CMS.

Activities:

[7] Please see Compliance Monitoring Strategy for the Toxic Substances Control Act (September 16, 2011), including Appendix E – Lead-based Paint Program and Appendix F – Lead-based Paint Program Resources, at: http://www.epa.gov/compliance/resources/policies/monitoring/tsca/tsca-cms.pdf.

EPA regions should:

- Focus primarily on compliance with the LBP Renovation, Repair and Painting (RRP) Rule /Pre-Renovation Education (PRE) Rule. With regard to the regions' LBP compliance efforts, regions should direct 95 percent of their efforts in the lead program towards RRP/PRE, and no more than 5 percent to new § 1018-only compliance. Regions should prioritize their activities to assure compliance with RRP work practices requirements. Regions may employ targeting that, while focusing on RRP/PRE, allows for concomitant compliance monitoring with other LBP rules (the § 1018 and § 402 Abatement rules), as appropriate.
- Implement the program priorities and activities, including those set out in detail in the CMS, to balance the various types of inspections and other compliance assurance activities. The effective and efficient targeting of inspections, particularly work practice inspections, requires that the regions know the regulated universe, and prioritize the problems to be addressed. Regions should attempt to maximize their enforcement presence by focusing on larger violators, as appropriate.
- Use the inspection targeting principles set forth in the CMS with a focus on monitoring contractors' actual compliance with required work practices. Focus efforts in high-priority lead "hot spots" as described in the CMS [e.g., geographical areas with evidence or indicators of significant or wide-spread Elevated Blood Lead Levels (EBLLs)].
- Respond appropriately to tips and complaints and actively follow-up on the highest priorities.
- Coordinate with OECA to bundle press activities related to cases from multiple regions, as appropriate.
- Partner with state and local government code enforcement and building permit programs and state/local health departments to conduct joint inspections.
- Partner with health departments and health care providers to identify lead hot spots and individual properties associated with EBLL children.
- Initiate civil enforcement actions to eliminate any regional inspection backlog and expeditiously bring facilities into compliance.
- Work with their LBP program to encourage states to seek authorization for the RRP program.
- Conduct appropriate oversight of authorized state § 402 and § 406 programs.
- Consistent with the EPA Order 3510, conduct an annual inventory of federal credentials which includes a physical possession check of 10 percent of the federal credentials issued to state inspectors and a count of unused credentials stock.
- Enter all federal inspection and enforcement cases into the national database in a timely and accurate manner.
- As necessary, work with OECA to identify and evaluate program areas that could become national priorities/enforcement initiatives in the future.

Measures: See ACS measures TSCA01 and TSCA02 in Appendix I on page 8. The Lead Based Paint component of ACS commitment TSCA 01 will serve as OECA's FY 2014 measure of compliance work being done to protect children's health.

12. TSCA New and Existing Chemicals Programs

Description: The TSCA New and Existing Chemicals Program is exclusively a federal program that provides for review of the toxicity of chemicals prior to their manufacture and

importation to prevent unreasonable risk to human health and the environment and requires a series of notifications and submissions from regulated industry. For FY 2014, 90 percent of the region's TSCA resources should focus on the lead compliance assurance program. However, up to 20 percent of these same resources may be shifted by the region to other TSCA compliance assurance activities consistent with this NPM Guidance. The intent here is to provide flexibility for regional TSCA initiatives and to take into account unique regional situations. Where regions choose to exercise this flexibility they should provide a rationale and articulate how this flexibility is consistent (or why inconsistent) with the Compliance Monitoring Strategy (CMS) for the Toxic Substances Control Act.

Activities:

EPA regions should:

- Focus TSCA chemical program compliance activities on chemical manufacturing, distribution, processing, use, or disposal in emerging technologies and/or use of new chemicals. Focus monitoring and enforcement efforts on ensuring facility compliance with TSCA § 5 - new chemicals requirements such as Pre-manufacturing Notice (PMN); Significant New Use Rules (SNUR's); Low Volume Exemptions (LVE's), and on chemicals of concern including short chained and other chlorinated paraffins, fractions and other priority or Action Plan chemicals or targets.
- Implement the Compliance Monitoring Strategy for the Toxic Substances Control Act (September 16, 2011)[8] including Appendix B which addresses New and Existing Chemicals.
- Obtain information through inspections and/or subpoena as appropriate. Increase the use of TSCA subpoenas for investigation of potential noncompliance.
- Initiate civil enforcement actions, as appropriate, to bring facilities into compliance.
- Target existing chemical reporting and record keeping requirements such as TSCA § 8(c), (d) and (e) and the 2011 Chemical Data Reporting Rule.
- Evaluate and prioritize tips and complaints and follow-up as appropriate. Targeting for future inspections based on credible leads from tips and complaints should also be considered. Regions implementing this program are also expected to follow-up on all referrals received from headquarters, states, tribes, and the public. Regions not implementing this program should refer tips and complaints to the Waste and Chemical Enforcement Division within the Office of Civil Enforcement.
- Strengthen program integrity through enhanced chemical data collection, reporting and coordination between headquarters and regions. This includes increasing coordination on targeting, setting program priorities and communicating best practices.
- Work with OECA and OCSPP/OPPT to address new and existing chemicals compliance, but also work together to address those issues that are indicators of larger TSCA compliance problems that may negatively impact chemical safety (e.g., through enhancements to the Automated Commercial Environment/International Trade Data System).
- Enter all federal inspection and enforcement cases into the national database in a timely and accurate manner.

[8] The TSCA CMS, including Appendix B, can be found at: http://www.epa.gov/compliance/resources/policies/monitoring/tsca/tsca-cms.pdf.

Measures: See ACS measures TSCA01 and TSCA02 in Appendix I on page 8.

13. TSCA PCB Program

Description: The TSCA PCB enforcement program is a federal only program. However, nine states through cooperative agreements inspect on behalf of the EPA. TSCA and EPA's implementing regulations aim to minimize risks posed by the storage, handling, and disposal of PCBs and PCB-containing items. The EPA's enforcement program will focus its PCB enforcement resources on nationally-significant situations involving the greatest threats to health. The EPA will pursue nationally-significant PCB civil and criminal violations that may present a significant risk to human health or the environment, and maintain some field presence at EPA-approved commercial PCB storage and disposal facilities. For FY 2014, 90 percent of the region's TSCA resources should focus on the lead compliance assurance program. However, up to 20 percent of these same resources may be shifted by the region to other TSCA compliance assurance activities consistent with this NPM Guidance. The intent here is to provide flexibility for regional TSCA initiatives and to take into account unique regional situations. Where regions choose to exercise this flexibility they should provide a rationale and articulate how this flexibility is consistent (or why inconsistent) with the Compliance Monitoring Strategy (CMS) for the Toxic Substances Control Act.

Activities:

EPA regions should:

- Address nationally-significant PCB civil and criminal violations that may present a significant risk to human health or the environment.
- Dependent on regional resources devoted to this program, focus inspections, case development and enforcement on the following areas of potential significant risk:
    1. PCB treatment, storage and/or disposal facilities targeted based on potential for releases, cumulative burden on EJ communities, or associated with approvals (permitting):
        a. At facilities conducting approved PCB treatment, storage, disposal, or cleanups (the regions should inspect all approved commercial PCB treatment, storage, and disposal facilities at least once every three years);
        b. Areas where releases from unauthorized sources are going into sources of drinking water or other sensitive populations.
    2. Non-TSD Locations:
        a. Natural gas pipelines;
        b. Used oil facilities that receive and dilute PCB contaminated oil, and related possible distribution in commerce, contamination, decontamination, and disposal;
        c. Follow-up where improperly or unmanifested PCB waste was turned away by disposal sites and was either returned to the generator or taken in by the storer/ disposer, as well as facilities that have the potential to receive unmanifested shipments;

d. Potential PCB-containing abandoned buildings, textile mills, and other facilities located in close proximity to residential communities assuming the existence and location of these facilities is known to the EPA region.

3. Follow-up on tips/complaints that involve potential for illegal disposal and significant risk.
4. As appropriate, coordinating joint TSCA/RCRA PCB inspections at oil recyclers to efficiently use resources.

- Taking into account the aforementioned focus for the FY 2014 program, implement the Compliance Monitoring Strategy for the Toxic Substances Control Act (September 16, 2011) including Appendix C – PCBs[9].
- Monitor, evaluate and take action on compliance requirements/submittals/schedules under Consent Decrees and Consent Agreements.
- Ensure that any state and tribal inspectors who inspect on behalf of EPA are trained and credentialed consistent with agency guidance, including the *Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA* (2004).
- Consistent with the EPA Order 3510, conduct an annual inventory of federal credentials which includes a physical possession check of 10 percent of any federal credentials issued to state and tribal inspectors and a count of unused credentials stock.
- Enter all federal inspection and enforcement cases into the national database in a timely and accurate manner.

States with EPA cooperative agreements should:

- Implement the agreed-upon work plan in their cooperative agreements.

Measures: See ACS measures TSCA01 and TSCA02 in Appendix I on page 8.

14. TSCA Asbestos Program/AHERA

Description: Since 1986, the Asbestos Hazard Emergency Response Act (AHERA) amended TSCA to require schools to inspect their buildings for asbestos-containing materials and implement asbestos-management programs. The EPA will focus its efforts on addressing the most egregious violations of AHERA in order to protect human health and the environment. For FY 2014, 90 percent of the region's TSCA resources should focus on the lead compliance assurance program. However, up to 20 percent of these same resources may be shifted by the region to other TSCA compliance assurance activities consistent with this NPM Guidance. The intent here is to provide flexibility for regional TSCA initiatives and to take into account unique regional situations. Where regions choose to exercise this flexibility they should provide a rationale and articulate how this flexibility is consistent (or why inconsistent) with the Compliance Monitoring Strategy (CMS) for the Toxic Substances Control Act.

Activities:

[9] The TSCA CMS, including Appendix C, can be found at: http://www.epa.gov/compliance/resources/policies/monitoring/tsca/tsca-cms.pdf

EPA regions should:

- Address the most egregious violations of AHERA.
- For states and tribes that do not have a cooperative agreement with the EPA, taking into account regional resources devoted to this program, investigate and respond appropriately (including taking enforcement action) within a reasonable amount of time to tips/complaints containing allegations that provide a reasonable basis to believe that a violation has occurred.
- For states and tribes that do not have a cooperative agreement with the EPA, taking into account regional resources devoted to this program, consider conducting compliance inspections at state and local government facilities to monitor compliance with the asbestos worker protection requirements in states where state and local government employees are not protected by the OSHA Asbestos Standards.
- In states that have non-waiver status, review and evaluate a sampling of the state's inspection reports for enforcement action.
- Taking into account the aforementioned focus for the FY 2014 program, implement the Compliance Monitoring Strategy for the Toxic Substances Control Act (September 16, 2011) including Appendix D – Asbestos[10].
- Ensure that any state and tribal inspectors who inspect on behalf of EPA are trained and credentialed consistent with agency guidance, including the *Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA* (2004).
- Consistent with the EPA Order 3510, conduct an annual inventory of federal credentials which includes a physical possession check of 10 percent of the federal credentials issued to state and tribal inspectors and a count of unused credentials stock.
- Enter all federal inspection and enforcement cases into the national database in a timely and accurate manner.

Waiver and non-waiver states are expected to:

- Within a reasonable period of time, investigate and respond appropriately to any tips/complaints containing allegations that provide a reasonable basis to believe that a violation has occurred.
- Conduct inspections in each state to assure equitable protection and ensure compliance with the TSCA asbestos regulations.
- In waiver states, take appropriate enforcement action under state law.
- In non-waiver states, submit completed inspection reports to the EPA region for review and enforcement action as appropriate, consistent with the state's cooperative agreement. Consider conducting compliance inspections at state and local government facilities to monitor compliance with the asbestos worker protection requirements in states where state and local government employees are not protected by the OSHA Asbestos Standards.

Measures: See ACS measures TSCA01 and TSCA02 in Appendix I on page 8.

[10] The TSCA CMS, including Appendix D can be found at:
http://www.epa.gov/compliance/resources/policies/monitoring/tsca/tsca-cms.pdf

15. FIFRA Program for Compliance Assurance and Enforcement

Description: The EPA will ensure compliance with and effective enforcement of FIFRA regulatory requirements. The EPA will generally prioritize its compliance monitoring activities based on risk to human health and the environment. The program should include a balance of compliance and enforcement activities covering: worker protection, pesticide registration and labeling, product efficacy (including enforcement follow-up of efficacy failures of antimicrobial products) and compositional integrity, producing establishment registration and reporting, import and export requirements, unreasonable adverse effects reporting, and other noncompliant pesticides.

Activities:

EPA regions, working with states and tribes, should:

- Participate in the 3 FIFRA Focus Areas: a) Imports; b) Supplemental Registrations; and c) a Region Specific Area, discussed on page 38 of this NPM Guidance.
- Encourage state and tribal involvement in supporting these activities, as appropriate, by including relevant activities in their negotiated cooperative agreements.
- Convene routine and regular meetings between the region and state to discuss how the state has been performing overall in its implementation of the program. Evaluate appropriateness of state/tribal enforcement responses during grant reviews, with emphasis on case reviews of farm workers' complaints and NPM Guidance focus areas.
- Focus oversight resources on the most pressing performance problems and work to demonstrably improve state performance.
- Take enforcement to address serious violations in the absence of appropriate state response.
- Negotiate, oversee implementation and review state and tribal performance under pesticide enforcement cooperative agreements following existing policy and guidance.
- Per the cooperative agreement guidance, encourage states and tribes to engage in compliance monitoring activities that support other pesticide program issues of interest, such as pollinator protection incident data collection and water contamination data collection in urban and agricultural settings.
- Provide states and tribes targeting assistance, with emphasis on producer establishments.
- Ensure that state and tribal inspectors who inspect on behalf of EPA are trained and credentialed consistent with agency guidance, including the *Guidance for Issuing Federal EPA Inspector Credentials to Authorize Employees of State/Tribal Governments to Conduct Inspections on Behalf of EPA* (2004). Consistent with the EPA Order 3510, annually conduct an inventory of federal credentials which includes an annual physical possession check of 10 percent of the federal credentials issued to state and tribal inspectors and a count of unused credentials stock.
- Apply the various FIFRA enforcement policies and OECA's *Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy (January 17, 2001)* (http://www.epa.gov/compliance/resources/policies/state/84indianpolicy.pdf) when doing direct implementation in Indian country to ensure adequate human health and environmental protection in Indian country as elsewhere in the United States.

- Ensure timely and accurate entry of state/tribal performance data into FTTS and federal inspection and enforcement data into ICIS.
- As necessary, work with OECA to identify and evaluate program areas that could become national priorities/enforcement initiatives in the future.

Measures: See ACS measure FIFRA-FED1 in Appendix I, page 9.

16. FIFRA Imports

Description: The EPA's enforcement program addresses the illegal importation of unregistered or otherwise noncompliant pesticide products into the United States by bringing enforcement actions against importers and others and working with other governments, agencies and stakeholders to prevent and reduce risks of unsafe products entering our country, with special emphasis on enforcing against importers of high-risk unregistered pesticides. Illegal pesticide imports may present significant human health and environmental risks and have been linked to poisonings of children and pets, so interception before they enter the United States is critical. The EPA regions are the primary source of inspections and enforcement for this area. States may become involved through region-to-state referrals to monitor post-entry import compliance or states may encounter imported products during the course of other compliance monitoring inspections. Regions should make their states aware of EPA's strong interest in import compliance and encourage collaboration with the EPA when situations warrant. FIFRA imports work helps to further the work of the Interagency Working Group on Import Safety established by Executive Order 13439 and the current "One U.S. Government at the Border" initiative. Currently, EPA staff manually review FIFRA Notices of Arrival (NOAs) for pesticide products and devices entering the U.S. and provide direction and guidance to Customs and Border Protection (CBP) as to whether the product should be allowed to enter U.S. commerce. The planned transition to an automated processing system in FY 2014 [Automated Commercial Environment in the International Trade Data System (ACE/ITDS)] creates opportunities to reduce the investment in manual processing of NOAs. Once fully functional, ACE/ITDS will process the majority of NOAs, significantly reducing the need for manual review and approval by the EPA.

Activities:

EPA regions should:

- Monitor import compliance through inspections at:
  - Entry ports, when appropriate.
  - Designated destination points (conducted after the imported products have been released by CBP and have entered into U.S. commerce, Foreign Trade Zones being used for storage, processing or packaging prior to release into U.S. commerce).
    - Focus on importers with a history of noncompliance or significant importation activity from countries frequently associated with noncompliant shipments.
    - Screen NOAs for potential Confidential Statement of Formula discrepancies relating to source of active ingredient and countries of origin. Where potential discrepancies

are noted, follow-up investigations may be warranted at U.S. registered agents for foreign producers and domestic producing establishments.
- Take enforcement actions, as appropriate, to ensure optimum deterrence effect and enforcement impact, including enforcement actions that address corporate-wide noncompliant behavior and high-risk unregistered pesticide products.

Measures: See ACS measure FIFRA-FED1 in Appendix I, page 9.

17. FIFRA Supplemental Registrations

Description: Supplemental pesticide registrations are a continued source of concern for regulators across the country. States, which conduct thousands of marketplace inspections each year, have raised concern over supplemental or "distributor products" labels, citing them as a major source of noncompliance. Supplemental registrations are distributor labels approved for marketing as a sub-registration to a registered pesticide. Although required to be consistent with the labels of the basic registered products, distributor product labels frequently deviate substantially from the EPA accepted labels. The EPA issues supplemental registrations for a wide range of pesticide products in every toxicity category, including agricultural chemicals, pesticides used for residential pest control, lawn and garden pesticides, as well as for disinfectants and other antimicrobial products. To address noncompliance in this focus area, the EPA will place emphasis on registrants with a large number of current supplemental registrations and registrants marketing high-risk Tox 1 and Restricted Use Pesticide (RUP) category distributor products, as well as unregistered, cancelled, or suspended pesticide products. The EPA will determine distributor product compliance by undertaking a comprehensive review of product labeling and product chemistry, when appropriate.

Activities:

EPA regions should:

- Conduct inspections as appropriate to monitor for label/labeling compliance, product composition and compliance with the provisions as described in 40 CFR § 152.132, including the restrictions on where and how a supplemental distributor pesticide may be produced and packaged. This should include review of any contract manufacturing agreement(s) that should be in place. States may wish to participate too, and can be a significant source of information about noncompliant distributor products by referring cases involving noncompliant distributor products and sample labels obtained as part of the state product registration process.
- Coordinate with the Office of Civil Enforcement's Waste and Chemical Enforcement Division and other regions in developing corporate-wide cases.
- Take enforcement actions, as appropriate, to ensure optimum deterrence and compliance impact.

Measures: See ACS measure FIFRA-FED1 in Appendix I, page 9.

18. FIFRA Region-Specific Focus Area

Description: In FY 2014, regions will work with State Lead Agencies to address FIFRA enforcement issues of mutual EPA and state concern. Although enforcement priorities may differ, many EPA and state interests overlap, offering an opportunity for a collaborative effort to maximize results to address a particular problem.

Activities:

EPA regions should:

- Consult with states to identify their top enforcement priorities and focus on environmental or human health problems that advance both state and federal enforcement programs. Issues that may be appropriate for a coordinated enforcement focus area are listed below:

  - Fumigants/Fumigation: Fumigants are highly toxic pesticides that are very hazardous to handle and use. These products have a wide range of uses, including treatment of soil, residential structures, warehouses, transportation vehicles and grains or other agricultural commodities. Regions should work with their states to identify federal and state producing establishment inspection (PEI) opportunities, placing emphasis on compliance with the new soil fumigant labeling and use requirements and on fumigants frequently involved in exposure incidents (i.e., sulfuryl fluoride, methyl bromide, aluminum phosphide, zinc phosphide, metam-sodium and chloropicrin).

  - Worker Safety: Agricultural farm workers and pesticide applicators face a disproportionately high risk of pesticide exposure. Although most states have "primacy" to enforce pesticide use, including worker protection standards, regions should seek opportunities for federal cases to support state efforts. Where the EPA directly implements FIFRA, such as in Indian country, EPA regions monitor compliance and enforce pesticide use requirements, although tribes with cooperative enforcement agreements may conduct inspections under their own tribal codes. Regions are expected to place emphasis on farming activities that involve frequent use of highly toxic pesticides or significant worker exposure, such as fruit and vegetable production and on-farm grain and soil fumigation.

  - Retail Marketing: Retail marketers of pesticide products directly impact the consuming public. Regions should focus on national or regional retail chains operating multiple stores nationwide or in a multi-state area. Such stores often market similar products throughout their network of stores so that compliance issues can have corporate-wide implications. Alternatively, regions may elect to target major distributors who sell directly to specialized niche markets such as distributors that sell directly to hospitals, beauty salons and barber shops, funeral homes and restaurants.

  - Container/Containment: To ensure effective implementation of the container/ containment regulations, regions, states and tribes should monitor compliance with all aspects of the new rule. Focus on compliance with container design and labeling, residue

removal and containment requirements for registrants, re-fillers, agricultural retailers, commercial applicators and custom blenders. State/tribal user inspections should focus on compliance with label directions for storage, cleaning and disposal of containers.

Measures: See ACS measure FIFRA-FED1 in Appendix I, page 9.

19. CERCLA

Description: EPA's CERCLA Enforcement program protects communities by requiring responsible parties to conduct cleanups which helps preserve federal dollars for sites where there are no viable contributing parties. Superfund enforcement ensures prompt site cleanup and uses an "enforcement first" approach that maximizes the participation of liable and viable parties in performing and paying for cleanups. The EPA identifies potentially responsible parties and negotiates cleanup agreements at hazardous waste sites and, where negotiations fail, either takes enforcement actions to require cleanup or expends Superfund appropriated dollars to clean up the sites. In some cases, the EPA takes both actions. When the EPA uses appropriated dollars, it takes action against any viable responsible parties to recover cleanup costs. OECA has developed a plan outlining how resources could be reduced while maximizing PRP funded cleanups and protecting human health and the environment. This plan reflects Superfund enforcement reductions while striving to maintain PRP-lead response actions and protect human health and the environment. OECA believes that savings can be achieved by focusing Superfund enforcement resources on the highest-priority sites and those enforcement activities that achieve the greatest return on investment; thus, OECA is asking regions to exert nominal efforts to collect costs where there are unaddressed past costs less than $500,000, and to limit formal enforcement actions for those sites.

Activities:

EPA regions will:

- Increase focused enforcement efforts to compel cleanup early in the pipeline at non-emergency removal action and remedial investigation/feasibility study (RI/FS) stages; expedite remedial action by holding parties accountable to negotiation timeframes and scheduled cleanup commitments; and rejuvenate the process for identifying responsible parties at the site assessment stage where it appears likely that a removal or remedial response will be necessary.
- Continue to focus on activities that maximize PRP involvement in all phases of response at Superfund sites.
- Focus Superfund enforcement resources on the highest-priority sites and those enforcement activities that achieve the biggest return on our investment based on environmental risk.
- Use Federal Facility Agreements (FFAs) or other applicable enforcement authorities (such as imminent and substantial endangerment orders in applicable circumstances), when federal facilities are not complying with the terms of the agreements or with other legal requirements. Additionally, regions and headquarters offices must collaborate to establish new agreements. The EPA has CERCLA Section 120 interagency agreements, known as FFAs, in place at all but two of 173 federal facility NPL sites. Those agreements govern the

cleanups conducted by the facilities, delineate EPA's oversight of those cleanups and identify procedures for resolving disputes and ensuring accountability.

- Better utilize FFAs to make site performance data available to the public and otherwise empower citizen involvement to enhance cleanup oversight and accountability.
- Implement the "nationally significant" consultation procedures; since all federal facility enforcement actions are "nationally significant" by OECA policy and require consultation with headquarters. This consultation will be even more important as the regions contemplate new work in this program.
- Ensure that institutional controls are implemented at sites in potential environmental justice areas of concern.
- Implement the Community Engagement Initiative designed to enhance headquarters and regional program engagement with states, tribes, local communities and stakeholders to meaningfully participate in government decisions on land cleanup, emergency response, and the management of hazardous substances and waste. Information can be found at: http://www.epa.gov/oswer/docs/cei_action_plan_12-09.pdf.
- Provide site-specific fact sheets, which include enforcement information that is finalized and available to the public on regional web pages.

Measures: See ACS measures OSRE-01, OSRE-02 and HQ-VOL in Appendix I, pages 8-9. For OSRE-02, the dollar threshold to pursue past costs was raised from $200,000 to $500,000 consistent with the change in practice described above. For HQ-VOL, the HQ commitment for Volume of Contaminated Media Addressed (VCMA) has been adjusted from 300 to 275 million cubic yards per year.

20. EPCRA 313 Toxics Release Inventory

Description: The EPA and the public rely on EPCRA 313 for information on chemical releases entering the environment. The EPA must ensure that companies report accurately and within required time frames so the publicly available database remains timely, accurate and inclusive. Regions should ensure the compliance of facilities that may be contributing to pollution problems that matter to their respective communities, and develop enforcement cases that produce significant environmental benefits.

Activities:

EPA regions should:

- Physically inspect, send information requests or show cause letters, or use other agreed upon compliance monitoring activities (pursuant to the national dialogue on EPCRA 313 compliance monitoring) to determine the compliance of enforcement targets developed by OECA/OEI. Address the following categories of concern as resources allow:
  - Potential never-reporters (such as targeting facilities in the same sectors where a facility may not have reported but a similar facility in the same sector did report);
  - Potential data quality issues (such as facilities with significant changes in release estimates or other waste management amounts from one year to the next or facilities in

the same sector where a facility reports significantly more/less than a similar facility in the sector);
    - Potential non/late-reporters (facilities that report in one year but failed to report the following year or any prior year up to the past five years);
    - Additional OECA-provided targeting focusing on revisions, communities, chemicals, sectors of concern or new regulations, failures to comply with Notices of Noncompliance for non-certification and failures to correct Notices of Significant Errors. Regions may focus on facilities whose releases have the most impact on the TRI database (which is approximately 90 percent of the releases to be entered into the database). This will allow the regions flexibility in selecting their targets.
- Track and prioritize tips and complaints and follow-up, as needed.
- Work with the Air, RCRA and Water compliance and enforcement programs to add EPCRA questions to information requests where appropriate, evaluate the responses and take appropriate enforcement actions or combine with other enforcement actions.
- Respond to OECA's requests for reviewing draft TRI regulations for enforceability, the revised draft section 313 enforcement response and penalty policy and any other documents or proposed actions where OECA requests regional input on enforcement matters.
- Provide legal and technical enforcement case support; obtain additional information through investigations, show cause letters, subpoenas and other actions, as appropriate, or determine that follow-up is not necessary.
- Enter all federal enforcement cases into national databases in a timely and accurate manner.
- As necessary, work with OECA to identify and evaluate program areas that could become national priorities/enforcement initiatives in the future.

Measures: See ACS measures EPCRA 01 and 02 in Appendix I, page 9.

21. EPCRA 304, 311/312 and CERCLA 103

Description: Chemical release notification and emergency preparedness are addressed under EPCRA 304, 311 and 312 and CERCLA 103. The EPA and the public rely on EPCRA for information on chemical releases entering the environment, and on the storage of chemicals at facilities. The EPA, states, tribes, local entities, and communities rely on the combined EPCRA and CERCLA information to prepare local chemical emergency response plans, and to more safely and adequately respond to chemical emergencies. EPCRA sections 311 and 312 will continue to require facilities to develop or have available Safety Data Sheets and to provide annual reports on a facility's chemical inventory directly to state and local emergency response entities. The statute authorizes citizen suits and civil suits by state or local governments against owners or operators of a facility for failure to comply with specific EPCRA provisions. Regarding federal enforcement, the EPA will focus resources on the highest priority violations and be available to respond to significant enforcement issues (e.g. violations that create significant risks to communities, workers and first responders or state or tribal requests for federal action against recalcitrant facilities). Furthermore, the EPA will leverage agency-wide resources, as appropriate, to address this program; both OSWER and OECA agree that Risk Management Plan inspections should also include an evaluation of the facility's compliance with EPCRA sections 304 and 311/312 and CERCLA 103.

Activities:

EPA regions should:

- Use screening and targeting tools to focus limited federal resources on national and regional priority areas. In targeting for inspections, regions should consider the presence of significant quantities of CERCLA hazardous or EPCRA extremely hazardous chemicals, proximity to population centers, a history of significant accidental releases and any other information that indicates a facility may be high-risk.
- Evaluate compliance with applicable EPCRA and CERCLA requirements during CAA section 112(r) inspections.
- Within a reasonable period of time, evaluate and respond, if appropriate (including taking enforcement action where appropriate) to any tip or complaint containing allegations that provides a reasonable basis to believe that a violation has occurred.
- Evaluate certain continuous release submissions for accuracy and compliance and take appropriate enforcement actions for non-compliance.
- Focus resources on the highest priority violations and respond to significant enforcement issues.
- Enter timely, complete and accurate data into national databases.

22. Federal Activities

Description: The Office of Federal Activity's work focuses on three areas: fostering compliance and pollution prevention through international cooperation; assisting other federal agencies in making environmentally sound decisions which include early public involvement and transparency by complying with the National Environmental Policy Act (NEPA); and guiding the EPA's own compliance with NEPA and applicable statutes and Executive Orders.

Activities:

EPA regions should work to assure international compliance and prevent illegal trans-boundary movement of hazardous waste by:

- Improving environmental performance and cooperation in accordance with Goal 5 of the U.S./Mexico Border 2020 Plan (Regions 6 and 9).
- Enhancing enforcement, compliance, and capacity building efforts with Mexico and Canada relating to trans-boundary compliance monitoring on the U.S. borders for hazardous waste, e-waste, CFCs, selected chemicals and products (e.g., mercury, engines), and other regulated substances (border regions).
- Improving performance of joint responsibilities along the border and ports of entry into the United States by working with the Bureau of Customs and Border Protection (CBP) through appropriate contact channels (all regions).
- Promoting international environmental enforcement by supporting foreign capacity building efforts, as appropriate, and through participation in relevant organizations and networks, such as the Enforcement Working Group of the North American Commission for Environmental Cooperation (CEC) and the International Network for Environmental Compliance and

Enforcement (INECE) and, in particular, its Seaport Environmental Security Network (regional participation as appropriate).

- Reviewing the permit and compliance status of U.S. receiving facilities, utilizing established guidance, in connection with 100 percent of the notifications for the import of hazardous waste they receive from EPA headquarters and, based on the review, recommending consent or objection to notifications within the time periods allowed under applicable international agreements (all regions).
- As a regular part of regional inspection activities, conducting periodic inspections of U.S. facilities which receive imported hazardous waste (TSDFs) and generators and other primary exporters of hazardous waste, cathode ray tubes (CRTs) and spent lead acid batteries (SLABs), based on information provided by OFA which identifies those facilities participating in import and export shipments.

Regions should implement the National Environmental Policy Act (NEPA) by:

- Fulfilling the EPA's obligations under NEPA and Section 309 of the Clean Air Act by reviewing and commenting on all major proposed federal actions to ensure identification, elimination or mitigation of significant adverse effects, and making the comments available to the public.
- Ensuring that projects likely to have significant impacts (e.g., transportation, mountaintop mining, and energy) receive sound environmental analysis, use cooperation among agencies to resolve differences, consider environmental justice, incorporate innovation and support public involvement through a more streamlined and transparent environmental review process.
- Ensuring that 70 percent of significant impacts identified by the EPA during the NEPA review of all major proposed federal actions will be mitigated. (GPRA measure)
- Ensuring that at least 90 percent of EPA projects subject to NEPA environmental assessment or EIS requirements (e.g., water treatment facility projects and other grants, new source NPDES permits and EPA facilities) are expected to result in no significant environmental impact.
- Promoting environmental justice considerations throughout the environmental decision-making process and encouraging public involvement early in the process to maximize transparency.
- Preparing environmental analyses (EISs or EAs*)* and posting them on the internet or making categorical exclusion determinations for EPA-issued National Pollutant Discharge Elimination System (NPDES) permits for new sources, for states/tribes without authorized NPDES programs; off-shore oil and gas sources, including permits for deepwater ports, EPA laboratories and facilities; and Clean Water Act wastewater treatment plant grants.
- Preparing environmental analyses (EAs or EISs) and posting them on the internet or making categorical exclusion determinations for Special Appropriation grants for wastewater, drinking water supply and solid waste collection facilities; Border Environment Infrastructure Funds (for the US/Mexico Border Environment Cooperation Commission projects); and reviews conducted under *"EPA's Voluntary NEPA Compliance Policy*."
- Entering the results of their 309 reviews and NEPA compliance actions into the Lotus Notes EIS Tracking Database maintained by headquarters OFA. Regions should report to the Office of Federal Activities quarterly on the status of their 309 reviews and NEPA compliance actions pursuant to the Government Performance Reporting Act reporting process.

23. Criminal Enforcement Program

Description: The criminal enforcement program investigates and assists in the criminal prosecution of knowing violations of environmental laws as well as any associated violation of the U.S. criminal code, such as wire fraud, smuggling, obstruction of justice, etc. The program works with other federal law enforcement agencies on cases of mutual interest, e.g., the Department of Homeland Security related to the illegal importation of banned pesticides. The program will continue to work with civil enforcement to look for criminal enforcement opportunities to advance National Enforcement Initiatives and instances of behavior on the part of regulated entities that represent inherently criminal conduct, such as falsifying data. The program will work with EPA civil enforcement and program offices in headquarters (HQ) and the regions to enhance the case screening process so that decisions to prosecute civilly or criminally are based on the best way to respond to the violation; the program will focus on securing the best results by providing clarity on when civil investigators should refer a matter to criminal enforcement and sharing criminal enforcement information with the civil enforcement program, where appropriate. The program will integrate environmental justice (EJ) concerns in assessments of criminal investigations and will use EPA's screening tools and regional input along with other relevant information. Cases that meet the threshold level for heightened analysis are considered to have potential EJ concerns for criminal enforcement purposes.

Activities:

EPA regions and OECA's HQ Civil Program coordinate with the Office of Criminal Enforcement, Forensics and Training to:

- Refer to the criminal enforcement program for consideration any matter that appears to be criminal in nature.
- Revise/update existing case screening policy memos to ensure that the criminal and civil enforcement programs are coordinating to ensure the optimal enforcement response to violations of federal environmental laws.
- Develop incentives and measures to ensure efficient sharing of information and resources between civil and criminal enforcement programs.
- Develop a shared civil/criminal case screening database, similar to the one developed in Region 1, for use in every region.
- Conduct case screening sessions to agree upon the appropriate enforcement response to a potential criminal offense.

The Office of Criminal Enforcement, Forensics and Training will:

- Develop/refine criteria for Tier 1 (TI) and Tier 2 (T2) cases as well as for opening lower Tier cases. Identify NON-T1/T2 cases that offer high deterrent value because of cumulative impacts of many similar smaller cases.
- Conduct semiannual case and docket reviews, by headquarters' Criminal Investigation Division, of SAC offices to advance and track high impact cases, including T1 and T2. Determine which cases, if any, should be closed (especially Tiers 3 and 4); reallocate resources to higher-impact cases.
- Meet with the regional EJ coordinator to obtain additional information supporting why the case has potential EJ concerns.

- Develop and provide training for civil EPA counterparts to identify and share information regarding criminal conduct.
- Through NEIC, evaluate new and emerging technologies needed to implement enhanced targeting and compliance assurance approaches.
- Analyze emissions and compliance information to identify potential criminal violations by certain industrial sectors and individual facilities.
- Work with DOJ to: (1) explore innovative uses of criminal sentencing options, e.g., community service or environmental compliance plans; and (2) use information obtained pursuant to the Crimes Victim's Rights Act (CVRA) when developing environmental crimes case resolutions, e.g., restitution.
- Provide targeted training to state, tribal and law enforcement partners, particularly the International Association of Chiefs of Police, to enhance their abilities to safely spot, report and address environmental violations.
- Continue international enforcement efforts, e.g., working with INTERPOL to combat the illegal shipment of e-wastes.

APPENDIX I – DRAFT

ENVIRONMENTAL PROTECTION AGENCY Office of Enforcement and Compliance Assurance

FY 2014 NPM GUIDANCE MEASURES DRAFT APPENDIX

G/O/S*	ACS Code	Measure Text	Non-Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target	National Target (FY 2014 Pres. Bud)
	PBS-ATX03	Number of facilities evaluated for compliance within the national focus areas.	N	N	N	N
	PBS-ATX04	Number of addressing actions at facilities within the national focus areas.	N	N	N	N
	PBS-NSR01	Number of NSR/PSD investigations of cement plants.	N	N	N	N
	PBS-NSR02	Number of investigation completion reports or referrals to DOJ for cement plants.	N	N	N	N
	PBS-NSR03	Number of NSR/PSD investigations of glass manufacturing plants.	N	N	N	N
	PBS-NSR04	Number of completion reports or referrals to DOJ for glass manufacturing plants.	N	N	N	N
	PBS-NSR05	Number of NSR/PSD investigations of nitric and/or sulfuric acid plants.	N	N	N	N
	PBS-NSR06	Number of investigation completion reports or referrals to DOJ for nitric and/or sulfuric acid plants.	N	N	N	N

G/O/S*	ACS Code	Measure Text	Non-Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target	National Target (FY 2014 Pres. Bud)
	PBS-NSR07	Number of NSR/PSD investigations of coal-fired electric utilities.	N	N	N	N
	PBS-NSR08	Number of completion reports or referrals to DOJ for coal-fired electric utilities.	N	N	N	N
	PBS-NSR09	Number of facilities reviewed for prospective projects that trigger NSR.	N	N	N	N
	PBS-M105	Number of Phase 1 municipal separate storm sewer system permitassessments conducted.	N	N	N	N
	PBS-M106	Number of civil judicial referrals and/or addressing actions for sanitary sewer systems (SSS) with total treatment capacity ≥10 mgd.	N	N	N	N
	PBS-M107	Number of civil judicial referrals and /or addressing actions for CSS communities serving populations ≥50,000.	N	N	N	N
	PBS-M108	Number of civil judicial referrals and/or addressing actions for Phase I and II MS4s.	N	N	N	N
	PBS-CAF002	Number of federal AFO/CAFO inspections (total number as well as number in priority areas).	N	N	N	N
	PBS-CAF007	Number of federal CAFO addressing actions inside priority areas and in identified states.	N	N	N	N
	PBS-CAF008	Submit 1 progress report per federal fiscal year.	N	N	N	N
	PBS-MNP05	Number of targeted mines, mineral processing facilities, or both, inspected.	N	N	N	N
	PBS-EE01	Number of compliance evaluations/inspections conducted in any media at land-based natural gas extraction and production sites (e.g., wells, compressor stations, gas plants),	N	N	N	N

G/O/S*	ACS Code	Measure Text	Non-Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target	National Target (FY 2014 Pres. Bud)
		and at disposal sites (e.g., injection wells, lagoons, ponds, land application).				
	PBS-EE03	Number of land-based natural gas extraction and production addressing actions.	N	N	N	N
5	**SDWA02**	During FY 2014, the primacy agency must address with a formal enforcement action or return to compliance the number of priority systems equal to the number of its PWSs that have a score of 11 or higher on the July 2013 ETT report. State, territory and tribal breakouts shall be indicated in the comment field of the Annual Commitment System. Please note: A primacy agency's success at addressing violations will be tracked by means of the quarterly ETT reports. Numerical targets may be adjusted at mid-year. While it remains the ERP's goal that all of a priority system's violations will be returned to compliance, a primacy agency has met its commitment under the 2014 SDWA ACS measure with respect to a priority system if the score for that system has been brought below, and remains below, eleven.	N	Y	N	N
5	**SRF01**	Regions in FY 2013 developed a plan to complete all Round 3 state reviews by the end of calendar year 2016. OC and OWM will hold annual discussions with Regions to establish whether any modifications to the schedules are necessary. Conduct all Round 3 SRF reviews of state CAA, CWA and RCRA enforcement programs scheduled for calendar year 2014. Conduct all CWA reviews using the integrated CWA-NPDES program oversight process (permit and enforcement reviews). Review existing MOAs as part of the CWA-NPDES review process in light of the OW/OECA criteria for MOA review and checklist. Ensure that MOAs are updated as needed by the end of FY 2017.	N	N	N	N

G/O/S*	ACS Code	Measure Text	Non-Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target	National Target (FY 2014 Pres. Bud)
5	**EJ01**	OECA EJ Council, managers and regions will consider the following new proposed measures: • Number of enforcement cases brought by the EPA requiring an enhanced review for potential EJ concerns based on EJ SCREEN flag (i.e. meeting enhanced review threshold). • Number of enforcement cases brought by the EPA receiving an enhanced review for potential EJ concerns. • Number of enforcement cases brought by the EPA in areas determined by the EPA to have potential EJ concerns.	Y	N	N	N
5	**FED-FAC05**	Conduct ten (10) federal facility inspections to support national Integrated Strategy Areas, exploratory categories, official regionally designated priorities or regional enforcement enhancement plans. These 10 inspection commitments can be achieved through any combination of single media or multimedia inspections, with the following limitations: (1) a maximum of four vulnerable community inspections can count toward this goal; and (2) for any multimedia inspection conducted, it shall count as up to four inspections toward this goal if up to four of the individual inspections support the Integrated Strategies and/or official Regionally-designated priorities. Further, up to four (4) official Regionally-designated priorities can count toward the commitment, if the Region determines that inspections up to that number are more desirable than the same number of Integrated Strategy inspections in the Region. Finally, all of these inspections may simultaneously satisfy inspection commitments required in any National Enforcement Initiative or other core program area.	N	N	100 federal facility inspections nationally	N
		By December 31, 2013, provide to OECA a specific NPDES Compliance Monitoring Strategy (CMS) plan for each authorized state in the Region and a Regional plan wherever EPA direct implementation occurs (i.e., non-authorized states, territories, Indian country, pretreatment, etc.),	N	N	N	N

G/O/S*	ACS Code	Measure Text	Non-Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target	National Target (FY 2014 Pres. Bud)
5	**CWA07**	targeting the most significant sources with potential to impact water quality. Each plan should provide: (1) universe information for the CMS categories and sub-categories; (2) expected accomplishments for each category and subcategory (e.g., number of EPA inspections and number of state inspections); and (3) explanation of trade-offs made among the categories utilizing the flexibilities in the 2007 NPDES CMS policy and any amendments or further guidance as a result of the national dialogue on compliance monitoring under the NPDES CMS. By December 31, 2014, or a later date, if one is negotiated through the ACS process, provide for each state and direct implementation area, a numerical end of year report on EPA and state inspection plan outputs, by category and subcategory. To increase the transparency of NPDES inspection data, OECA will make this data available to the public.				
5	**CAA04**	The number of compliance evaluations to be conducted by the Regions at majors sources, 80% synthetic minors, and other sources (as appropriate). [Note: Region should break out evaluation projections by source classification and by compliance monitoring category (FCE, PCE, and Investigations).] Projected investigations under this commitment are those investigations initiated by the Regions for the air enforcement program outside of the National Enforcement Initiatives, and identified by the air program (e.g., MACT, NSPS).	N	N	N	N
5	**CAA06**	Ensure that delegated state, tribal and local agencies implement their compliance and enforcement programs in accordance with the CAA CMS and have negotiated facility-specific CMS plans in place. The Regions are to provide the number of FCEs at majors and 80% synthetic minors to be conducted by individual state/local agencies to demonstrate program implementation consistent with CMS. However, if	N	Y	N	N

G/O/S*	ACS Code	Measure Text	Non-Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target	National Target (FY 2014 Pres. Bud)
		a delegated agency negotiates with a Region an alternative CMS plan or alternative activities (pursuant to the CAA CMS national dialogue), this commitment should reflect the alternative plan. [Note: Break out evaluation and activity projections (e.g., FCEs; PCEs included in alternative plan) by source classification]. Prior to approving an alternative plan, Regions should consult with the Office of Compliance (OC) and provide OC with information on how the state, tribal or local agency compliance monitoring air resources will be redirected and the rationale for making the change.				
5	**RCRA01**	Project by state, and Indian country where applicable, the number of operating non-governmental TSDFs, to be inspected by the Region during the year. Regions must commit to inspect at least two (2) TSDFs in each state or Indian country unless OECA approves a deviation from this requirement. For example, deviations are given for states with small universes where it might not make sense for a Region to inspect two TSDFs per year. Financial responsibility is an important component of the RCRA core program and evaluating compliance with 40 CFR Parts 264/265 Subpart H should be included as part of the inspection of each TSDF (although such evaluations do not have to occur at the same time nor be conducted by the same people who conduct the field inspections). If a Region determines that there are unique circumstances in the Region or with a particular TSDF, the Region may contact headquarters to discuss undertaking a detailed evaluation of compliance with 40 CFR Parts 264/265 Subpart H at another TSDF.	N	N	Minimum of 100 TSDFs nationally	N
5	**RCRA01.s**	Project by state the number of operating TSDFs to be inspected by the state during the year.	N	Y	N	N

G/O/S*	ACS Code	Measure Text	Non-Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target	National Target (FY 2014 Pres. Bud)
		Note: Only one inspection per facility counts towards this coverage measure. The RCRA CMS establishes minimum annual inspection expectations for TSDFs: The inspections for RCRA01 and RCRA01.s should be CEIs. CEIs include evaluating compliance with the financial assurance requirements, 40 CFR Parts 264/265 Subpart H. Financial responsibility is an important component of the RCRA core program and should be included as part of the inspection of each TSDF (although the financial responsibility reviews do not have to occur at the same time nor be conducted by the same people who conduct the field inspections).				
5	**RCRA03**	Inspect each operating TSDF operated by states, local, or Tribal governments.	N	N	N	N
5	**RCRA02**	Project by state and Indian country, the number of LQGs, including those at federal facilities, to be inspected by the Region during the year. Each Region must commit to inspect at least six (6) LQGs in each state, and 20% of the region's LQGs universe in Indian country, unless OECA approves a deviation from this requirement. For example, deviations are given for states with small universes where it doesn't make sense for a Region to inspect 6 LQGs per year or 20% of the Region's LQG universe in Indian country. Regions should select at least 2 of the Region's total LQG inspections at facilities described in the high priority section as areas of emerging environmental concern. Regions may work with OECA to coordinate these inspections, including whether the inspection will be conducted at a TSDF or LQG. In the Comment Section, provide the number of federal facility LQG inspections.	N	N	Minimum of 300 LQG inspections nationally and 20% of LQGs in Indian Country	N
5	**RCRA02.s**	Project by state the number of LQGs to be inspected by the	N	Y	N	N

G/O/S*	ACS Code	Measure Text	Non-Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target	National Target (FY 2014 Pres. Bud)
		state during the year. At least 20 percent of the LQG universe should be covered by combined federal and state inspections unless an alternative plan is approved under the RCRA CMS.				
5	**HQ-VOL**	Volume of Contaminated Media Addressed (VCMA). As part of the Goal 5 sub-objective, Support Cleaning up Our Communities, the following is the GPRA target: *By 2015, obtain commitments to clean up 1.5 billion cubic yards of contaminated soil and groundwater media as a result of concluded CERCLA and RCRA corrective action enforcement actions.* OECA has reported VCMA for contaminated soil and groundwater media as separate measures in its annual results since 2004. The GPRA target is a national target and regions are not required to post commitments in ACS.	N	N	275 million cubic yards	N
5	**TSCA01**	Project the total number of FY2013 TSCA inspections. In the comment field of the Annual Commitment System (ACS), the Region shall break out the number of projected inspections by TSCA program area (LBP, PCBs, Asbestos, New and Existing Chemicals). *Note: For the reasons discussed in the executive summary, the LBP component of this TSCA ACS commitment (TSCA 01) will serve as OECA's FY 2014 measure of compliance work being done to protect children's health.*	N	N	N	N
5	**TSCA02**	Report other compliance monitoring activities at the end of the year; and break-out the description of other such activities by TSCA program area. (See the CMS and the future outcomes of the compliance monitoring national dialogue for more details).	Y	N	N	N

G/O/S*	ACS Code	Measure Text	Non-Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target	National Target (FY 2014 Pres. Bud)
5	**FIFRA-FED1**	Project regional (federal) FIFRA inspections. Each Region should conduct a minimum of ten (10) FIFRA inspections. In the Comment Section, provide the number of federal facility inspections.	N	N	Minimum of 100 FIFRA federal inspections nationally	N
5	**OSRE-01**	Reach a settlement or take an enforcement action by the start of remedial action at 99% of non-federal Superfund sites that have viable, liable parties.	N	N	99 percent	N
5	**OSRE-02**	Address all unaddressed costs in Statute of Limitations cases for sites with total past Superfund costs via settlement, referral to DOJ, filing a claim in bankruptcy, or where appropriate write-off.	N	N	100 percent of cases equal to or greater than $500,000 in value	N
5	**OSRE-04**	Inspect at least one (1) RCRA corrective action financial assurance instrument per state, with at least 50% being financial test or corporate guarantee reviews. Where the submission is noncompliant, take appropriate enforcement action to address noncompliance (e.g., notice of violation). Or, where appropriate, work with the state to ensure appropriate action is taken to address noncompliance. If possible, return facility to compliance by end of fiscal year.	N	N	Minimum of 50 inspections nationally	N
5	**EPCRA 01**	Conduct at least four (4) EPCRA 313 data quality inspections.	N	N	Minimum of 40 nationally	N
5	**EPCRA 02**	Conduct at least twenty (20) EPCRA 313 non-reporter inspections (and/or other compliance monitoring activities as determined by the compliance monitoring national dialogue).	N	N	Minimum of 200 nationally	N

**Goal/Objective/Sub-Heading*

Appendix II - EXPLANATION OF CHANGES BETWEEN FY 2013 AND FY 2014

Office of Enforcement and Compliance Assurance

Change from FY 2013 Guidance Document		Reason for Change	Affected Pages and Sections
National Areas of Focus	**Modification:** ***Advancing Next Generation Compliance*** is explicitly identified as a national area of focus or priority for FY 2014. The NPM Guidance identifies work which OECA and the regions will perform in five areas in FY 2014.	*Next Generation Compliance* was identified as a critical new area of investment for FY 2013. For FY 2014, OECA identified it as a National Area of Focus; more specific activities for implementation have been identified for FY 2014.	Section III – pages 10-12
	Modification: The activities under ***Strengthening State Performance and Oversight*** have been updated to reflect the focus for FY 2014. They have also been identified as a "national area of focus" consistent with the agency's new format and terminology used for the FY 2014 NPM Guidance.	The NPM Guidance was updated to reflect the activities to be implemented in FY 2014. These activities will be a focus area for OECA and the regions for FY 2014.	Section III – pages 12-14
	Modification: The activities under *Implementing the* ***Clean Water Act Action Plan*** have been updated to reflect the focus for FY 2014. *Implementing the Clean Water Act Action Plan* is identified as a separate national area of focus in FY 2014.	It was necessary to update the activities which will be the focus in FY 2014.	Section III – pages 8-10
Program-Specific Guidance	**Modification:** Every Program Specific Guidance write-up has been shortened, reformatted and updated to reflect any changes for FY 2014, even if they are minor revisions.	It was necessary to update the focus of activities for FY 2014 and to follow the new agency-wide standard format for the NPM guidance.	Section IV
	Modification: For RCRA Subtitle C Hazardous Waste Program, there was a change in the sectors to consider when developing strategies for targeting compliance assurance work and annual plans for respective activities in the regions.	The sector added for consideration was: Zinc hazardous secondary materials recyclers.	Section IV – page 26

	Modification: For RCRA Underground Storage Tank (UST) Subtitle I Program, the narrative was updated for FY 2014.	With regard to regional inspections of owners and operators of USTs located in Indian Country, it was necessary to mention that inspections in Indian Country will be conducted consistent with the Energy Policy Act 3 year inspection requirement.	Pages 27-28
	Modification: TSCA PCBs compliance monitoring and enforcement work has been updated for FY 2014.	It was necessary to update the focus of activities for FY 2014.	Section IV – pages 32-33
	Modification: TSCA asbestos compliance monitoring and enforcement work has been updated for FY 2014.	It was necessary to update the focus of activities for FY 2014.	Section IV – pages 33-34
	Deletion: The TSCA Formaldehyde Rule has not been proposed so there are no references to it in the FY 2014 NPM Guidance.	OECA will need to evaluate the final rule when it is issued to determine what if any enforcement activities we'll be asking the regions to undertake	Section IV - pages N/A
	Modification: The CERCLA section of the guidance notes a change in the dollar threshold to pursue past costs; the threshold was raised from $200,000 to $500,000.	OECA believes that savings can be achieved by focusing Superfund enforcement resources on the highest-priority sites and those enforcement activities that achieve the greatest return on investment.	Section IV – pages 39-40
Annual Commitment Measures	**Addition**: All of the ACS measures for National Enforcement Initiatives (NEIs) are included in OECA's NPM Guidance for FY 2014. <u>These are not new measures</u>; only their inclusion in the NPM guidance is new.	These NEI ACS measures are <u>not</u> new. However, they were not included in previous NPM Guidance documents. In the interest of providing comprehensive ACS measures information in one location and adhering to the new agency-wide standard format for the NPM Guidance, these measures are now included in the FY 2014 NPM Guidance.	Appendix I – page 1 through top of page 3; measures associated with NEIs begin with code "PBS."

	Modification: A clarifying note was added to SDWA 02.	To provide clarity, an explanatory note was added to the ACS measure.	Appendix I – page 3
	Modification: SRF01 was updated to reflect the focus for FY 2014.	Measure was updated to take into account the fact that the Regions, in FY 2013, already developed a plan to complete all Round 3 state reviews by the end of calendar year 2016. The updated language states that all Round 3 SRF reviews scheduled for FY 2014 should be conducted. MOAs are to be updated as needed by the end of FY 2017.	Appendix I – page 3
	Modification: EJ01 was updated for FY 2014 with a proposal included for review and comment.	OECA EJ Council, managers and regions will consider the following new proposed measures: • Number of enforcement cases brought by the EPA requiring an enhanced review for potential EJ concerns based on EJ SCREEN flag (i.e. meeting enhanced review threshold). • Number of enforcement cases brought by the EPA receiving an enhanced review for potential EJ concerns. • Number of enforcement cases brought by the EPA in areas determined by the EPA to have potential EJ concerns.	Appendix I – page 4
	Modification: Fed-FAC05 was slightly modified.	The measure was updated to reflect the focus of FY 2014 federal facility inspections.	Appendix I – page 4
	Modification: CWA07 was updated.	The deadline for submittal of the specific NPDES Compliance Monitoring Strategy was updated.	Appendix I – page 5

	Modification: CAA04 was updated.	The language was updated so it did not reflect a reference to the Compliance Monitoring National Dialogue.	Appendix I – page 5
	Modification: HQ-VOL was revised.	For HQ-VOL, the HQ commitment for Volume of Contaminated Media Addressed (VCMA) has been adjusted from 300 to 275 million cubic yards per year.	Appendix I – page 8
	Modification: OSRE-02 was revised to reflect a new dollar threshold to pursue past costs.	For OSRE-02, the dollar threshold to pursue past costs was raised from $200,000 to $500,000 consistent with the change in practice.	Appendix I – page 9

Appendix III – OECA Key Contacts Appendix for each section of OECA's FY 2014 NPM Guidance

Note: For the convenience of readers, more than one OECA contact is listed for most of the subject areas below.

Contact Name	Subject Area	Phone	Email
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[11] The TSCA contacts can respond to questions on the TSCA subject areas. However, Everett Bishop is the Office of Compliance (OC) staff contact for PCB and asbestos program questions, while John Mason is the OC staff contact for Lead Program questions.

[12] The FIFRA contact names can respond to questions on the FIFRA subject areas. However, with regard to FIFRA imports, the primary contact is Brian Joffe.

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