

FY 2016- 2017

Office of Enforcement and Compliance Assurance DRAFT National Program Manager Guidance



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I. EPA Overview to the FY 2016-2017 NPM Guidance

The *EPA Overview* to the National Program Manager (NPM) Guidances communicates important agency-wide information and should be reviewed in conjunction with this draft fiscal year (FY) 2016-2017 NPM Guidance as well as other applicable requirements. Read the overview at: <http://www2.epa.gov/planandbudget/national-program-manager-guidances>.

II. 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 programs¹. OECA coordinates with the regions, states and local agencies and engages in consultation and coordination 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 FY 2016-2017. It identifies the national compliance and enforcement priorities, 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 - "Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance" in the FY 2014-2018 EPA Strategic Plan.

The EPA's national enforcement and compliance assurance program continues to assure compliance with federal environmental statutes using a variety of tools, including civil and criminal enforcement. These tools advance OECA's overall national goals for:

- Tough civil and criminal enforcement for violations that threaten communities and the environment.
- Next Generation Compliance: achieving greater compliance and protection using advanced monitoring and information technologies. Next Generation Compliance tools are intended to supplement and advance strong enforcement programs.
- Strong EPA/State/Tribal environmental protection: working together toward shared environmental goals.

To help achieve these enforcement goals, OECA will continue to 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;

¹ When referring to states and tribes throughout this NPM guidance, OECA is referring to states and tribes authorized to implement federal programs.

² EPA consults with tribes consistent with the EPA Policy on Consultation and Coordination with Indian Tribes and Executive Order 13175.

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 Act Action Plan;
7. Advancing Next Generation Compliance; and
8. Strengthening State Performance and Oversight.

These priorities continue from FY 2015.

As part of the process for identifying national priorities, OECA and the EPA regions sought early input from states, tribes and associations on priorities, suggestions for FY 2017-2019 National Enforcement Initiatives and the remaining content of the FY 2016-2017 NPM Guidance. The EPA took this input into account when developing the NPM Guidance and is responding to each state, association and tribal partnership group who provided comments. Several sections of the NPM Guidance were influenced by stakeholder comments, including comments to continue our safe drinking water priority area and other priorities, and comments related to the sections on the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) and Resource Conservation and Recovery Act (RCRA) Underground Storage Tanks program. Stakeholders submitted several ideas for the FY 2017-2019 National Enforcement Initiatives, which are still under discussion. OECA will identify the FY 2017-2019 national initiatives in an FY 2017 Addendum to the NPM Guidance. The EPA looks forward to working together with its state and tribal partners to achieve our shared environmental goals, including Next Generation Compliance.

Robust compliance monitoring and enforcement continue and are critically important for addressing violations and promoting deterrence. But this alone will not solve our noncompliance problems. To address these problems, OECA is continuing to implement 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, and other Next Generation Compliance tools, 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 and third party verification, and continuing to develop innovative enforcement approaches and increase transparency are all encompassed under Next Generation Compliance. The EPA, states, and other partner agencies continue to implement this transformation together -- realizing both efficiencies and cost savings in the longer term while protecting public health and the environment.

During FY 2016-2017, regional enforcement programs will also work with their state, tribal, and local partners to implement each region’s Climate Change Adaptation Plan in conjunction with the U.S. Environmental Protection Agency, *Climate Change Adaptation Plan*, available at: www.epa.gov/climatechange/impacts-adaptation/fed-programs/Final-EPA-Adaptation-plans.html. OECA will strive to integrate climate adaptation planning into its programs, policies,

and operations where appropriate to protect human health and the environment as the climate changes.

It's important to note that, in 2014, OECA issued updated Compliance Monitoring Strategies (CMSs) which provide increased compliance monitoring flexibility for the Clean Water Act, the Resource Conservation and Recovery Act, the Clean Air Act and FIFRA programs. They were issued after OECA held a national dialogue about flexibility in the CMSs and how compliance monitoring activities could be further expanded while maintaining program integrity. The revised CMSs provide increased flexibility to EPA and state agencies when conducting compliance monitoring activities through an expanded set of tools for determining compliance and to address local pollution and compliance concerns. The revised strategies provide additional flexibility to address the most important pollution problems within each media program, an expanding universe of regulated entities and resource limitations. In response to state comments and at the request of the states, OECA also developed more specific guidance on the process for states to request alternative CMS plans and for regions to review and approve state alternative plans. This guidance has been distributed to states and associations is accessible at:

<http://www.epa.gov/compliance/resources/policies/monitoring/cwa/npdescms.pdf>.

OECA and the Office of Pesticides Programs (OPP) jointly issue FIFRA Cooperative Agreement Guidance, which explicitly discusses parameters for flexibility. The FIFRA Cooperative Agreement Guidance attempts to balance support for National Pesticide Program priorities, goals and performance measures, with providing flexibility to grantees to focus on those national program areas which present the greatest concern locally. The specific parameters for flexibility are discussed in the Guidance Framework on page 2 of the FIFRA Cooperative Agreement Guidance (<http://www.epa.gov/compliance/state/grants/fifra.html>). Grantees may also negotiate a Performance Partnership Grant (PPG) in lieu of pesticide program and enforcement cooperative agreements. Under the PPG system, regions and grantees should continue to use our FIFRA Cooperative Agreement Guidance to ensure that program areas are addressed consistent with the Guidance.

OECA, in coordination with the EPA regions, established the Regional Strategic Plan process to provide a vehicle for meaningful and efficient strategic planning dialogue at senior management levels in the regions and within OECA across all civil regulatory enforcement programs. The Regional Strategic Plans provide a concise overview of regional strategy and rationale for deployment of enforcement resources consistent with national priorities, regional priorities, state oversight and resource constraints. The Regional Strategic Planning process seeks to align priorities with ACS commitments, recognizing the need to focus on the highest priority work; flexibility and elevation of issues are integral parts of that planning process.

Finally, beyond the discussion of Regional Plans, in implementing the NPM Guidance, if issues or questions arise beyond those discussed above, OECA has also established general guidelines for seeking approval for flexibilities and elevating issues, as needed. If resources do not allow for activities in the Guidance to be implemented, then EPA regional management should raise the specific activities for discussion with the appropriate OECA Office Director(s) (ODs). If agreement cannot be reached at the OD level, then the discussion will be elevated to the Assistant Administrator's office. Similarly, delegated or authorized state, tribal or local agencies

that are facing resource challenges can raise specific activities for discussion with the appropriate senior regional manager(s) when developing their annual work plans with the EPA regions. The appropriate OECA Office Director is ready to assist if regional management wants to discuss any state, tribal or local issues with OECA. These guidelines are necessary to help ensure EPA consistency, as appropriate, in implementing critical activities across media programs and ensuring a level playing field nationally.

III. National Areas of Focus

Every three years, the EPA selects National Enforcement Initiatives (NEIs) to address specific environmental problems, risks, or patterns of noncompliance. These initiatives are reevaluated every three years in order to assure that federal enforcement resources are focused on the most important environmental problems where noncompliance is a significant contributing factor, and where federal enforcement attention can have a significant impact. After reviewing input from tribes, states and other external stakeholders, OECA chose the FY 2014-2016 NEIs which conclude at the end of FY 2016. Although the initiatives have made substantial progress in addressing noncompliance within their respective sectors, more work remains to be done in FY 2016.

The next cycle of National Enforcement Initiatives will be implemented in FY 2017-2019. OECA solicited early input on these initiatives from states, tribes, associations and tribal partnership groups. OECA intends to seek additional comment from all interested parties through a Federal Register (FR) Notice to be published in 2015. OECA will take into account all early input received to date and in response to the FR Notice during the process of selecting the FY 2017-2019 national initiatives; discussions are still underway. The FY 2017-2019 national initiatives will be identified in the FY 2017 Addendum to this National Program Manager (NPM) Guidance; the Addendum will be published around April, 2016. The FY 2017 Addendum will highlight any significant changes or new decisions impacting FY 2017 which could not be predicted when EPA released the final FY 2016-2017 NPM Guidance.

This section discusses each of OECA's FY 2014-2016 NEIs, as well as other national priorities for FY 2016-2017, and identifies critical supporting activities, responsibility for implementation, and associated measures for tracking. 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) per the discussion above. Similarly, delegated or authorized state, tribal or local agencies that are facing resource challenges can raise specific activities for discussion with the appropriate senior regional manager(s) when developing their annual work plans with the EPA regions.

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

Description: The following is a discussion of work in 2 CAA-specific National Enforcement Initiative areas.

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 Annual Commitment System (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 discussion of work in 2 CWA-specific National Enforcement Initiative areas.

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, posted at http://www.epa.gov/npdes/pubs/integrated_planning_framework.pdf, 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. Building on the Integrated Planning Framework, EPA released the Financial Capability Assessment Framework (FCA Framework) in November of 2014. The FCA Framework provides clarifications on the flexibilities built into EPA existing guidance on how to evaluate financial capability when developing Clean Water Act compliance schedules. As envisioned by that guidance, it also provides examples of additional information that could be submitted to give a more complete picture of a permittee's unique circumstances so as to better inform schedule development.

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 impacted by 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 the states and tribes

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 states or tribes with NPDES-authorized CAFO programs.

Activities:

EPA regions, coordinating with their states and tribes 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.
- Work with permittees to foster better understanding of EPA approaches to Financial Capability Assessment through the implementation of the FCA 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's to compliance. The ERP establishes a holistic approach for prioritizing systems to address through an enforcement action. Those PWS's that reach a score of 11 or higher are identified as an enforcement priority and must return to compliance or be issued a formal enforcement action within six months. Scores for each PWS with unresolved violations are based upon the number, severity and length of violations.

A quick response to violations of the National Primary Drinking Water Regulations decreases the risks to public health and allows primacy agencies flexibility to use a variety of tools such as assistance and informal enforcement actions to bring the PWS back into compliance. Primacy agencies should be proactive in addressing violations to prevent systems from reaching a score of 11 or greater. This approach is especially important in Indian country, as it allows for timely and appropriate consultation and coordination with the tribal government as soon as a violation is identified. It is also particularly important in responding to violations at small systems, which may require more assistance to return to compliance.

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

The EPA realizes that some small systems remain in persistent noncompliance despite primacy agency efforts. EPA, states and tribes will be working together to explore root causes of noncompliance and options for resolving them in a concerted effort to ensure that all available tools, resources and partners are engaged to help these systems operate safely, comply with SDWA, and become sustainable, if possible.

EPA's Enforcement and Compliance History Online (ECHO) makes public access to PWSs' compliance status more readily available and highlights the importance of accurate and complete data. Inaccurate and incomplete data limits EPA's and the public's understanding of the state of compliance with the Safe Drinking Water Act. This in turn limits the EPA's ability to identify priorities, and evaluate program needs and effectiveness consistently and appropriately. OECA continues to coordinate with and support OW to improve data quality. EPA regions, states, territories and tribes should continue their efforts to improve the completeness, accuracy and timeliness of data reported.

Activities:

EPA regions will:

- Ensure that primacy agencies fulfill the enforcement conditions of their primacy agreements.
- Promote accurate, timely and complete reporting by each primacy agency, including the EPA.
- Ensure that primacy agencies implement the ERP, and use the Enforcement Targeting Tool (ETT).
- 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. These exchanges should include progress in returning systems to compliance, monitoring implementation of 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 return to compliance (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 guidance, which contains threshold criteria for EPA's consideration of formal civil enforcement actions, including appropriate consultation and compliance assistance, 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.
- When appropriate, authorize state and tribal inspectors to conduct inspections on EPA's behalf. Ensure that state and tribal inspectors who conduct inspections on EPA's behalf 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.
- 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 child care facilities, 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 discussion of work in this National Enforcement Initiative area.

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, over 120 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 as a result of mining and mineral processing. In some cases, the EPA had to sample drinking water wells due to potential impacts to children in low income communities. At some sites, EPA’s inspections have found significant non-compliance with hazardous waste and other environmental laws. Some of the more serious cases required 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 fish kills and impacted the livelihood of low income communities. 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 discussion of work in this National Enforcement Initiative area.

Vast natural gas reserves, unlocked through technological advances, 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 in a manner that protects the nation's air, water, and land.

OECA initiated the Energy Extraction National Enforcement Initiative in FY 2011 to address environmental compliance concerns with land-based natural gas extraction and production, and ensure that natural gas development proceeds in a manner protective of human health and the environment. The EPA will continue to monitor and assess compliance with regulatory requirements, and utilize a range of legal authorities to address violations.

In addition, EPA will continue to utilize Next Generation technologies and reporting techniques to assess and quantify emissions at land-based natural gas extraction and production facilities, and develop and use innovative compliance and enforcement approaches.

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, page 3.

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

Description: OECA, together with the EPA regions, the Office of Water, states and tribes 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 improve compliance via public accountability, self-monitoring, self-certification, electronic reporting and/or other innovative 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*, pages 15-16.)

The EPA will engage in appropriate consultation and coordination with tribes on the Clean Water Act Action Plan consistent with the EPA Policy on Consultation and Coordination with Indian Tribes.

Activities:

EPA regions should:

- Prepare for implementation of the Proposed [NPDES Electronic Reporting Rule](#), including working to:
 - a. Actively market NetDMR, NeT and other e-reporting tools to the regulated community. Train permittees;
 - b. Ensure state and regional general permit requirements are entered into the Integrated Compliance Information System (ICIS) (or the state NPDES program data management system);
 - c. Review state and regional general permit paper forms to evaluate consistency with Appendix A in the Proposed NPDES e-reporting rule.
 - d. Ensure 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
 - e. 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 permits written by the regions and 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 including e-reporting and 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. Consider innovative approaches to deal with more routine paperwork violations.
- Participate with OECA in an effort to draft a new NPDES enforcement framework (*i.e.*, criteria and method) for identifying and addressing serious violations that supports the

principles described in the 2009 CWA Action Plan. Staff and managers in regions, 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. Use targeting tools, such as the DMR Pollutant Loading Tool, to determine the source, location and amount of discharged pollutants, including a subset of non-major facilities (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.

States should:

- Work towards implementation of e-reporting.
- Educate and train regulated community.
- Develop e-reporting tools or use EPA tools (NetDMR; NeT).

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. Although the available data is incomplete, high noncompliance is evident in much of the data we do have. 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 implementing *Next Generation Compliance*, which takes advantage of advances in emissions monitoring and information technology. EPA has completed a Next Generation Compliance Strategic Plan and is proceeding to implement the Plan. See <http://www2.epa.gov/compliance/next-generation-compliance>. The EPA is visiting states to discuss Next Generation Compliance and its benefits for states, to learn from states, and to explore possible collaborative projects to test or pilot Next Generation Compliance approaches. As of November 2014, the EPA has visited 8 states and expects to visit around 20 states by end of FY 2015. While there are no Next Generation Compliance implementation requirements for states, OECA and the regions need to perform work in five areas:

1. **Design more effective regulations and permits that are easier to implement, with a goal of improved compliance and 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 that will drive us towards better compliance and environmental outcomes. We are looking to pilot the use of Next Generation Compliance tools in air, water, and waste permits in FY 2015 and FY 2016.
2. **Use and promote 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 “visible” pollution that is currently “invisible.” 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. **Shift toward electronic reporting by regulated entities so that we have more accurate, complete, and timely information on pollution sources, pollution, and compliance, saving time and money while improving effectiveness and public transparency.** 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 and making the data more available for public use. For example, electronic “smart” tools will be deployed that guide the regulated entity through the reporting process. Error prevention and two-way communication can be integrated into reporting tools, allowing electronic compliance assistance, 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:

- When participating on regulation development workgroups, provide real-world inspection, compliance monitoring, and enforcement knowledge and advocate for Next Generation Compliance Rule Effectiveness 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 pursuant to the January 2015 OECA Memorandum on Use of Next Generation Compliance Tools in Civil Enforcement Settlements. OECA will highlight examples of EPA enforcement cases that use different Next Generation Compliance approaches, especially those that maximize environmental and human health benefits for overburdened communities and potential disproportionate impacts to these communities, including the protection of children's health.
- Actively market electronic reporting and e-tools to the regulated community and states.
- Identify and use innovative enforcement approaches.
- Coordinate with OECA and the national and regional Field Operation Guidelines Workgroups to develop smart mobile tools for our inspectors that improve the quality of our inspections and allow us to electronically submit inspection reports.

States and tribes are encouraged to:

- Expand their understanding and use of Next Generation Compliance by participating in OECA Next Generation Compliance visits.
- Share with the EPA examples of current state or tribal efforts that demonstrate Next Generation Compliance tools in operation today to be included in a compilation of Next Generation Compliance NPDES Examples.
- To the extent interested, collaborate with OECA in designing and implementing Next Generation Compliance demonstration projects, evaluation projects or CWA Action Plan pilots.

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 2013, OECA, the EPA regions, and states incorporated program changes that will improve SRF effectiveness while reducing the resources necessary to conduct reviews. Also, in 2013, OECA issued the *National Strategy for Improving Oversight of State Enforcement Performance*. The National Strategy clarifies 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 National Strategy describes three sets of actions aimed at improving state enforcement performance to achieve the above-stated goals: (1) an escalation approach to problem-solving; (2) the regular and periodic State Review Framework evaluation process; and (3) transparency efforts.

Activities:

EPA regions will:

- Conduct all Round 3 SRF reviews of state CAA, CWA, and RCRA enforcement programs scheduled for 2016 and 2017, following Round 3 headquarters guidance issued in December 2013 and available on the ECHO SRF page.
- 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.
- Implement the *National Strategy for Improving Oversight of 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 described in the *National Strategy for Improving Oversight of State Enforcement Performance*.

- Ensure commitments to implement recommendations for program improvements are captured in appropriate negotiated PPAs, PPGs, categorical grant agreements or other written documents.
- Implement any regional components to address agreed-upon national focus issues under the National Approach to Common State Enforcement Program Issues (Common Issues) project.
- 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 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 Significant Non-compliers (SNCs)/High Priority Violators (HPVs) identified (and percent of universe) by state and the number (and percent) addressed in a timely and appropriate manner.

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's review of state-EPA MOAs determined that MOAs might require revision, updating or supplementation, states should work cooperatively with the EPA regions to identify and complete appropriate actions by the end of FY 2017.

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. 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). Similarly, delegated or authorized state, tribal or local agencies that are facing resource challenges can raise specific activities for discussion with the appropriate senior regional manager(s) when developing their annual work plans with the EPA regions. This discussion is necessary to help ensure national consistency, as appropriate, in implementing critical activities across media programs and ensuring a level playing field nationally.

1. Field Operations Group (FOG) Guidelines

Description: The EPA created a Field Operations Group (FOG) to promote national consistency among the Agency's field activities. The EPA's FOG developed ten operational guidelines (referred to as the FOG Guidelines) for field activities to ensure consistency in managing field practices and to reduce potential vulnerabilities. The FOG Guidelines apply to any field sampling, measurements, and observations used by the EPA for any purpose, such as ambient monitoring, research, clean-ups, risk management, studying new/revised regulations, screening, compliance monitoring, and enforcement. In March 2013, EPA's Deputy Administrator directed all EPA organizations conducting field activities to implement a sustainable management system that incorporates the ten Field Operations Group guidelines no later than February 15, 2016. Additional information is available at:

<http://www.epa.gov/irmpoli8/policies/2105-p-02.pdf>

Activities:

Regions and Headquarters offices should:

- Complete development and implementation of policies, procedures and systems that fully address the ten Field Operations Group (FOG) Guidelines by the February 2016 deadline established by the Deputy Administrator.
- Once completed, conduct regional and HQ field activities (e.g., compliance inspections and sampling) in accordance with the established procedures.
- Implement process and procedures under Guidelines 9 and 10 to audit progress in implementing Guidelines 1 – 8, and address any needed corrective actions.
- Provide training to new staff on the FOG guidelines and the established procedures, and annual refresher training to existing staff.

2. Environmental Justice

Description: In addition to being the National Program Manager for the agency's Environmental Justice Program, OECA oversees the implementation of environmental justice (EJ) within the compliance and enforcement program. In its enforcement role, OECA ensures that facilities in communities overburdened 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. To ensure long-term, effective consideration of EJ within the enforcement and compliance program, OECA also leverages other initiatives and priorities that promote action in communities, such as Next Generation Compliance, EPA's Cross-Agency Strategies and EPA's Strategy for Protecting Children's Environmental Health, as appropriate.

Activities:

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

- Consider EJ in the implementation of the National Enforcement Initiatives (NEIs), consistent with the strategies for each NEI, 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 2016 and 2017 for potential EJ concerns using the agency's EJSCREEN tool, and record the results of these reviews in ICIS, in accordance with the *Internal Technical Directive: Reviewing EPA Enforcement Cases for Potential Environmental Justice Concerns and Reporting Findings to the ICIS Data System* (April 2013).
- Identify specific opportunities to work with other federal agencies, state and local governments, tribal governments, and/or the business community to leverage the benefits to communities resulting from enforcement activities. 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, or incorporation of Next Generation Compliance principles, tools or approaches.
- Seek appropriate remedies in enforcement actions to benefit overburdened communities and address environmental justice concerns. Increase efforts to address environmental justice concerns through appropriate injunctive relief, including seeking mitigation actions to redress harm caused by the violations being resolved, and/or by encouraging defendants to consider performing beyond-compliance Supplemental Environmental Projects (SEPs) related to the violations.
- 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).
- Identify opportunities for the compliance and enforcement program to advance the EPA's Cross-Agency Strategy on *Working to Make a Visible Difference in Communities*, as appropriate.

Measures: See ACS measure EJ01 in Appendix I, page 4. [Note: Although we are tracking this measure, there is no specific target number or trend we expect to achieve. EJ is one of many factors the Agency considers in bringing an enforcement action.]

3. Federal Facilities

Description: The EPA's compliance and enforcement program is managed by the Federal Facilities Enforcement Office (FFEO) and 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 regulated 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 federal facilities enforcement and compliance program is described 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.

Throughout FY 2014 and FY 2015, EPA's federal facilities enforcement and compliance program, in conjunction with the regions, has reassessed its national Program Agenda, its traditional Integrated Strategies and other program components in an effort to "right-size" its activities in the face of recent resource reductions. In FY 2015, FFEO sought to more closely align its various federal facility sector activities, including its Annual Commitment System (ACS) obligations, with EPA's National Enforcement Initiatives (NEIs) and other Agency-wide and regional environmental enforcement priorities whenever possible. As FFEO completes its "right-sizing" efforts, the EPA, in addition to increased emphasis on the NEIs and other Agency and regional environmental enforcement priorities, will continue its focus on a set of previously identified federal facility enforcement priority areas as established in FFEO's FY 2015 Program Agenda, and identified in the activities below. FY 2016 commitments will reflect continued emphasis on some priority areas, while new priority areas may also be identified.

Activities:

EPA regions should:

- Consult with 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 part of implementing EPA's National Enforcement Initiatives, regional priorities, federal facility enforcement priority areas or targets established in Regional (Enforcement) Plans.
- Sustain a vigorous enforcement program at federal facilities, by integrating, as appropriate National Areas of Focus/National Enforcement Initiatives, federal facility enforcement priority areas and regional priorities into the region's inspection and enforcement efforts.

These priority areas 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 pursue *federal facility enforcement priority areas* dealing with vulnerable communities (where environmental justice issues are often most prevalent), CAA 122 (r) risk management plans, RCRA (medical waste and LQGs), SDWA, industrial stormwater, climate change/flood plain areas and Government Owned/Contractor Operated/Government Owned/Private Operated (GOCO/GOPO) facilities and other potential areas still under consideration by FFEO and the Regional Federal Facility Program Managers.
- Continue to use FFEO's contractor inspection program and inspector travel funding support to the fullest extent possible as incorporated in the Regional Federal Facility Enforcement Plans.
- 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.
- Adopt creative work sharing arrangements and exploit new Agency initiatives, such as the One EPA Skills Marketplace and SharePoint, to more fully utilize EPA resources to address compliance and enforcement needs at federal facilities.
- Foster collaboration between OECA, FFEO, and the regions to identify and implement Next Generation Compliance opportunities under advanced monitoring, electronic reporting, transparency and innovative enforcement, to create more effective and efficient enforcement in this sector.
- Encourage the use of Supplemental Environmental Projects (SEPs) in settlements, consistent with the SEP Policy, and as resources allow, as a means to achieve greater human health and environmental outcomes.
- FFEO will continue to provide targeting, contractor inspection and travel funding support to the Regions to the fullest extent possible. Regions will incorporate their future activities for the federal facility ACS commitment in their Regional (Enforcement) Plans.
- 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 2016. (These projections, which need not include Records of Decision at federal facility CERCLA sites, are not commitments but rather indicators of regional progress.)

States and EPA regions should:

- Continue to ensure adequate coverage of the federal facility sector through compliance monitoring and enforcement activity. Coordinate inspections, compliance monitoring 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.

4. 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:

Authorized states and territories and EPA regions with direct implementation responsibilities (e.g., non-authorized states, federal facilities and Indian country) 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) (issued July 21, 2014) for the Core Program and Wet Weather Sources 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 and the Clean Water Act Inspection Targeting Model (available to EPA and states by logging in at Enforcement and Compliance History Online (ECHO), <http://echo.epa.gov/>), as well as GIS resources on EPA's GeoPlatform.
- Develop annual compliance monitoring plans that take advantage of the flexibility available in the NPDES CMS.
- Ensure that all available data regarding violations are evaluated to determine the seriousness of the violation. Take appropriate enforcement responses, consistent with national policy, 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 (ICIS-NPDES) 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 authorized 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.
- Continue implementing the Federal Facility Enforcement Priority Area for Industrial Stormwater.

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 NPDES oversight inspections to ensure the integrity and quality of each authorized state's or tribe's compliance monitoring program. See Part 2 of the NPDES CMS for more discussion of oversight inspections.
- 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. Provide annual CMS plans for each authorized state and for regional direct implementation areas to OECA by December 31 of each year.
- Provide draft alternative plans to OECA for consultation and review by August 15 of each year (in advance of the beginning of the plan coverage year), or a later date if agreed to by the region and OECA. Work with OECA as needed to address national consistency and program integrity issues identified through OECA's review of draft alternative plans.
- Track compliance monitoring activities and submit annual end of year reports for each state and for regional direct implementation to OECA by December 31 of each year. End of year reports should account for all compliance monitoring activities conducted in the prior year in accordance with the NPDES CMS.
- Coordinate with their authorized 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.
- Utilize multi-sector general permit (MSGP) violation and benchmark data when available through ICIS-NPDES 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.
- Directly implement the CWA/NPDES program in Indian country unless and until a tribe obtains program authorization. When directly implementing the program apply the NPDES CMS, applicable enforcement response policies, and the *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 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, credential state and tribal inspectors to conduct compliance evaluations on the EPA's behalf. Ensure that state and tribal inspectors who conduct inspections on EPA's behalf 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) EPA Order 3500.1: Training Requirements for EPA Personnel Who Are Authorized to Conduct Civil Compliance

Inspections/Field Investigations and EPA Inspector Supervisors (June 19, 2014), and EPA Order 3510: EPA Federal Credentials for Inspections and Enforcement of Federal Environmental Statutes and Other Compliance Responsibilities (October 31, 2012).

- 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 and in Indian country, 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 and to access biosolid program annual reports that may be needed to support regional compliance monitoring activities, such as targeting for pretreatment inspections.
- 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 through coordination with the U.S. Coast Guard, as necessary, in implementing the Vessel General Permit MOU, reviewing Coast Guard deficiency data, and conducting joint inspections.
- Support the agency's Next Generation Compliance initiative by promoting advanced monitoring, electronic reporting, and transparency to improve compliance with regulations and enhance the ability to identify violations that may harm public health and/or the environment. Develop innovative regulation design and enforcement approaches to ensure regulations 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.

Measures: See ACS measure CWA07 in Appendix I, page 4.

5. 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 [i.e., U.S. Army Corps of Engineers (Corps), Natural Resources Conservation Service (NRCS), U.S. Fish and Wildlife Service (USFWS), and National Marine Fisheries (NMFS)] 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 as ICIS (Integrated Compliance Information System) to identify and track potential repeat violators. (ICIS continues to be the data base of record for tracking EPA information on CWA Section 404 enforcement actions.)
- In addition to working with the Corps on developing cases under the 1989 MOA, regions should explore methods to effectively leverage other program resources (such as GIS and remote sensing resources, NWI map updates, and reports or studies of known stressors to wetlands in their regions) to more systematically identify potential serious Section 404 violations, target areas or sectors of known wetland stressors, and take appropriate enforcement responses to address these violations. Share effective techniques with OECA for use in developing the national aquatic resources (including 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.

6. 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.

7. 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 and shift away from enforcement work on more routine violations. 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 approved primacy by rule for injection well Classes I - V for 33 states and three territories and, it shares responsibility in seven states and two tribes. EPA implements the UIC program for injection well Classes I - V in 10 states, two territories, the District of Columbia, and for most of Indian country. For Class VI Geologic Sequestration injection 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.

8. 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.

Activities:

Delegated state, tribal and local agencies and EPA regions 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)⁴, the asbestos NESHAP Demolition and Renovation Enforcement Strategy and the Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources⁵] 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. Available for use is the Environmental Justice screening tool, EJSCREEN.
- 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 Integrated Compliance Information System (ICIS) consistent with agency policies, the “Air Stationary Source Compliance and Enforcement Information Reporting” Information Collection Request (ICR) and agreements incorporated in documents such as Memorandums of Understanding (MOUs), State Enforcement Agreements (SEAs), EPA-Tribal Enforcement Agreements, 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.
- Incorporate new technologies and innovative compliance monitoring approaches in compliance monitoring programs, as appropriate and where feasible.
- Continue work with EPA headquarters to provide input into the design and development of future versions of ICIS as it pertains to CAA compliance and enforcement information.

EPA regions should also:

- Work collaboratively with OECA and OAR to identify and address, as appropriate, noncompliance issues that arise in the Greenhouse Gas (GHG) Reporting Program.
- 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, children’s health, tips/complaints, and community input.

⁴The revised HPV policy, issued August 25, 2014, is accessible at <http://www2.epa.gov/enforcement/air-enforcement-policy-guidance-and-publications>

⁵ The Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources is dated September 23, 2014 and is accessible at <http://www.epa.gov/compliance/resources/policies/monitoring/caa/frv-policy.pdf>

- 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 2013 Civil Monetary Penalty Inflation Adjustment Rule.
- As the successor to the Air Facility System (AFS), ICIS is the data system of record for the national CAA stationary source compliance and enforcement program. The regions should continue to report all federal evaluations and enforcement actions, including FRVs, HPVs and penalties, into ICIS.
- 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.
- When reviewing Title V permits consistent with national guidance, ensure permits do not shield sources subject to a pending or current CAA enforcement action or investigation. Also ensure that consent decree requirements, including required schedules of compliance, are incorporated into underlying federally enforceable non-Title V and Title V permits. Furthermore, ensure the delegated agencies/tribes are reviewing Title V certifications consistent with the CMS.
- Conduct all RMP inspections in accordance with “Guidance for Conducting Risk Management Program Inspections Under Clean Air Act Section 112(r)” (EPA 550-K-11-001, January, 2011). 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.
- All inspections at RMP facilities with Program 2 and/or 3 processes must evaluate a facility's compliance with some or all of the accident prevention and emergency response program requirements of Subparts C, D and E of 40 CFR Part 68, in addition to evaluating compliance with other 40 CFR Part 68 requirements as time and resources allow. For inspections at multi-process or high-risk facilities, conduct inspections where the field portion of the inspection involves the appropriate number of inspectors/technical experts and time to evaluate the RMP program compliance and chemical safety at the facility, as stated above. For inspections at larger and more-complex facilities, regions should devote additional staff and/or time as appropriate to the size and complexity of the facility.
- Continue implementing 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 2016.
- Directly implement the CAA in Indian country unless and until a tribe obtains program approval and apply the various compliance monitoring strategies, enforcement response policies, and the OECA *Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy (January 17, 2001)* (<http://www.epa.gov/compliance/resources/policies/state/84indianpolicy.pdf>). This guidance contains procedures for consultation with tribes in the civil compliance monitoring and enforcement context and contains threshold criteria for EPA’s consideration of formal civil enforcement actions. The guidance 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 the EPA's behalf. Ensure that state and tribal inspectors who inspect on EPA's behalf 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 replacement tool when available.
- 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.
- 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 identifying and 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.

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

9. 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:

Authorized states and EPA regions, in their oversight and direct implementation roles, including in Indian country, 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 federal, state/local governments, and biennially for non-governmental TSDFs.
- Follow the RCRA Compliance Monitoring Strategy (CMS). Note: states may use the flexibilities described in the RCRA CMS for Large Quantity Generators (LQGs) and TSDFs.
- 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:
 - Improper treatment at TSDFs/Waste Analysis Plans at TSDFs: Ensure proper characterization of incoming wastes, 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 AA/BB/CC: Ensure compliance with RCRA air emission requirements.
- Where resources allow and given regulated universe considerations of any particular region/state, other potential focus areas for regional and state consideration are:
 - Surface Impoundments: hazardous waste in unlined surface impoundments.
 - Zinc Hazardous Secondary Materials Recyclers: zinc fertilizer manufacturing that use hazardous waste; sham recycling and recycling.
 - 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, consistent with national policy, where states are not addressing serious noncompliance or when federal enforcement may provide a more comprehensive response than an individual state response (for example on issues that involve multiple states).
- 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 the 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.
- As necessary, work with OECA to identify and evaluate program areas that could become national priorities/enforcement initiatives in the future.
- Participate in the development and implementation of nationally consistent field mobility business solutions such as electronic inspection software.

Measures: See ACS measures RCRA02 and RCRA02s in Appendix I, page 7. Measures RCRA 01, RCRA 01s, RCRA03 support the statutory and regulatory requirements and are listed on pages 5-7.

10. 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's enforcement activities will focus on addressing violations that pose the greatest threat to human health and the environment where a federal response is necessary and maintaining 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' efforts on the implementation of the new final UST regulations such as helping to develop innovative approaches to promote and maintain compliance using next generation compliance and enforcement methods. The Leaking UST (LUST) program will continue its emphasis on corrective action and petroleum brownfields, and efforts to reduce the backlog of LUST sites. OECA headquarters has been involved in supporting work on abandoned tanks, bankruptcy, responsible party (RP) search, ability-to-pay (ATP), and enforcement at RP-lead cleanups.

Activities:

EPA regions will focus on:

- 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.
- 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 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.
- Ensuring timely and accurate reporting of state/tribal performance data (following guidance provided by OUST) and entering federal inspection and enforcement data into ICIS.
- 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 when they plan to use delivery prohibition in those states, when appropriate, to address significant noncompliance.
- Where action is appropriate in smaller cases (e.g. in Indian Country), regions will consider utilizing cost-effective tools such as field citations or expedited settlements, when appropriate.
- Regions should encourage their states to optimize deterrence from the impact of enforcement utilizing efficiencies within their authority including the use of delivery prohibition and addressing noncompliance on a corporate-wide basis statewide or other opportunities.

11. RCRA Corrective Action

Description: RCRA corrective action is implemented by the EPA and 44 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 the 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. In addition, OECA has updated its Model 3008(h) administrative order on consent (AOC) and will explore updating or developing other model orders.

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 2016-2017. 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://www2.epa.gov/sites/production/files/documents/nesca-assessment-2012.pdf>). In FY 2016 and 2017, OECA will continue to implement the next steps included in the September 27, 2012 NESCA assessment report with an emphasis on enhancing compliance monitoring in the corrective action program. OECA’s compliance monitoring activities will include continuing its Corrective Action inspection training efforts, encouraging long-term stewardship inspections and addressing environmental justice issues through Corrective Action inspections and enforcement actions, as appropriate.

Activities:

Authorized states and regions 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.

- Leverage federal, state, tribal, local and other partnerships to maximize resources; improve cleanups using greener and more resilient and sustainable practices; and revitalize sites through policy, guidance and, when appropriate, agreements and comfort letters.
- Implement specific actions designated in EPA's Climate Change Adaptation Plan to more fully integrate climate change adaptation activities, greener remediation, and sustainability efforts into the cleanup enforcement program (e.g. consent decrees, comfort letters or other enforcement instruments), where appropriate.

Measures: See ACS measure HQ-VOL in Appendix I, page 7.

12. TSCA Chemical Risk Reduction Programs

Description: The EPA regions and when authorized, states and tribes are expected to implement the National Compliance Monitoring Strategy (CMS) for the four major Toxic Substances Control Act (TSCA) programs. The New and Existing Chemical program (core TSCA) and PCB programs are generally implemented by the EPA. The asbestos program, and the Lead-based Paint program are implemented by the EPA except where states or tribes have been authorized to implement those programs in lieu of the Agency.

The CMS creates a "One-TSCA" program framework for regional compliance monitoring programs that gives each region the flexibility to shift its priority focus as needed to address its most significant compliance, human health, and environmental issue(s). It is important for each region to be knowledgeable about the array of environmental problems across their region and the regulated universe subject to each of its TSCA focus areas (e.g., the universe size, constituent sectors), compliance levels, the roles and effectiveness of authorized state and tribal programs and to consider and address the potential impact that directing most of its resources to its priority issue(s) likely will have on its other TSCA programs and activities. With these factors in mind, the regions are to develop a plan for their inspections and other compliance activities based on the resources available and that prioritizes the problems to be addressed along with how the regions are providing oversight of state programs. If a region chooses not to develop a plan for its TSCA programs then the region shall use the following distribution for resource allocation.

For FY 2016-2017, 90 percent of the region's overall 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 while still maintaining a national TSCA program. 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.

A. TSCA Lead Risk Reduction Program

Description: In 1992, Congress enacted Title X: Residential Lead-Based Paint Hazard Reduction Act. Among other things, The Act authorized four key programs for EPA to implement: the Section 1018 – Lead-Based Paint Risk Disclosure Program; the Lead-Based

Paint Activities Program; the Lead-Based Paint Pre-Renovation Education Program; and the Lead-Based Paint Renovation, Repair and Painting Program. The EPA will focus its efforts on addressing the most serious violations of the Lead-Based Paint Renovation, Repair and Painting Program in order to protect children's health. For FY 2016-2017, 90 percent of the region's TSCA resources should focus on the lead compliance assurance program.

Activities:

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' lead based paint 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 National Compliance Monitoring Strategy (CMS) for Lead Based Paint (LBP)⁶, 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, consistent with national policy, 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.

⁶ 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>.

- Enter all federal inspection and enforcement cases into the national database ICIS 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 TSCA 01OC and TSCA 02OC in Appendix I on page 8. The Lead Based Paint component of ACS commitment TSCA 01OC will serve as an OECA FY 2016 measure of compliance work being done to protect children's health.

B. 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 risk 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 2016-2017, 90 percent of the region's TSCA resources should focus on the lead compliance assurance program⁷. 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 opting to engage in compliance monitoring and assurance activities for TSCA New and Existing Chemicals should:

- Focus on chemical manufacturing (including importing), distribution, processing, use, or disposal of new chemicals and emerging technologies (such as nanotechnology and biotechnology). 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, Work Plan 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, consistent with national policy.

⁷ Please see first paragraph in the description section for the TSCA Chemical Risk Reduction Programs on page 33.

⁸ The TSCA CMS, including Appendix B, can be found at:

<http://www.epa.gov/compliance/resources/policies/monitoring/tsc/tsc-cms.pdf>.

- Target existing chemical reporting and record keeping requirements such as TSCA § 4, 8 and the 2016 Chemical Data Reporting Rule.
- Evaluate and prioritize tips and complaints and follow-up as appropriate. 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. In particular, increase coordination on targeting between OPPT, OECA and the participating regions to focus on the chemical manufacturing sector. Additionally, coordinate when setting program priorities and communicating best practices.
- Enter all federal inspection and enforcement cases into the national database ICIS in a timely and accurate manner.

Measures: See ACS measures TSCA 01OC and TSCA 02OC in Appendix I on page 8.

C. 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 use, 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 in each region. The EPA will pursue nationally-significant PCB civil and criminal violations that may present a significant risk of injury to health or the environment and maintain some field presence at EPA-approved commercial PCB storage and disposal facilities. For FY 2016-2017, 90 percent of the region's TSCA resources should focus on the lead compliance assurance program⁹. 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. OECA will continue to evaluate enforcement options for PCBs in building materials used in schools and will update existing guidance or provide new guidance at a later date.

Activities:

EPA regions opting to engage in compliance monitoring and assurance activities for the TSCA PCB program should:

- Address nationally-significant PCB civil and criminal violations that may present a significant risk to human health or the environment, consistent with national policy.
- Dependent on regional resources devoted to this program, focus inspections, case development and enforcement on the following areas of potential significant risk:

⁹ Please see first paragraph in the description section for the TSCA Chemical Risk Reduction Programs on page 33.

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. As appropriate, at oil recyclers through coordinated joint TSCA/RCRA PCB inspections to efficiently use resources.
 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 2016-2017 program, implement the Compliance Monitoring Strategy for the Toxic Substances Control Act (September 16, 2011) including Appendix C – PCBs¹⁰.
 - 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 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, 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 ICIS 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 TSCA 01OC and TSCA 02OC in Appendix I on page 8.

D. TSCA Asbestos Program/AHERA

¹⁰ The TSCA CMS, including Appendix C, can be found at:
<http://www.epa.gov/compliance/resources/policies/monitoring/tsc/tasca-cms.pdf>

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 2016-2017, 90 percent of the region's TSCA resources should focus on the lead compliance assurance program¹¹. 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 opting to engage in compliance monitoring and assurance activities for the TSCA Asbestos/AHERA program should:

- Address the most egregious violations of AHERA consistent with national policy.
- 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 as appropriate) 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 inspection reports for enforcement action.
- Taking into account the aforementioned focus for the FY 2016-2017 program, implement the Compliance Monitoring Strategy for the Toxic Substances Control Act (September 16, 2011) including Appendix D – Asbestos¹².
- Ensure that any 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, 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 ICIS in a timely and accurate manner.

¹¹ Please see first paragraph in description section for the TSCA Chemical Risk Reduction Programs on page 33.

¹² The TSCA CMS, including Appendix D can be found at:

<http://www.epa.gov/compliance/resources/policies/monitoring/tsca/tsca-cms.pdf>

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 TSCA 01OC and TSCA 02OC in Appendix I on page 8.

13. FIFRA Program for Compliance Assurance and Enforcement

Description: The EPA will generally prioritize its compliance monitoring activities based on risk to human health and the environment. The region's FIFRA resources 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. For FY 2016-2017, the three FIFRA Focus Areas are: a) Product Integrity; b) Border Compliance; and c) Worker Protection Standards; implementation of the FIFRA Focus Areas will generally be done through direct implementation activities or in support of state and tribal programs.

Activities:

For its direct implementation program, EPA regions should:

- Participate in the three FIFRA Focus Areas: a) Product Integrity; b) Border Compliance; and c) Worker Protection Standards, discussed below.
- Conduct inspections and perform sampling in support of the Focus Areas and other core FIFRA program areas, as appropriate, and in accordance with any final FIFRA Compliance Monitoring Strategy.
- Initiate enforcement actions, consistent with the FIFRA ERPs and with emphasis on addressing risk, obtaining appropriate deterrence, and optimizing environmental benefits.
- 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 federal inspection and enforcement data into ICIS.

For its support of state and tribal programs, EPA regions should:

- Encourage state and tribal involvement in supporting the EPA Focus Area activities, as appropriate and consistent with the cooperative agreement guidance.
- Negotiate, oversee implementation of and review state and tribal performance under pesticide enforcement cooperative agreements following existing policies and guidance.
- Work with EPA Headquarters to document and improve upon current procedures and training to conduct: (1) program evaluations; and (2) grant performance evaluations, incorporating existing relevant protocols to the extent possible. Oversight resources should be focused on the most pressing performance problems and work to demonstrably improve state/tribal performance. Participate in development of FIFRA state performance dashboards based on 5700 data.
- Convene routine and regular meetings between the region and state or tribe to discuss how the state or tribe has been performing overall in its implementation of the program, and in respect to its negotiated cooperative agreement. When appropriate and consistent with the Interpretive Rule and other national policy, take enforcement to address serious violations in the absence of appropriate state response or when significant state cases are referred to EPA for enforcement.
- Ensure timely and accurate reporting of state and tribal performance data.

Measures: See ACS measure FIFRA-FED1 in Appendix I, page 8.

A. Pesticide Product Integrity

Description: Pesticides are registered after undergoing a significant review and risk/benefit analysis intended to ensure that human health and environmental risks are adequately mitigated through the Agency's registration and related labeling process. This focus area will address pesticides which potentially present significant risks to human health and the environment while safeguarding the basic integrity of the pesticide registration process. For this focus area, regions would be expected to monitor compliance against four prongs of product integrity: (1) product registration, (2) label/labeling compliance, (3) composition compliance, and (4) product efficacy, (apply only in cases dealing with the on-going antimicrobial testing program (ATP)).

Activities:

EPA regions should:

- Conduct producer establishment inspections known to produce (1) supplemental distributor products, (2) RUP or Tox-1 pesticides, or (3) pesticides of regulatory concern.
- Collect samples and submit to laboratory for formulation analysis to ensure product composition complies with terms of registration.
- Initiate enforcement actions, as appropriate, to address violations of registration, composition, and labeling requirements to ensure optimum deterrence effect and enforcement impact, including enforcement actions that address corporate-wide noncompliant behavior and high-risk unregistered pesticide products.
- Address ATP efficacy failures through enforcement actions, in collaboration with OPP.

Measures: See ACS measure FIFRA-FED1 in Appendix I, page 8.

B. Border Compliance

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 prevention 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 the EPA's strong interest in import compliance and encourage collaboration with the EPA when situations warrant. This 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, the 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 2016 [Automated Commercial Environment in the International Trade Data System (ACE/ITDS)] creates opportunities to reduce the investment in manual processing of Notices of Arrival (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:

Focus on importers with a history of noncompliance or significant importation activity from countries frequently associated with noncompliant shipments. 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).
- Collect samples and submit to laboratory for formulation analysis to ensure product composition complies with terms of registration.
- 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.

- Participate in Commercial Targeting and Analysis Center (CTAC) National Operations initiatives, as appropriate.

Measures: See ACS measure FIFRA-FED1 in Appendix I, page 8.

C. Worker Protection Standards

Description: Addressing disproportionate risks of agricultural farm workers, handlers and pesticide applicators to pesticide exposure continues to remain a focus area for the EPA. Although most states have “primacy” to enforce pesticide use, including worker protection standards (WPS), regions should seek opportunities for federal cases to support state efforts. Where the EPA directly implements FIFRA, such as in Indian country and states without primacy status, EPA regions should 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 fumigation. In FY 2016 and FY 2017, OECA will continue to address WPS noncompliance, but adjust the activities in several ways as described below.

Activities:

EPA regions should:

- Monitor compliance and initiate enforcement in states and tribal lands where the EPA has direct implementation authority, placing emphasis on commercial applicators.
- Collaborate with states to monitor WPS compliance associated with the use of specific products of concern on specific farm commodities where worker exposure is of special concern (regions should encourage states to identify enforcement cases that could benefit from federal enforcement by the regional office).
- Conduct federal compliance monitoring inspections of products subject to the new WPS labeling requirements.
- Increase oversight of state activities addressing WPS use related violations consistent with EPA authorities under FIFRA Section 26 and 27.

Measures: See new proposed ACS measure FIFRA-FED2 in Appendix I, page 8. The proposed measure reads as follows: For EPA regions with direct implementation responsibilities in Indian country and states without primacy, project the number of regional (federal) FIFRA inspections focused on the Worker Protection Standard (WPS).

14. CERCLA

Description: The EPA’s CERCLA Enforcement program 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 Superfund 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. 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.

Activities:

EPA regions will:

- Maintain 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 121 interagency agreements, known as FFAs, in place at all but one of 176 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 all appropriate sites including those in potential environmental justice areas of concern.
- Provide site-specific fact sheets, which include enforcement information that is finalized and available to the public on regional web pages.
- Leverage federal, state, tribal, local and other partnerships to maximize resources; improve cleanups using greener and more resilient and sustainable practices; and revitalize sites through policy, guidance and, when appropriate, agreements and comfort letters.
- Implement specific actions designated in the EPA's Climate Change Adaptation Plan to more fully integrate climate change adaptation activities, greener remediation, and sustainability efforts into the cleanup enforcement program (e.g. consent decrees, comfort letters or other enforcement instruments), where appropriate.

Measures: See ACS measures OSRE-01, OSRE-02 and HQ-VOL in Appendix I, pages 7-8.

15. 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/Office of Environmental Information (OEI) in collaboration with the regions. If a region, based on its own regional priorities, decides not to use OECA/OEI targets, and develops its own enforcement targets, the region should notify Headquarters of its intent, be able to summarize areas of enforcement targets and describe the improved enforcement outcomes of the regional targeting. 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, consistent with national policy, 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 8.

16. 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.

17. Federal Activities

Description: The Office of Federal Activity's (OFA'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, ozone depleting substances, selected chemicals and products (e.g., mercury), engine imports that are non-compliant with air emission standards 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.

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

- Fulfilling EPA's obligations under NEPA and Section 309 of the Clean Air Act by reviewing and commenting on all major proposed federal actions to promote identification, elimination or mitigation of significant adverse effects, and making the comments available to the public.
- Providing recommendations to assist federal decision-makers in 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.
- Writing clear and effective comments on EISs with the goal of influencing federal decision-makers to mitigate at least 70 percent of the significant impacts identified by the EPA during the NEPA process.
- 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 deep water 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.
- Assisting other federal agencies to improve the analysis of climate change issues under NEPA, including estimating greenhouse gas emissions associated with federal actions and consideration of mitigation measures, as well as fostering climate resiliency.

18. 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 violations 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 the EPA's screening tools, regional input and 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 Headquarters 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 (T1) 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.
- 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 Department of Justice 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 1: FY 2016 Draft ACS Measures

This appendix proposes measures for FY 2016. Revisions from last year are underlined. When OECA identifies the National Enforcement Initiatives (NEIs) for FY 2017-2019 in the FY 2017 Addendum to the NPM Guidance, the EPA will also identify ACS measures for the new NEIs.

ENVIRONMENTAL PROTECTION AGENCY Office of Enforcement and Compliance Assurance FY 2016 NPM GUIDANCE MEASURES APPENDIX						
G/ O/ S*	ACS Code	Measure Text	Non- Commitment Indicator (Y/N)	State Performance Measure (Y/N)	Planning Target ¹³	National Target (FY 2016 Pres. Bud)
5	PBS- ATX03	Number of facilities evaluated for compliance within the national focus areas.	N	N	Y	N
5	PBS- ATX04	Number of addressing actions at facilities within the national focus areas.	N	N	Y	N
5	PBS- NSR01	Number of NSR/PSD investigations of cement plants.	N	N	Y	N
5	PBS- NSR02	Number of investigation completion reports or referrals to DOJ for cement plants.	N	N	Y	N
5	PBS- NSR03	Number of NSR/PSD investigations of glass manufacturing plants.	N	N	Y	N
5	PBS- NSR04	Number of completion reports or referrals to DOJ for glass manufacturing plants.	N	N	Y	N

¹³ Annual Commitment System (ACS) planning targets for FY 2016 are negotiated between the EPA regions and headquarters during 2015. For the measures which encompass state activities, the EPA regions coordinate with the affected states on the planning targets as applicable.

5	PBS-NSR05	Number of NSR/PSD investigations of nitric and/or sulfuric acid plants.	N	N	Y	N
5	PBS-NSR06	Number of investigation completion reports or referrals to DOJ for nitric and/or sulfuric acid plants.	N	N	Y	N
5	PBS-NSR07	Number of NSR/PSD investigations of coal-fired electric utilities.	N	N	Y	N
5	PBS-NSR08	Number of completion reports or referrals to DOJ for coal-fired electric utilities.	N	N	Y	N
5	PBS-NSR09	Number of facilities reviewed for prospective projects that trigger NSR.	N	N	Y	N
5	PBS-M105	Number of Phase 1 municipal separate storm sewer system permit assessments conducted.	N	N	Y	N
5	PBS-M106	Number of civil judicial referrals and/or addressing actions for sanitary sewer systems (SSS) with total treatment capacity ≥ 10 mgd.	N	N	Y	N
5	PBS-M107	Number of civil judicial referrals and /or addressing actions for CSS communities serving populations $\geq 50,000$.	N	N	Y	N
5	PBS-M108	Number of civil judicial referrals and/or addressing actions for Phase I and II MS4s.	N	N	Y	N
5	PBS-CAF002	Number of federal AFO/CAFO inspections.	N	N	Y	N
5	PBS-CAF007	Number of federal CAFO addressing actions.	N	N	Y	N
5	PBS-CAF008	Submit 1 progress report per federal fiscal year.	N	N	Y	N
5	PBS-MNP05	Number of targeted mines, mineral processing facilities, or both, inspected.	N	N	Y	N

5	PBS-EE01	Number of compliance evaluations/inspections conducted in the air and water programs at land-based natural gas extraction and production facilities (e.g., wells, compressor stations, gas plants), and at disposal sites (e.g., injection wells, lagoons, ponds, land application). <u>Land impacts and inspections conducted under other media programs may be included per discussion and agreement with the EEPI Strategy Implementation Team.</u>	N	N	Y	N
5	PBS-EE03	Number of land-based natural gas extraction and production addressing actions.	N	N	Y	N
5	SDWA02	<p>During <u>FY 2016</u>, 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 <u>2015</u> ETT report. State, territory and tribal breakouts shall be indicated in the comment field of the Annual Commitment System.</p> <p>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 <u>FY 2016</u> SDWA ACS measures with respect to a priority system if the score for that system has been brought below, and remains below, 11.</p>	N	Y	Y	N
5	SRF01	Finalize all Round 3 SRF reports for state CAA, CWA and RCRA enforcement programs scheduled for calendar year <u>2015</u> no later than December 31, <u>2015</u> (first quarter of FY <u>2016</u>). By September 30, <u>2016</u> , complete draft reports for all Round 3 SRF reviews scheduled for calendar year <u>2016</u> . (Final reports are to be completed by December 31, <u>2016</u> (first quarter of FY <u>2017</u> .) Regions in FY 2013 developed a plan to complete all Round 3 state reviews by the end of calendar year 2017. OC and OWM will hold annual discussions with regions to establish whether any modifications to the schedules are necessary.	N	N	Y	N

5	EJ01	Percentage of non-exempt cases brought by the EPA in areas determined by the EPA to have potential EJ concerns. [Note: While we are tracking this measure, there is no specific target number or trend we expect to achieve. EJ is one of many factors the Agency considers in bringing an enforcement action.]	Y	N	N	N
5	FED-FAC05	Conduct ten (10) federal facility inspections. These inspections may be done in <u>federal facility enforcement priority areas, national areas of focus, national enforcement initiatives, regional priority areas, priorities established in federal facility regional enforcement enhancement plans, or as otherwise deemed necessary by the region.</u> These 10 inspection commitments can be achieved through any combination of single media or multimedia inspections. 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 priority areas as listed above. All of these inspections may simultaneously satisfy inspection commitments required in any National Enforcement Initiative or other core program area. FFEO will be as flexible as possible in assisting the regions in meeting this vital federal facility commitment.	N	N	100 federal facility inspections nationally	N
5	CWA07	By December 31, provide to OECA a specific NPDES Compliance Monitoring Strategy (CMS) plan for the current year for each authorized state in the region and a regional plan wherever EPA direct implementation occurs (e.g., non-authorized states, territories, Indian country, pretreatment, etc.). Each CMS plan should be developed in accordance with the guidelines in Part 1 of the 2014 revised NPDES CMS. Any proposed alternative CMS plan should be provided to OECA for consultation and review by August 15, <u>unless the region and OECA agree upon a later date.</u> By December 31, provide for each state and EPA direct implementation area, a numerical end of year report on EPA and state CMS plan outputs from the prior year, by category and subcategory, <u>corresponding to each of the planned CMS activities.</u>	N	N	Y	N

		<u>The ACS commitment for each region should reflect the total number of state and regional CMS plans and end of year reports to be submitted to OECA for the year (e.g., an annual ACS commitment of 12 for a region that will submit six state and regional CMS plans and six state and regional CMS end-of-year reports).</u>				
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). <u>For the total number of evaluations to be conducted, the region should also identify how many of these evaluations are in Indian country.</u>] 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	Y	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 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. Please indicate when a commitment is pursuant to an approved alternative plan.] 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.	N	Y	Y	N
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	N	N		N

		<p>commit to inspect at least two (2) TSDFs in each state or Indian country unless OECA approves a deviation from this requirement, as indicated in the initial OECA opening bid. Financial responsibility is an important component of the RCRA core program and evaluating compliance with 40 CFR Parts 264/265 Subpart H and corrective action financial responsibility should be included in the RCRA core program inspections. Regions must commit to inspect at least the same number of financial assurance instruments at RCRA operating facilities as the region inspects for operating CEIs. Once a region exceeds the number of CEIs and FA instrument reviews from the final agreed upon bid, any additional CEIs will not require a corresponding FA instrument review. The determination of which financial assurance instruments to review should take into account the potential risk posed by the facility, the type of financial assurance instrument provided by the facility, and whether the financial assurance instrument has been previously reviewed and is the same type of instrument (this does not apply to the financial test, which may be reviewed each year). The review of financial assurance instruments is for RCRA Subtitle C closure and post-closure and includes corrective action if there is a corrective action obligation at the facility under review</p>			Minimum of 100 TSDFs nationally	
5	RCRA01.s	<p>Project by state the number of operating TSDFs to be inspected by the state during the year.</p> <p>Note: Only one inspection per facility counts towards this coverage measure. The RCRA CMS establishes minimum annual inspection expectations for TSDFs. At least 50 percent of the operating non-governmental TSDFs in the state must be inspected annually. The onsite inspections for RCRA01 and RCRA01.s should be CEIs. Completing the commitment includes 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).</p>	N	Y	Y	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 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. The region should identify in the "Comment" field of BAS any state that is following an approved Alternative Plan and a breakout of the inspection numbers in the plan.	N	Y	Y	N
5	RCRA03	Inspect each operating TSDF operated by states, local, or Tribal governments.	N	N	Y	N
5	HQ-VOL	<p>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: <i>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.</i></p> <p>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.</p>	N	N	200 million cubic yards	N

5	TSCA 01OC	Project the total number of FY 2016 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). <i>Note: For the reasons discussed in the executive summary, the LBP component of this TSCA ACS commitment (TSCA 01OC) will serve as an OECA FY 2016 measure of compliance work being done to protect children's health.</i>	N	N	Y	N
5	TSCA 02OC	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 for more details).	Y	N	N	N
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	<u>NEW FIFRA-FED 2</u>	<u>For EPA regions with direct implementation responsibilities in Indian country and states without primacy, project the number of regional (federal) FIFRA inspections focused on the Worker Protection Standard (WPS).</u>	N	N		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 <u>equal to or greater than \$500,000 in value</u> via settlement, referral to DOJ, filing a claim in bankruptcy, or where appropriate write-off.	N	N	100 percent of cases	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 2 - EXPLANATION OF CHANGES BETWEEN FY 2014-2015 AND FY 2016-2017 GUIDANCE

Office of Enforcement and Compliance Assurance

Change from FY 2015 Addendums and FY 2014 NPM Guidances		Reason for Change	Location of New/Modified Information
General	<u>Addition:</u> The introduction was expanded for FY 2016-2017 to summarize how early input from stakeholders influenced the draft NPM Guidance, to reference regional Climate Change Adaptation Plans, and to highlight opportunities and guidelines for seeking flexibility when implementing OECA's NPM Guidance and related activities.	The updated language takes into account early input and necessary updates for FY 2016-2017.	Pages 1-4 of draft FY 2016-2017 NPM Guidance.
National Areas of Focus	<u>Addition:</u> The introduction to the National Areas of Focus was expanded to briefly summarize the process and timing for selecting OECA's FY 2017-2019 National Enforcement Initiatives (NEIs).	The updated language shares information with stakeholders on the process/timing for selecting FY 2017-2019 NEIs.	Page 4
	<u>Modification:</u> The description of the priority area Assuring Safe Drinking Water was updated to specifically address some small systems that remain in persistent noncompliance despite primacy agency efforts.	The description was updated to note that EPA, states and tribes will work together to explore root causes of noncompliance and options for resolving them to ensure all available tools, resources and partners are engaged to help these small systems operate safely, comply with SDWA and become sustainable if possible.	Page 8
	<u>Modification:</u> The activities under Implementing the Clean Water Act (CWA) Action Plan were updated for FY 2016-2017 to take into account the NPDES Electronic Reporting Rule.	The activities were modified to take into account actively marketing NetDMR, Net and other e-reporting tools to the regulated community; training permittees; ensuring state and regional general permit requirements are entered into ICIS or state NPDES program data management system; reviewing state and regional general permit paper forms to evaluate consistency with	Page 11

		Appendix A in the Proposed NPDES e-reporting rule.	
	<u>Modification:</u> State activities under Implementing the Clean Water Act (CWA) Action Plan were updated for FY 2016-2017 to further address e-reporting.	In FY 2016-2017, states should: work towards implementation of e-reporting; educate and train the regulated community; and develop e-reporting tools or use EPA tools (NetDMR; NeT).	Page 12
	<u>Modification:</u> OECA updated the description and activities section on Advancing Next Generation Compliance for FY 2016-2017.	OECA updated the activities for FY 2016-2017.	Pages 12-14
	<u>Modification:</u> OECA added a State Review Framework activity for regions for FY 2016-2017.	During FY 2016-2017, regions will implement any regional components to address the agreed-upon national focus issues under the “National Approach to Common State Enforcement Program Issues (Common Issues) project.” OECA is coordinating with regions and ECOS on the common issues project.	Page 16
Program-Specific Guidance	<u>Addition:</u> A section on EPA’s Field Operations Group (FOG) Guidelines was added for FY 2016-2017.	Regions and Headquarters intend to complete development and implementation of policies, procedures and systems that fully address EPA’s ten Field Operations Group (FOG) Guidelines by the February 2016 deadline established by EPA’s Deputy Administrator.	Pages 16-17
	<u>Modification:</u> The Environmental Justice (EJ) section was revised to reference that OECA leverages other initiatives and priorities that promote action in communities, such as Next Gen Compliance and the EPA’s Cross-Agency Strategies, as appropriate. The language related to NEIs and Next Gen Compliance was updated for FY 2016-2017.	Regions are asked to consider EJ in the implementation of the NEIs. Also, where appropriate, when designing compliance and enforcement actions to gain the greatest possible environmental benefits in overburdened communities, regions should incorporate Next Gen Compliance principles, tools or approaches as appropriate.	Pages 17-18

	<u>Modification:</u> OECA's Federal Facilities Enforcement Office (FFEO) updated the description and regional activities within the FFEO section to reflect changes for FY 2016-2017.	FFEO updated the regional activities section to reflect changes in focus for FY 2016-2017 and to reference Regional Enforcement Plans.	Pages 19-20
	<u>Modification:</u> OECA updated regional activities in the CWA NPDES section.	Language on timing for submission of draft alternative Compliance Monitoring Strategy plans was included. The existing bullet on coordinating with the Center of Excellence for Biosolids was revised to recommend accessing biosolid program annual reports as needed.	Page 22
	<u>Modification:</u> In the RCRA Subtitle C Hazardous Waste Program section, OECA updated the regional focus areas.	OECA updated language on regional focus areas.	Page 29
	<u>Modification:</u> The description section for the RCRA Underground Storage Tank (UST) Subtitle I Program was updated for FY 2016-2017. The regional activity bullets were updated to address factors to consider when prioritizing inspections, timely and accurate reporting of data into RCRAInfo and ICIS, and encouraging states to optimize deterrence from the impact of enforcement by utilizing efficiencies within their authority including the use of delivery prohibition and addressing noncompliance on a corporate-wide basis statewide or other opportunities.	OECA updated the RCRA UST description/background section and a few regional activity bullets to appropriately address the focus for FY 2016-2017, taking into account early input from the program office.	Page 31
	<u>Modification:</u> The description highlights that OECA has updated its Model 3008(h) administrative order on consent (AOC). A couple of regional activities for RCRA Corrective Action were updated for FY 2016-2017.	Regions were asked to leverage federal, state, tribal, local and other partnerships (e.g. EPA-FEMA MOU) to better coordinate resources; improve cleanups using greener and more resilient and sustainable practices; and revitalize sites through policy, guidance and, when appropriate, agreements and comfort	Pages 32-33

		letters. Implementation of Regional Climate Change Adaptation Plans were also referenced.	
	<p><u>Modification:</u> OECA updated the organization, heading and description/background section for TSCA Chemical Risk Reduction Programs; the description indicates that regions should develop a plan for their overall TSCA inspections and other compliance activities based on the available resources and that prioritizes the problems to be addressed along with how the regions are providing oversight of state programs. If a region chooses not to develop a plan for its TSCA program, then the region shall use the distribution discussed in the NPM Guidance for TSCA resource allocation. This language is referenced via footnote in each TSCA section.</p>	The revised language provides flexibility to a regional office to develop a plan for their TSCA program (inspections and other compliance activities) based on resources available in lieu of using the TSCA resource allocation approach outlined in the TSCA section of the NPM Guidance. This language is referenced via footnote in each TSCA section.	Page 33
	<p><u>Modification:</u> OECA updated and consolidated the FIFRA section of the FY 2016-2017 Guidance taking into account early input received from stakeholders. The draft updated FIFRA section discusses activities under the following 3 focus areas: Pesticide Product Integrity; Border Compliance; and Worker Protection Standards.</p>	The updated activities in each FIFRA area take into account the early input received from stakeholders.	Pages 39-42
	<p><u>Modification:</u> A couple of regional activity bullets were updated in the CERCLA section.</p>	Regions were asked to leverage federal, state, tribal or local and other partnerships (e.g. EPA-FEMA MOU) to better coordinate resources; improve cleanups using greener and more resilient and sustainable practices; and revitalize sites through policy, guidance, and, when appropriate, agreements and comfort letters. Implementation of Climate	Page 43

		Change Adaptation Plans were also referenced.	
Annual Commitment Measures	<p><u>Modification:</u> Updated language for FY 2016 was incorporated into the following ACS measures: PBS EEO1, FED-FAC05, CWA 07 and CAA04.</p> <p>For 4 other measures (SDWA02, SRF01, TSCA01 OC, OSRE-02), the fiscal year reference was updated to FY 2016 or a non-substantive edit was made relative to the existing measure.</p>	Language was updated for FY 2016. All revisions are underlined in Appendix 1.	<p>Appendix 1, pages 3, 4 and 5.</p> <p>PBS EE01 – page 3 FED-FAC05 – page 4 CWA07 – page 4 CAA04 - page 5</p>
	<p><u>Addition:</u> A new ACS measure FIFRA-Fed2 was proposed for FY 2016 to address regional inspections focused on the Worker Protection Standard (WPS).</p>	A new ACS measure was drafted for FY 2016 to reflect the focus area of WPS. The draft ACS measure language reads as follows: For EPA regions with direct implementation responsibilities in Indian country and states without primacy, project the number of regional (federal) FIFRA inspections focused on the Worker Protection Standard (WPS).	Appendix 1, page 8.

Appendix 3 – OECA Key Contacts for each section of FY 2016-2017 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
Scott Throwe Phil Brooks	Clean Air Act (CAA) National Enforcement Initiative (NEI): Cutting Toxic Air Pollution that Affects Communities' Health	202-564-7013 202-564-0652	throwe.scott@epa.gov brooks.phil@epa.gov
Ed Messina Phil Brooks Apple Chapman	CAA NEI: Reducing Widespread Air Pollution from the Largest Sources, Especially the Coal-fired Utility, Cement, Glass, and Acid Sectors	202-564-2300 202-564-0652 202-564-5666	messina.ed@epa.gov brooks.phil@epa.gov chapman.apple@epa.gov
Rick Duffy Loren Denton Seth Heminway	Clean Water Act (CWA) NEI: Keeping Raw Sewage and Contaminated Storm water Out of Our Nation's Waters	202-564-5014 202-564-1148 202-564-7017	duffy.rick@epa.gov denton.loren@epa.gov heminway.seth@epa.gov
Mark Pollins Martha Segall Carol Galloway Kathy Greenwald	CWA NEI: Preventing Animal Waste from Contaminating Surface and Ground Waters	202-564-4001 202-564-0723 913-551-5092 202-564-3252	pollins.mark@epa.gov segall.martha@epa.gov galloway.carol@epa.gov greenwald.kathryn@epa.gov
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Van Housman	Reducing Pollution from Mineral Processing Operations NEI	202-564-0143	housman.van@epa.gov
Mamie Miller Andrew Stewart Rob Lischinsky	Assuring Energy Extraction Sector Compliance with Environmental Laws NEI	202-564-7011 202-564-1463 202-564-2628	miller.mamie@epa.gov stewart.andrew@epa.gov lischinsky.robert@epa.gov
Martha Segall Amy Porter Seth Heminway	Implementing the Clean Water Act (CWA) Action Plan	202-564-0723 202-564-2431 202-564-7017	segall.martha@epa.gov porter.amy@epa.gov heminway.seth@epa.gov
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Chris Knopes	Strengthening State Performance and Oversight	202-564-2337	knopes.christopher@epa.gov
Rick Duffy Tracy Back	Field Operations Guidance (FOG) Guidelines	202-564-5014 202-564-7076	duffy.rick@epa.gov back.tracy@epa.gov
Arati Tripathi	Environmental Justice	202-564-2044	tripathi.arati@epa.gov
Lance Elson Marie Muller	Federal Facilities	202-564-2577 202-564-0217	elson.lance@epa.gov muller.marie@epa.gov

Martha Segall Amy Porter Seth Heminway Rebecca Roose	CWA National Pollutant Discharge Elimination System (NPDES) Program for Compliance Assurance and Enforcement	202-564-0723 202-564-2431 202-564-7017 202-566-1387	segall.martha@epa.gov porter.amy@epa.gov heminway.seth@epa.gov roose.rebecca@epa.gov
Joe Theis	CWA Section 404 – Discharge of Dredge and Fill Material	202-564-4053	theis.joseph@epa.gov
Martha Segall Joe Theis Dan Chadwick	CWA Section 311 – Oil Pollution Act	202-564-0723 202-564-4053 202-564-7054	segall.martha@epa.gov theis.joseph@epa.gov chadwick.dan@epa.gov
Loren Denton Martha Segall Dan Chadwick	SDWA Underground Injection Control (UIC) Program	202-564-1148 202-564-0723 202-564-7054	denton.loren@epa.gov segall.martha@epa.gov chadwick.dan@epa.gov
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Craig Haas Todd Stedeford Greg Sullivan Julius Banks Rob Lischinsky	CAA Section 112(r)	202-564-6447 202-564-2977 202-564-1298 202-564-0957 202-564-2628	haas.craig@epa.gov stedeford.todd@epa.gov sullivan.greg@epa.gov banks.julius@epa.gov lischinsky.rob@epa.gov
Diana Saenz Elizabeth Vizard John Mason	RCRA Subtitle C Hazardous Waste Program	202-564-4209 202-566-5940 202-564-7037	saenz.diana@epa.gov vizard.elizabeth@epa.gov mason.john@epa.gov
Yolaanda Walker	RCRA Underground Storage Tank UST Subtitle I Program	202-564-4281	walker.yolaanda@epa.gov
Peter Neves Paul Borst	RCRA Corrective Action	202-564-6072 202-564-7066	neves.peter@epa.gov borst.paul@epa.gov
Todd Stedeford Greg Sullivan Elizabeth Vizard Everett Bishop John Mason	<u>TSCA</u> ¹⁴ <ul style="list-style-type: none"> • Lead Risk Reduction Program • New and Existing Chemicals Program • PCB Program • Asbestos Program/AHERA 	202-564-2977 202-564-1298 202-566-5940 202-564-7032 202-564-7037	stedeford.todd@epa.gov sullivan.greg@epa.gov vizard.elizabeth@epa.gov bishop.everett@epa.gov mason.john@epa.gov
Don Lott Elizabeth Vizard Helene Ambrosino	<ul style="list-style-type: none"> • FIFRA 	202-564-2652 202-566-5940 202-564-2627	lott.don@epa.gov vizard.elizabeth@epa.gov ambrosino.helene@epa.gov

¹⁴ 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.

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Craig Haas Greg Sullivan Todd Stedeford	EPCRA 304, 311/312 and CERCLA 103	202-564-6447 202-564-1298 202-564-2977	haas.craig@epa.gov sullivan.greg@epa.gov stedeford.todd@epa.gov
Cliff Rader Bob Heiss*	<u>Federal Activities</u> <ul style="list-style-type: none"> • NEPA compliance and Environmental Impact Statement reviews • Import/export of hazardous waste and international capacity building* 	202-564-7159 202-564-4108	rader.cliff@epa.gov heiss.robert@epa.gov
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Jonathan Binder Fran Jonesi	OECA Tribal Issues	202-564-2516 202-564-7043	binder.jonathan@epa.gov jonesi.fran@epa.gov
Maureen Lydon Michele McKeever	OECA's FY 2016-2017 National Program Manager (NPM) Guidance	202-564-4046 202-564-3688	lydon.maureen@epa.gov mckeever.michele@epa.gov