

**FY 2015 EXTERNAL COMMENTS AND RESPONSE TO COMMENTS SUMMARY**

**FY 2015 Office of Enforcement and Compliance Assurance  
National Program Manager Guidance Addendum**

Comment from State, Tribe, or Other Stakeholder	Commenter(s)	Location in Draft Guidance	NPM Response	Action Taken in Final Guidance
<p><b>General Comments:</b></p> <p>Our program (DSWM) would like to thank the U.S. Environmental Protection Agency (EPA) for the opportunity to comment on this draft addendum and also for EPA’s initiative to strive to improve the environmental protection of the nation in new and improved ways.</p> <p>It should be noted that these limited Division comments, from our program, are primarily confined to RCRA issues and general topics that include and/or impact on RCRA issues that we work with on a daily basis (such as the product life cycle approach). Our comments are primarily confined to the areas we work with and to those</p>	<p>Robert S. Nakamoto, P.E., CHMM Environmental Protection Specialist 5</p> <p>Division of Solid Waste Management (DSWM)</p> <p>Tennessee Department of Environment &amp; Conservation (TDEC)</p>	<p><i>Page 1</i></p>	<p>Thank you for explaining that your comments are primarily confined to RCRA issues and general topics.</p>	<p>Not applicable. Comment did not suggest changes to the Addendum.</p>

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specific issues that impact on the subject of waste generation and waste management.				
<p><b>Office of Enforcement and Compliance Assurance Draft National Program Manager Guidance</b></p> <p>Page 1, wording suggestion for your consideration: recommend inserting the word “and/or” instead of “and” between civil and criminal reference enforcement. There may be times when one or the other is appropriate but not both.</p>	<p>Division of Solid Waste Management (DSWM)</p> <p>Tennessee Department of Environment &amp; Conservation (TDEC)</p>	<p><b>Office of OECA NPM Guidance</b></p> <p><i>Page 1</i></p>	<p>Thank you for your comment. We agree that there are times when one or the other is appropriate but not both. In the section where this language is referenced, the intent is to note that in general, in ensuring compliance, we use a variety of tools including both civil and criminal enforcement.</p>	<p>Not applicable. Please see adjacent response. Thank you.</p>
<p>Page 1, we support EPA’s and the states’ and tribes’ efforts to move to “Next Generation” compliance. We also support EPA efforts to further improve its working relationship with the states and tribes in order to further improve environmental regulation and protection in the U.S.</p>	<p>Division of Solid Waste Management (DSWM)</p> <p>Tennessee Department of Environment &amp; Conservation (TDEC)</p>	<p><i>Page 1</i></p>	<p>Thank you for these comments in support of the language in the Addendum.</p>	<p>Not applicable. Comment did not suggest changes to the Addendum.</p>

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Page 7, The wording changes for Measure RCRA 01 looks appropriate.	Division of Solid Waste Management (DSWM)  Tennessee Department of Environment & Conservation (TDEC)	<i>Page 7</i>	Thank you for your comment in support of measure RCRA 01.	Not applicable. Comment did not suggest changes to the Addendum.
Page 7, we fully support allowing EPA Regions and their states improved flexibility to adjust state work plans to achieve superior environmental compliance results. The added clarification looks like it will help to clarify how to better document these adjustments.	Division of Solid Waste Management (DSWM)  Tennessee Department of Environment & Conservation (TDEC)	<i>Page 7</i>	Thank you for your comments in support of the draft RCRA CMS language.	Not applicable. Comment did not suggest changes to the Addendum.
Page 8, The proposed wording for the Community Engagement Initiative better explains this initiative in a more positive and clearer light.	Division of Solid Waste Management (DSWM)  Tennessee Department of Environment & Conservation (TDEC)	<i>Page 8</i>	Thanks for your comment in support of the Community Engagement Initiative language.	Not applicable. Comment did not suggest changes to the Addendum.

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<b>Issue Area:</b> Key Change: Revision of Measure RCRA 01				
<p>1. The new language for this measure reads <i>“Regions must 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.”</i></p> <p>Comment: Some States have mandatory statutory requirements to conduct inspections at TSDFs within their States. This revised measure makes for duplicative efforts among the States and EPA and takes away resources that are better utilized in other areas.</p>	<p>The Hazardous Waste Subcommittee of the Association of State and Territorial Solid Waste Management Officials (ASTSWMO)</p>	<p>Page 7, Draft FY 2015 National Program Manager Guidance (NPMG) Addendum, Office of Enforcement and Compliance Assurance</p>	<p>The requirement for TSDF inspections (including financial reviews) has not really changed from the past, it is merely a clarification and added flexibility. For example, while most of the financial assurance reviews will be conducted for the same facilities that had an on-site inspection, not all of the financial assurance reviews have to occur at the same facilities if the region identifies ones that may pose a higher risk of noncompliance or adverse consequences from noncompliance. The on-site inspections are part of a standard and necessary oversight approach. EPA’s overall oversight of the states’ RCRA Subtitle C programs necessitates the continuation of these inspections.</p>	<p>Not applicable.</p> <p>Please see response to comment.</p>
<p>2. The new language for this measure reads <i>“Regions must commit to inspect at least the same number of financial assurance instruments at</i></p>	<p>The Hazardous Waste Subcommittee of the Association of State and</p>	<p>Page 7, Draft FY 15 Addendum, Office of Enforcement and Compliance</p>	<p>Thank you for your comment.</p> <p>Please see the previous response above.</p>	<p>Not applicable. Please see response to comment above.</p>

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<p><i>RCRA operating facilities as the region inspects for operating CEIs.</i> ”</p> <p>Comment: Again, this means duplicative efforts are being conducted by both States and EPA, diverting resources better utilized in other areas.</p>	Territorial Solid Waste Management Officials (ASTSWMO)	Assurance		
<b>OECA Issue Area: State Review Framework/Strengthening State Performance and Oversight</b>				
ACWA supports removal of references to the NPDES MOAs from State Review Framework.	Association of Clean Water Administrators (ACWA)	Section II, Page 2	Thanks for your comment in support of the revisions discussed in OECA’s FY 2015 Addendum.	Not applicable.
States remain concerned that the Agency is pushing for more prescriptive NPDES MOAs than is necessary. EPA HQ needs to closely monitor individual state feedback.	Association of Clean Water Administrators (ACWA)	FY2014 NPMG Section III-C-1-a-iv, Page 43	OECA and the EPA Regions discuss state feedback on NPDES MOAs. EPA is available to discuss your concerns on this topic.	Not applicable. Please see response to comment.

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<b>OECA Issue Area: State Review Framework/Strengthening State Performance and Oversight (continued)</b>				
ACWA supports more efficient State Performance and Oversight tools. ACWA agrees that integrating PQR and SRF failed to produce very many efficiencies.	Association of Clean Water Administrators (ACWA)	Section II, Page 3	Thanks for your comment in support of more efficient State Performance and Oversight tools. Some of the revisions made as part of the SRF efficiencies process are referenced in OECA's FY 2015 Addendum.	Not applicable.
<b>OECA Issue Area: CWA Compliance Monitoring Strategy</b>				
ACWA supports updating the Compliance Monitoring Strategies to include a larger set of compliance activities including off site desk audits, focused inspections, and other tools. Given the annual/biannual commitments process, beginning FY2015 is too soon to expect state implementation. FY2016 is more reasonable.	Association of Clean Water Administrators (ACWA)	Page 3-5	OECA appreciates ACWA's comment about the revisions to the NPDES CMS. We understand that the timeline for states to develop CMS plans varies across the country, with many state planning processes beginning during the spring and summer each year. OECA will work closely with the Regions and states to facilitate a smooth transition to the revised CMS for FY15. The majority of changes to the CMS relate to increasing flexibility and clarifying the CMS processes. States are not obligated to adopt newly available flexibilities during FY15.	Not applicable. Please see response to comment for explanation.

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<b>OECA Issue Area: Other Related Comments</b>				
ACWA supports Next Generation Compliance initiatives where flexibility is provided, efficiencies are highlighted, and improved water quality is a direct result.	Association of Clean Water Administrators (ACWA)	FY2014 NPMG, Throughout	Thank you for the comment in support of Next Generation Compliance initiatives.	Not applicable. Comment did not recommend changes to Addendum.
Significant Noncompliance (SNC) – EPA should update the SNC policy to differentiate between real significant water quality issues and paperwork violations.	Association of Clean Water Administrators (ACWA)	FY2014 NPMG, Section III-C-1-a-iv, Page 46	Under its ongoing Clean Water Action Plan “NPDES New Enforcement Framework Project,” EPA is re-evaluating its criteria and method for prioritizing serious NPDES violations. EPA recently briefed ECOS and ACWA members on this effort and state volunteers have joined our workgroup to assist us with this task	Not applicable. Comment did not recommend changes to Addendum.
E-Reporting Rule - States & EPA should only be collecting information that is needed to manage the programs. Likewise, EPA should continue to work with states to develop an implementable rule. In particular, EPA must streamline Appendix A.	Association of Clean Water Administrators (ACWA)	FY2014 NPMG, Section III-C-1-a-iv, Page 43	Thank you for your comment on the proposed NPDES Electronic Reporting Rule. EPA is developing a supplemental notice of proposed rulemaking for that rule. In the supplemental notice, EPA will provide clarifications and identify key comments while providing another opportunity for public comment. In recent months, in response to a request from ECOS and ACWA, EPA has hosted a series	Not applicable. Comment focuses on proposed rule.

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			<p>of discussions with states, ECOS, and ACWA regarding various aspects of the proposed rule, with future scheduled discussions focusing on the details of the proposed rule's Appendix A (the list of required data). During the development of the final rule, EPA will develop a formal response to comments document which will be made public.</p>	