

**Office of Enforcement and Compliance Assurance  
National Program Guidance**

Fiscal Years 2020-2021

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## SECTION I. INTRODUCTION

This FY 2020-2021 National Program Guidance for the Office of Enforcement and Compliance Assurance (OECA) is a preliminary planning document and reflects the information currently available regarding specific programmatic commitments and activities. It identifies the national compliance and enforcement activities that the U.S. Environmental Protection Agency (EPA or the Agency) and state, local and tribal government agencies should perform in FY 2020-2021 consistent with the budget and the Administrator's priorities. In developing this guidance, OECA reviewed and considered the state, tribal, and territory priorities identified through the Regional Administrator-led early engagement and additional program-specific early engagement. The "[EPA Overview to the National Program Guidance](#)" communicates important background and agency-wide information, and should be read in conjunction with this FY 2020-2021 OECA National Program Guidance.

EPA is strengthening and building our relationship with states, territories, and federally recognized Indian tribes to ensure that we deliver on our shared commitment to a clean and healthy environment. This collaboration emphasizes use of the full range of EPA's compliance assurance tools, such as helping regulated entities understand their compliance obligations, helping facilities return to compliance through informal actions, building state capacity, supporting state actions, bringing Federal civil administrative actions, and bringing Federal civil or criminal judicial enforcement actions. EPA is working to augment the compliance assurance tool box to enhance efficiency, reduce burden on the regulated community, and improve environmental outcomes.

This document describes OECA's efforts to collaborate with states, territories, and tribes as we implement cooperative federalism. A true partnership and shared governance among OECA, regions and authorized states, territories, or tribes is critical for EPA to achieve its strategic measures. Cooperative federalism, however, does not mean that EPA will ignore noncompliance. EPA retains enforcement authority and will use it if states, territories, or tribes lack the authority, capability, or will to take timely and appropriate action to protect public health and the environment. By adhering to the rule of law and proper processes, EPA will ensure consistency, certainty and a level playing field for the regulated community across the country. This document includes a description of activities and tools that are available to EPA, states, territories, and tribes to ensure compliance with environmental law.

## SECTION II. STRATEGIC PLAN IMPLEMENTATION

### A. OECA's Key Activities to Promote Environmental Compliance through Cooperative Federalism

#### 1. Interim Guidance

In 2018, OECA's Assistant Administrator (AA) issued the [Interim OECA Guidance on Enhancing Regional-State Planning](#) to begin a more collaborative partnership between EPA and authorized states. This guidance applies to all EPA compliance assurance activities, such as inspections and enforcement, in authorized state and tribal environmental programs and addresses two critical areas of communication and collaboration. First, it outlines best practices for joint work planning, including the nature, frequency, and scope of planning discussions. Second, it reiterates that states, territories, or tribes that are the primary implementers of authorized/delegated programs, except for specific situations, and provides examples of the types of situations that could warrant EPA involvement in individual inspections and enforcement (following communication with the state, territory, or tribe).

This guidance will be finalized in FY 2019 based on input from states, territories, tribes, and the public.

## 2. Collaboration with States, Territories, and Tribes

EPA, states, territories, and tribes share responsibility for protecting human health and the environment. Most major federal environmental laws require EPA to establish minimum, nationwide program standards, and give EPA the authority to authorize states, territories, and tribes to implement these programs.

EPA is working closely with states (individual states and through associations representing state environmental officials) and tribes with approved programs to develop new compliance tools and approaches to make our programs more effective and efficient in promoting compliance and remedying violations. During 2018, the ECOS-EPA Compliance Assurance Workgroup, composed of state commissioners and senior EPA officials, met to develop ways to improve the state-federal relationship in the context of compliance assurance. The principles articulated by this workgroup helped EPA enhance state involvement in the identification and implementation of National Compliance Initiatives and informed the January 2018 Interim Guidance.

Other ongoing collaborative efforts with ECOS include: producing webinars to help us identify new compliance approaches that we could then pilot and evaluate; developing smart mobile tools to make our inspectors more efficient and effective; increasing availability of training; preparing for advances in pollution monitoring technology<sup>1</sup>; and expanding electronic reporting in the NPDES program to reduce burdens and improve outcomes<sup>2</sup>.

## 3. State Assists Pilot

EPA began piloting the tracking of State Assists in 2018 to account for the work we do in assisting state compliance assurance programs. This effort will continue as a component of EPA's Enforcement program for Fiscal Years 2020 and 2021. State Assists are limited to instances where the Region has expended substantial resources to identify the violation, developed the injunctive relief, and/or helped the state take an action to remedy the violation. In short, any instance where the state couldn't or wouldn't take the action without the EPA's help or explicitly requests the case after EPA has identified a violation would be measured as a "State Assist." There are two general situations in which a Region would record a "State Assist":

- The Region, via an inspection, information request, and/or other activity has identified likely violations at a facility and the state explicitly requests the opportunity to address the violation. These are instances where, historically, if the state had not requested the lead, the Region would have initiated an enforcement action. However, a "State Assist" could also include instances in which the Region proactively refers the matter to the state as the more appropriate entity to address the violations and the state agrees to pursue the matter. In the case of a joint EPA/state inspection, if the EPA writes the inspection report and the state takes

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<sup>1</sup> For more information on OECA's collaboration with ECOS via E-Enterprise, see [Article: Advanced Monitoring Technology: Opportunities and Challenges. A Path Forward for EPA, States, and Tribes.](#)

<sup>2</sup> For more information on a broader range of collaborations between OECA and ECOS, see Compendia of Next Generation Compliance Examples in Water, Air, Waste, and Cleanup Programs.

the action, it comes within the definition of a "State Assist."

- A violation has been identified, but the state is not making sufficient progress. Ultimately, with the EPA's involvement, the state successfully addresses the matter. For example, at the request of the state, the Region may send a letter informing the facility that if an acceptable settlement with the state is not achieved by a date certain, the Region will commence an enforcement action. Or the Region may help the state evaluate the appropriate injunctive relief needed to remedy the violation.

#### 4. State and Tribal Capacity Building

EPA will continue to provide training opportunities to state, local and tribal civil and criminal investigators, inspectors, case development specialists, lawyers, and technical experts to assist in the enforcement and compliance monitoring of environmental laws. These training opportunities help with the development of a highly skilled, professional enforcement and compliance workforce. An experienced and trained workforce can help drive improvement in programs and contribute to improved environmental results and compliance. Building capacity will improve state and tribal ability to use the broad range of compliance assurance tools to reduce noncompliance, ensure consistent implementation of environmental requirements, sanction violators, and reduce environmental impacts.

EPA will continue to provide tools and training to build state and tribal government capacity for enforcement, compliance monitoring, and compliance assurance with environmental laws. For example, EPA will continue to provide access to eLearning courses required for inspector credentials, eLearning courses to increase knowledge of environmental laws and obligations, and skills training courses, such as negotiations. EPA will also provide webinars and skills training on other areas of interest, such as innovative compliance research and financial models for assessing civil penalties.

EPA will work closely with its partners to identify areas of interest, assess subject matter training needs, and develop new tools and training courses to build capacity. Recognizing limited resources and travel budgets, EPA plans to develop a suite of training options, to include in-person courses, eLearning, and webinar presentations. In addition, EPA may identify state capacity building opportunities through joint inspections with its state partners of regulated entities. Such shared efforts often provide on-the-job field training of state personnel. State capacity will also continue to be enhanced through EPA oversight inspections and review of state-lead compliance activities. Routine oversight of state programs provides input to state leadership enabling a constructive dialogue for continuous improvement.

#### 5. Tribal Government Collaboration and Consultation

EPA plans to continue collaborating with federally-recognized Indian tribes (tribes) to assure compliance in Indian country to protect human health and the environment. The collaboration occurs both when EPA directly implements compliance monitoring and enforcement programs (e.g., where a tribe has not been approved to implement a federal program) and when EPA oversees a tribe or tribes implementing EPA-approved programs.<sup>3</sup> EPA-tribal collaboration and consultation, when appropriate, occurs within the context of the generally applicable federal environmental

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<sup>3</sup> See EPA's [Tribal Assumption of Federal Laws -Treatment as a State](#) homepage for background information and the names of tribes with Agency-approved programs.

statutes and regulations and EPA policies, including the “[Interim Guidance](#)” as discussed earlier. In addition, EPA-tribal collaboration occurs within the context of federal Indian law and the unique Agency policies applicable to Indian country and tribes, including the [Policy for the Administration of Environmental Programs on Indian Reservations](#) (Indian Policy), [Policy on Consultation and Coordination With Indian Tribes](#), the [Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy](#) (Tribal Enforcement Guidance), EPA-Tribal Environmental Plans (ETEPs) which outline EPA and tribal priorities for each tribe, and Region-specific policies applicable to Indian country. The collaboration takes place both with individual tribes and with EPA-tribal partnership groups.

## **B. OECA’s Key Activities to Meet Strategic Measure Targets**

OECA is aligning its priorities and activities to reflect the Agency’s FY 2018-2022 Strategic Plan objectives. The enforcement and compliance assurance program supports the Agency goals of addressing air quality nonattainment areas, impaired waters, public health threats posed by drinking water noncompliance, populations vulnerable to air toxics or chemical accidents, and children’s health exposure to lead. To support these goals, OECA will focus on addressing noncompliance in these areas and advancing EPA’s two long term enforcement-related strategic measures: (1) reduce the average time from violation identification to correction, and (2) increase the environmental law compliance rate. OECA will track its progress in advancing these strategic measures by implementing a set of monthly and quarterly measures. These measures are described in this section and can also be found in Section IV.

### **1. Reduce the average time from violation identification to correction**

OECA has established two performance measures for tracking our timeliness to resolve environmental violations. The first measure establishes standards for the timely completion and release of EPA inspection reports to facilities and the public, including any potential deficiencies or areas of concern observed during an on-site inspection. These standards were established under the June 29, 2018 Interim Policy on Inspection Report Timeliness and Standardization (Interim Policy). EPA anticipates that the policy will be evaluated and finalized by FY 2020. The Interim Policy will remain in effect until it is finalized. Regions should follow the Interim Policy and then the revised Final Policy in FY 2020 and FY 2021. In the second measure, OECA and regions are tracking the number of civil judicial enforcement cases referred to the Department of Justice without a settlement or complaint filed after 2.5 years. The purpose of this measure is to drive the prompt resolution of civil cases that are referred to the Department of Justice.

### **2. Increase the environmental law compliance rate**

#### *a. NPDES SNC Rate Measure*

In the FY 2018-2022 EPA Strategic Plan, EPA identified a new priority to increase compliance with environmental laws. The Strategic Plan states: “To maximize compliance over the next five years, the Agency will refocus efforts toward areas with significant noncompliance issues and where enforcement can address the most substantial impacts to human health and the environment.” This focus on increasing compliance and environmental outcomes is also a priority for states. EPA selected the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) as the first program for initiating the effort to increase compliance rates, setting a goal of reducing the rate of significant noncompliance (SNC), which includes Category I violations at NPDES minor permittees, in the NPDES program by 50% by the end of FY

2022. EPA will measure success based on the results obtained – a reduction in the rate of permittees in SNC.

Environmental protection is a shared responsibility among the states, tribes, and the federal government, and the goal of increasing the compliance rate for the NPDES program can be achieved only with substantial, collaborative efforts. EPA recognizes the role of authorized states and territories in the NPDES program as the primary implementers and as critical players in the success of this effort. Accordingly, EPA, at the national and regional levels, will continue working closely with states and territories to develop and implement tools and approaches for preventing, deterring, and addressing SNC, to reach the Agency goals for increasing compliance rates in the NPDES program.

*b. EPA on-site compliance monitoring inspections/evaluations*

EPA's on-site federal compliance monitoring program is a critical component in the Agency's array of compliance assurance tools due to the deterrent effect. On-site inspections can vary in the depth of the review, including check-list type inspections, process-based inspections, and inspections that include monitoring and sampling. Off-site inspections also are a critical tool for detecting non-compliance. OECA will continue to track the number of onsite and off-site federal inspections/evaluations conducted to enable us to assess facility compliance, create deterrence, support the permitting process, and create a level playing field among regulated entities. Additionally, OECA will continue to measure the number of federal inspections/evaluations conducted to support the National Compliance Initiatives to assure adequate EPA inspection resources are dedicated to these high priority areas.

### 3. OECA Activities Supporting Other Core Strategic Measures

Effective compliance monitoring and enforcement play a central role in the Agency's core strategic measures. This section describes three areas of focus that support strategic measures led by other EPA offices. Multiple programs described in section II.C describe OECA's activities to address air quality nonattainment areas, public health threats posed by drinking water noncompliance, populations vulnerable to air toxics or chemical accidents, and children's exposure to lead.

*a. Reduce the number of Clean Air Act nonattainment areas*

Through its compliance monitoring and enforcement activities for the Clean Air Act (CAA) program, EPA ensures the most important air pollution problems are addressed, with an emphasis on the Agency Priority Goal to improve air quality and reduce the number of nonattainment areas. Specifically, in support of this measure, EPA will focus on sources that are located in nonattainment areas or that contribute to nonattainment areas with significant noncompliance.

*b. Reduce the number of community water systems (CWSs) out of compliance with health-based standards*

In support of this measure, EPA will work with states and tribes to ensure: community water systems are complying with SDWA and its implementing regulatory requirements; those systems that are subject to civil judicial consent decrees and administrative orders are in compliance with them; consistent implementation of EPA guidance and policies; and, the overall integrity of the PWS program is maintained. EPA is also considering a new National Compliance

Initiative (NCI) that would support this measure. The NCI would focus on EPA working jointly with states to identify how we can collaborate to use our resources more effectively and efficiently to focus efforts where they can make the biggest difference as we work together to increase compliance with primary drinking water standards thus improving public health protection at CWSs most at risk (see section II.B.4 for more information on FY 2020 – 2023 NCIs).

- c. *Reduce the number of square miles of watershed with surface water not meeting standards*  
Through its compliance monitoring and enforcement activities for the CWA NPDES program, EPA ensures that important water quality problems are addressed. EPA further supports this measure through its focused effort to reduce significant noncompliance at individually-permitted facilities in the NPDES program. EPA will work with state and tribal partners to use the full range of compliance assurance tools to protect human health and the environment by addressing the most serious noncompliance concerns and thereby improving compliance with the CWA and federal NPDES regulations. In direct implementation programs, EPA will strategically target pollution problems involving NPDES-regulated point sources with serious violations and potential water quality or human health impacts for compliance monitoring inspections and, where appropriate, enforcement actions. In authorized programs, EPA will promote adherence to the EPA’s NPDES CMS or an approved Alternative CMS.

#### 4. FY 2020-2023 National Compliance Initiatives

EPA focuses its enforcement and compliance resources on the most serious environmental and public health problems, as identified in the Agency’s Strategic Plan. EPA refers to high priority areas of focus as National Compliance Initiatives - called National Enforcement Initiatives in the FY 2018-2019 National Program Managers Guidance. In implementing NCIs, inspections and enforcement actions continue to be a critical tool for addressing serious violators and deterring violations. EPA will use informal enforcement actions and compliance assistance, as appropriate. EPA also welcomes active state and tribal participation in implementing the NCIs if the state or tribe is authorized for the particular program, in accordance with the Interim Guidance, or successor guidance.

FY 2020 is the beginning of a new NCI cycle that will run for four years. For this new NCI cycle, EPA has provided new opportunities for early and meaningful input from the states and tribes regarding the identification and development of the NCIs. In fall 2018, EPA Regional offices solicited input from the states and tribes. EPA solicited early input from a number of state and tribal associations. In addition, EPA has sought public input on the FY 2020-2023 NCIs through a [Federal Register Notice](#) issued February 8, 2019.

Through the public input and comment process for this National Program Guidance, EPA again is seeking input on the new cycle of NCIs from states, tribes and the public. More information on the current NCIs and ideas for new NCIs EPA is considering can be found at <http://www.epa.gov/enforcement/national-compliance-initiatives> and in the [Federal Register Notice](#). EPA is collecting comment on which of the current national initiatives should continue, be modified, or returned to the standard (“core”) enforcement program. Current initiatives may be carried forward into the FY 2020-2023 NCI cycle, as is or modified, or an NCI may be concluded at the end of FY 2019. The public also is invited to propose other areas for consideration as an NCI.



The selection criteria EPA plans to use are: (1) alignment with the Agency Strategic Plan measures and priorities to address nonattainment areas, impaired waters, public health threats posed by drinking water noncompliance, populations vulnerable to air toxics or chemical accidents, and children's exposure to lead; (2) need for EPA expertise, authority, or resources; and (3) need to address serious and widespread non-compliance across the country.

EPA looks forward to considering the state and tribal input and active participation in implementing the NCI if the state or tribe is authorized for the particular program.

As explained in the Federal Register notice, EPA has returned the Prevent Animal Waste from Contaminating Surface and Ground Water NCI to the core enforcement program and is expecting to return the following NCIs to the core enforcement program: (1) Reducing Air Pollution from the Largest Sources, and (2) Keeping Raw Sewage and Contaminated Stormwater Out of Our Nation's Waters. As part of the core program, Regions should continue to collaborate with authorized state programs on inspections and enforcement actions in these areas, focusing on the Agency Strategic Plan measures and priorities. EPA expects that noncompliance in these areas that have serious environmental or public health consequences will be priorities. Regions also should continue to monitor implementation of existing settlement agreements, and where applicable, adapt them to changing circumstances and new information, such as the increasing commitment of cities to implement green infrastructure, changes in financial capability, or technological advances.

## C. Key Programmatic Activities

### 1. Cross Program Activities

#### a. *Compliance Monitoring Strategies*

Compliance monitoring is a key foundation of environmental programs and some level of national consistency in approach, scope and coverage is essential for a level playing field. EPA and states, territories, tribes, and local governments implementing approved programs use national [compliance monitoring strategies](#) (CMSs) for CWA-NPDES, RCRA, CAA, FIFRA, and TSCA programs. The CMSs provide a decision logic and structure for how states and EPA should target onsite inspections over time to efficiently and effectively create deterrence to noncompliance. Other important forms of compliance monitoring (e.g., self-reporting and third party reporting) and compliance assistance (e.g., brochures, websites and educational materials) perform vital complementary functions and are most effective as adjuncts to robust field inspection programs as articulated in the CMSs.

The CMSs have evolved over time and may be supplanted with approved alternative strategies to provide co-regulators with flexibility to address local pollution and compliance concerns, while maintaining the basic expectations for national regulatory program integrity. The CMSs improve communication between co-regulators and regions on compliance monitoring programs and provide a consistent and transparent baseline for EPA oversight of these programs (e.g., through the agreed upon metrics in the State Review Framework). This collaborative ethic is further established in the: [ECOS Guide to Flexibility and Results \(V 1, Oct 2016\)](#).

## **EPA, State, Territory, Tribal, or Local Government Activities**

1. Implement the updated Compliance Monitoring Strategy (CMS) or approved Alternative Compliance Monitoring Strategy (ACMS) as appropriate, for the [CWA-NPDES](#), [RCRA](#), [CAA](#), [FIFRA](#) and [TSCA](#) programs, including for inspections in the federal facilities sector, as resources allow.

### *b. Data Reporting*

Timely, accurate and complete data is critical for EPA and the public to analyze and understand the state of compliance with environmental regulations. Complete and current data enhances EPA's ability to identify priorities, and evaluate program needs and effectiveness consistently and appropriately. OECA continues to work to improve data quality. EPA regions, states, territories and tribes should continue their efforts to ensure timely and accurate entry of compliance and enforcement data into the appropriate national database of record (e.g., ICIS, RCRAInfo, etc.).

### *c. Tips and Complaints*

One of the many approaches EPA uses to carry out its responsibility to assure compliance with environmental laws is to seek help from citizens by asking them to provide us with information about potentially harmful environmental activities in their communities and workplaces. Members of the public give EPA such information through telephone hotlines, letters, EPA's online [Report Environmental Violations form](#), and other mechanisms. EPA uses these tips and complaints along with its other compliance-monitoring activities to identify areas where compliance and enforcement follow-up is warranted. EPA will track and prioritize complaints that provide a reasonable basis to believe that a violation has occurred and respond to the highest-risk violations. State, territories, tribes, and localities operating authorized programs should also consider public tips and complaints when performing their compliance and enforcement functions.

### *d. Environmental Justice*

The Office of Enforcement and Compliance Assurance continues to strengthen the integration of environmental justice (EJ) into our enforcement program – from the problems we select for enforcement attention, the violating facilities we address, the way we design relief to remedy violations and past harms, and our communications with affected communities. OECA has revised its enforcement and compliance policies, trained our case teams and technical experts, built data tools, and set up a governance structure that actively considers EJ in our regular operations. This ongoing work includes reviewing all new cases to determine whether they may affect overburdened communities and, as appropriate, structuring the resolution of enforcement actions to benefit affected communities. To advance this work, OECA recently added [EJSCREEN](#) map layers to [Enforcement and Compliance History Online](#) (ECHO) to help Regions and co-regulators (states, tribes and local government) focus compliance reviews on overburdened communities. This innovation will assist the Agency in identifying overburdened communities or locations that also appear to have facilities presenting a high likelihood of non-compliance with environmental laws. EPA will use this mapping capability, along with on-the-ground knowledge from other EPA programs, states, tribes, and community members and groups, to help direct where we should focus our compliance efforts to make a difference to communities.

e. *State Review Framework*

EPA and states developed the State Review Framework (SRF) to periodically evaluate each authorized state compliance and enforcement program “to provide a fair and consistent level of core enforcement across the country” ([ECOS Resolution 98-9](#), revised Sept 2016). The SRF is a national program to periodically evaluate authorized state and EPA directly implemented CAA, CWA and RCRA enforcement and compliance performance. This approach ensures that: (1) states and EPA implemented programs are evaluated consistently; (2) a level playing field exists for regulated businesses; (3) the public has similar protection from impacts of illegal pollution; and (4) timely compliance with national laws is widely achieved (where regions directly implement the federal program, OECA reviews regional programs using the same process and procedures as for all SRF reviews).

EPA has continuously worked with states to identify and implement updates and improvements to the SRF program. During 2017, EPA and states worked together to update the metrics that are being used in the fourth round of SRF reviews, which will occur from 2018-2022. In 2017, OECA instituted an EPA Lean Management System (ELMS) measure to track and manage completion of SRF recommendations. The goal of this measure is to complete 85% of recommendations stemming from Round 3 reviews by the end of FY 2020.

**EPA Activities**

**Activities Where EPA is Directly Implementing the Program**

1. OECA will continue to conduct SRF reviews of CAA, CWA and RCRA programs directly implemented by EPA Regions.

**EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

2. Focus oversight resources on state programs that are not meeting minimum national performance standards.
3. Conduct all Round 4 SRF reviews of state CAA, CWA, and RCRA enforcement programs scheduled for 2020 and 2021 following SRF Round 4 guidance issued in FY 2018 (available on the ECHO SRF page) and enter completed draft and final SRF reports into the SRF Manager database.
4. Discuss outstanding SRF recommendations with states as part of regularly scheduled annual program planning and review.
5. Work with states to encourage addressing recommendations in a timely fashion and enter evidence of completion into the SRF Manager Database. In addressing state core program performance issues, regions should respond according to the approaches articulated in the 1986 Revised Policy Framework for State/EPA Enforcement Agreements, as updated, and the National Strategy for Improving Oversight of State Enforcement Performance.
6. Elevate unresolved issues to OECA HQ.

**State, Territory, Tribal, or Local Government Activities in Authorized Programs:**

1. Work cooperatively with the EPA regions to conduct SRF reviews as scheduled and implement recommendations within the agreed upon time frames included in the final SRF reports provided to the state or local agency.

f. *Field Activities: Inspector Credentialing, QAFAP, and Interim Policy on Inspection Report Timeliness and Standardization*

This section identifies EPA and co-regulator activities necessary to ensure the quality and efficiency of compliance monitoring field activities.

**EPA Activities**

1. Ensure EPA HQ and regional inspectors are trained and credentialed consistent with Agency guidance.
2. Continue to develop and engage in usability testing, field testing and training for Smart Tools for a 2020 national deployment for RCRA inspectors and begin scoping and developing for a new tool for CWA inspectors.
3. When appropriate, authorize state, territorial, and tribal inspectors to conduct inspections on EPA's behalf. Ensure these inspectors 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 \(2004\)](#).
4. Ensure timely and accurate entry of federal inspection, compliance, and enforcement data into the national database-of-record (e.g., ICIS, RCRAInfo, etc.).
5. Conduct field activities (e.g., compliance inspections and sampling) in accordance with the procedures outlined in the [EPA Quality Assurance Field Activities Procedures \(QAFAP\)](#). Provide training to new staff on the EPA QAFAP guidelines and the established procedures and annual refresher training to existing staff.
6. Apply 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 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.
7. Implement the [Interim Policy on Inspection Report Timeliness and Standardization \(2018\)](#) (or subsequent final policy), See section B.1.
8. Specifically consider Clean Air Act nonattainment areas, impaired waters, public health threats posed by drinking water non-compliance, populations vulnerable to air toxics or chemical accidents, and children's exposure to lead when selecting and conducting compliance monitoring activities.
9. Ensure that the most serious instances of noncompliance are addressed through planning with authorized states, territories and tribes, state oversight, regular meetings, targeted inspections and enforcement.
10. Support and encourage states, territories, and tribes to support inspector training development.

**Expectations for State, Territory, Tribal, or Local Government Activities:**

1. Ensure timely and accurate entry of inspection, compliance, and enforcement data into EPA' national systems either directly or via electronic transmission using CDX. In rare instances where this is not feasible, the data should be provided to EPA in another format.
2. Specifically consider Clean Air Act nonattainment areas, impaired waters, public health threats posed by drinking water non-compliance, populations vulnerable to air toxics or

chemical accidents, and children’s exposure to lead when selecting and conducting compliance monitoring activities.

3. Ensure inspectors who conduct inspections 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 \(2004\)](#) and other applicable guidance, policies and training templates on the EPA Inspector Wiki<sup>4</sup>.

*g. Compliance and Enforcement in Indian Country*

EPA works to ensure compliance in Indian country to protect human health and the environment. EPA directly implements the compliance monitoring and enforcement elements of virtually all programs in Indian country because most tribes are not currently approved to implement federal programs. EPA acts in an oversight capacity where a tribe has been authorized by EPA to implement an environmental program. In both its direct implementation and oversight capacity, EPA conducts its work in Indian country with appropriate consultation and coordination with tribes and consistent with the principles of cooperative federalism.<sup>5</sup>

**EPA Activities**

1. Make available a wide array of technical support and compliance assistance information to tribes and the regulated community operating in Indian country to improve and sustain compliance and facilitate return to compliance.
2. Review applications for program approval to ensure adequate compliance monitoring and enforcement authority.
3. Use the CMS, CMS planning documents, and EPA Tribal Environmental Plans, which contain universe estimates and priority information, to set the number and type of yearly compliance monitoring activities.
4. Provide tribal governments appropriate notice prior to announced inspections or as soon as practical after unannounced inspections are conducted in Indian country. EPA’s pre- and post-inspection interactions with tribes and facilities in Indian country are guided by Tribal Enforcement Guidance, [Restrictions on Communicating with Outside Parties Regarding Enforcement Actions](#), and Region-specific policies applicable to Indian country.
5. Apply the “Enforcement Principles” of the [Indian Policy](#).<sup>6</sup> The [Tribal Enforcement Guidance](#) and the [Questions and Answers on the Tribal Enforcement Process](#) provide information on how and when to work cooperatively with tribal governments, and the process associated with initiating civil enforcement at tribal government facilities.<sup>7</sup>
6. Use penalty and settlement policies to ensure that the regulated community in Indian country is treated consistently for similar violations across the country.<sup>8</sup> As the Agency

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<sup>4</sup> Individuals with approved credentials can access this resource at

[https://inspector.epa.gov/inspector/index.php/Wiki\\_Home](https://inspector.epa.gov/inspector/index.php/Wiki_Home)

<sup>5</sup> See Section II.A Tribal Government Collaboration.

<sup>6</sup> See Principle 9 of EPA’s [Policy for the Administration of Environmental Programs on Indian Reservations](#). The Indian Policy emphasizes first working cooperatively with tribal governments to resolve violations at tribal facilities.

<sup>7</sup> EPA Regions will also continue to apply their region-specific policies or procedures related to addressing noncompliance in Indian country.

<sup>8</sup> See EPA’s [General Civil Enforcement Penalty Policies](#), and Program-Specific Enforcement Response and Penalty Policies, [Penalty Inflation Rules](#), [Penalty Policy Amendments](#), and settlement policies.

seeks to work cooperatively with tribes and apply the appropriate Enforcement Response Policy (ERP) and penalty policies in its cases, EPA will continue to ensure that the Enforcement Principles of the [Indian Policy](#) do not result in a lesser degree of human health and environmental protection in Indian country than elsewhere in the United States.

7. Address noncompliance at non-tribal facilities in Indian Country as it would at facilities outside Indian country.

## 2. Statute/Program-specific Activities

### *a. FY 2020-2023 National Compliance Initiatives*

EPA is seeking comment on FY 2020-2023 National Compliance Initiatives; see page 8.

We will provide details on each of the final selected NCI in this section for the final National Program Guidance.

### *b. Clean Air Act (CAA) Program for Compliance Assurance and Enforcement*

#### **CAA Stationary Source Program**

The compliance monitoring and enforcement activities for the Clean Air Act (CAA) Stationary Source Program are described below. EPA is also considering including cutting hazardous air pollutants and/or significant sources of volatile organic compounds as National Compliance Initiatives (see section II.B.4).

#### **General EPA Activities in the CAA Stationary Source Program**

##### **Activities Where EPA is Directly Implementing the Program**

1. Directly implement the CAA Stationary Source Program where the program has not been delegated or authorized.
2. To ensure the most important air pollution problems are addressed with an emphasis on the Agency Priority Goal to improve air quality by reducing the number of nonattainment areas and to address vulnerable populations, prioritize:
  - Sources in nonattainment areas or that contribute to nonattainment areas with potential significant noncompliance.
  - Sources in communities that emit hazardous air pollutants in violation of the National Emission Standards for Hazardous Air Pollutants (NESHAPs).
  - Sources whose area source status may be misclassified and as a result, improperly permitted or not permitted.
3. Continue a robust enforcement and compliance assurance program to address violations and bring the facility back into compliance to protect air quality and deter noncompliance.
4. Follow the recommended minimum evaluation frequencies where EPA has direct implementation authority in Indian country and territories, thereby ensuring a consistent level of evaluation coverage and a level playing field for regulated entities across the country.
5. Continue to refer matters to and coordinate with EPA's Center of Excellence for Ozone Depleting Substances housed in Region 5.

### **EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

6. Ensure consistent collaboration and partnership between EPA and authorized states, tribes, territories, and localities with regards to compliance assurance activities, and work collaboratively to determine which enforcement matters will be pursued by EPA, as outlined in the 2018 [Interim OECA Guidance](#), or successor guidance.
7. Following joint work planning, to ensure that the most important air pollution problems are addressed with an emphasis on EPA's strategic plan measure to improve air quality by reducing the number of nonattainment areas, and to address vulnerable populations, prioritize, encourage states to focus on:
  - Sources in nonattainment areas or that contribute to nonattainment areas with potential significant noncompliance with National Ambient Air Quality Standards (NAAQS) consistent with national guidance.
  - Sources in communities that emit hazardous air pollutants in violation of the NESHAPs consistent with national guidance.
  - Sources whose status may be misclassified and as a result, improperly permitted or not permitted consistent with the national guidance.
8. Continue reviewing state implementation plan (SIP) submissions for enforceability and reviewing Title V permits consistent with national guidance.
9. Negotiate CMS plans or ACMS plans with delegated agencies working to maximize the flexibilities to take each agency's unique situation into account with priority focus on improving air quality by reducing the number of nonattainment areas and by addressing air pollution impacts to vulnerable populations while also providing national consistency among stationary source air compliance monitoring programs.
10. To ensure consistency in the application of CAA regulations, effective communication and a clear understanding of expectations, hold regular meetings and discussions with delegated agencies to promote program implementation in accordance with national policy and guidance such as the CMS, the CAA National Stack Testing Guidance, the Timely and Appropriate Enforcement Response to High Priority Violations (HPV Policy), and the Guidance on Federally-Reportable Violations for Clean Air Act Stationary Sources (FRV Policy).
11. As part of joint work planning, identify the most important air pollution problems and serious violations, with a focus on vulnerable communities using data analysis tools and other information such as non-attainment areas, ECHO Clean Air Tracking Tool (ECATT), National Air Toxics Assessment (NATA) data, chemical toxicity data, and community input.

### **Expectations for State, Territory, Tribal, or Local Government Activities**

1. Agencies are encouraged to use the flexibilities provided in the CMS or an applicable ACMS to maximize resources, engage in innovative compliance monitoring, focus on regulated facilities with the most potential for significant impact on human health and the environment, and address local priorities and issues of concern, including areas of nonattainment.
2. To enforce the law consistently, promote timely enforcement of CAA regulations and consider reducing the average time from violation identification to correction thereby bringing facilities back into compliance more quickly, carry out program implementation with consideration for the HPV and FRV Policies, and initiate



- civil/criminal enforcement actions as appropriate.
3. To enhance program coordination, work with EPA to identify and evaluate program areas that could become national priorities/compliance initiatives in the future.

### ***CAA Title II, Vehicle and Engine Enforcement***

The compliance monitoring and enforcement activities for the Clean Air Act (CAA) Vehicle and Engine Enforcement Program are described below.

#### **General EPA Activities in the CAA Title II, Vehicle and Engine Enforcement Program**

1. Investigate, prosecute, and resolve violations of prohibitions in section 203(a) of the CAA. Exercise information-gathering authorities, primarily in sections 208 and 307, to determine compliance with the CAA prohibitions concerning vehicles, engines, equipment, and parts and components for such products. Resolve alleged violations using administrative enforcement authorities, and by referring matters to the United States Department of Justice.
2. Hold original equipment manufacturers (OEMs) accountable to ensure their vehicles, engines, and equipment are covered by EPA-issued certificates of conformity (or are properly exempt) when introduced into United States commerce. In the course of EPA certification, ensure OEMs perform proper emissions testing and are forthright with the EPA about the design of their product. Focus areas include enforcement actions for use of undisclosed engine software, some of which may constitute illegal defeat devices. Other focus areas concern ensuring in-use compliance and taking enforcement actions where OEMs fail to honor emissions warranties, report emissions defects, and otherwise inadequately maintain the emissions controls on their vehicles, engines, and equipment during their useful lives.
3. Address the illegal tampering of emissions controls on vehicles, engines and equipment. Focus on enforcement actions against commercial fleets of trucks whose owner removes filters and catalysts from their vehicles, and maintenance shops that routinely remove emissions controls.
4. Address the illegal manufacture, sale, offering for sale and installation of aftermarket defeat devices. Focus on software products (commonly known as “tuners” and “tunes”) that are specifically designed to hack into and reprogram engine software for the purpose of defeating emissions controls in the engine (e.g., fueling strategy and exhaust gas recirculation) and in the exhaust (e.g., filters and catalysts). Focus on hardware products that inhibit exhaust gas recirculation systems, or that enable the removal of filters and catalysts from the exhaust system.
5. Stop illegal importations of vehicles, engines, and equipment. In partnership with Customs and Border Protection (CBP), target and inspect goods at the point of importation to determine whether the goods comply with the CAA. Advise CBP on whether to seize or otherwise refuse to allow goods into the United States. Where violations are found, EPA will investigate to determine whether other shipments are in compliance and will hold the importer accountable.

#### ***CAA 112(r) Chemical Accident Prevention Program***

EPA’s Chemical Accident Prevention program requires more than 12,300 industrial facilities that use or store chemicals from a list of regulated toxic and flammable substances held above certain threshold quantities to develop and implement a Risk Management Plan (RMP). Section 112(r)(1) of the Clean Air Act, the General Duty Clause, creates a statutory obligation on all



stationary sources to minimize the likelihood and/or consequences of accidental releases. EPA is considering extending the National Compliance Initiative on reducing risks of accidental releases at industrial and chemical facilities (see section II.B.4).

Please refer to OLEM's NPG for descriptions of the compliance monitoring aspects of the program.

**General EPA Activities in the CAA 112(r) Chemical Accident Prevention Program**

1. Continue to advance the goals of the Chemical Accident Risk Reduction National Compliance Initiative.
2. Conduct all RMP inspections in accordance with the "Guidance for Conducting Risk Management Program Inspections Under Clean Air Act Section 112(r)" (EPA 550-K-11-001, January 2011). Conduct at least 36% of these inspections at high-risk facilities, and at least 50% at facilities within the Chemical Accident Risk Reduction National Compliance Initiative (NCI). A single facility inspection can be applied to both requirements. A limited number (less than 20%) of annual inspections may be RMP non-filer and/or CAA 112(r) General Duty Clause inspections.
3. Work collectively to take high-impact cases to address serious situations of non-compliance, with a focus on protecting vulnerable communities, many of which are in low income or minority communities, from the risks posed those facilities.
4. 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.
5. As appropriate, evaluate facility compliance with EPCRA section 304 and 311/312 and CERCLA section 103 during all RMP inspections.
6. Target a goal of conducting 224 inspections of RMP facilities annually in FY2020-2021.

**Activities Where EPA is Directly Implementing the Program**

7. Directly implement the RMP program in non-delegated states, territories, and Indian country.
8. Ensure compliance with the General Duty Clause (GDC) obligations. The Clean Air Act does not give EPA the authority to delegate GDC to states.

**EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

9. Ensure consistent collaboration and partnership between EPA and authorized states, tribes, territories, and localities with regards to compliance assurance activities, and work collaboratively to determine which enforcement matters will be pursued by EPA, as outlined in the 2018 [Interim OECA Guidance](#), or successor guidance.

**Expectations for State, Territory, Tribal, or Local Government Activities in Authorized Programs**

1. Ensure compliance with the RMP requirements in [states, Indian country, territories, and localities that have obtained delegation](#).

*c. Clean Water Act (CWA) Program for Compliance Assurance and Enforcement*

**NPDES**

The majority of states have received authorization from EPA to implement the Clean Water Act (CWA) Section 402 National Pollutant Discharge Elimination System (NPDES) permit program. EPA directly implements the program in three states, the District of Columbia, U.S. Territories,

and in Indian country as well as parts of the NPDES program where a state is not fully authorized. Essential EPA compliance monitoring and enforcement activities for the CWA NPDES program are described below.

#### **General EPA Activities in the NPDES Program**

1. Conduct EPA NPDES compliance monitoring and enforcement activities to ensure CWA and regulatory requirements are met, supporting EPA's strategic plan measure to increase the environmental law compliance rate by reducing the rate of significant noncompliance in the CWA NPDES program (see section II.B.2).
2. Ensure inspectors conducting EPA inspections are trained and credentialed.
3. Ensure compliance with civil judicial consent decrees and administrative orders.
4. Continue to refer matters to and coordinate with EPA's Center of Excellence for Biosolids housed in Region 7.
5. Work with approved states and the Virgin Islands to implement the CWA NCIs, including NCIs that EPA selects for the 2020-23 cycle (see section II.B.4).

#### **Activities Where EPA is Directly Implementing the Program**

6. Directly implement the CWA NPDES Program where the state has not been authorized.
7. Implement NPDES regulatory requirements for [electronic reporting](#).
8. To ensure the most important water pollution problems are addressed with an emphasis on the Agency Priority Goal to reduce the number of square miles of watershed with impaired waters prioritize pollution problems involving NPDES-regulated point sources with serious violations and potential water quality or human health impacts for compliance monitoring inspections and, where appropriate, take enforcement actions.
9. Timely review self-monitoring reports from regulated entities and take timely and appropriate action to address NPDES significant noncompliance (SNC)/Category I violations.
10. Meet the timely and appropriate enforcement response guidelines in EPA's [NPDES Enforcement Management System](#) (NPDES EMS), and the regulatory NPDES electronic reporting requirements.
11. Implement the pretreatment program and other aspects of the NPDES program where EPA is the permitting authority per statutory and regulatory requirements and consistent with applicable EPA guidance and policy.

#### **EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

12. Ensure consistent collaboration and partnership between EPA and authorized states, tribes, territories, and localities with regards to compliance assurance activities, and work collaboratively to determine which enforcement matters will be pursued by EPA, as outlined in the 2018 [Interim OECA Guidance, or successor guidance](#).
13. Encourage adherence to the EPA's [NPDES CMS](#) or an approved Alternative CMS.
14. Following joint planning, encourage states to focus on ensuring that NPDES SNC/Category I violations are timely and appropriately addressed.
15. Conduct NPDES compliance and enforcement oversight.
16. Work with authorized states and U.S. territories to ensure implementation of NPDES regulatory requirements for electronic reporting.

**Expectations for State, Territory, Tribal, or Local Government Activities in Authorized Programs**

1. Implement NPDES regulatory requirements for electronic reporting.
2. Follow the inspection goals or plans developed under the [NPDES CMS](#) or approved Alternative CMS.
3. Ensure inspectors are trained and credentialed consistent with state and EPA guidelines.
4. Implement state enforcement response guidelines to ensure violations are timely and appropriately addressed.
5. Work cooperatively with EPA regions to conduct SRF reviews as scheduled and implement recommendations within the agreed upon timeframes.

***CWA Section 404 Discharge of Dredge and Fill Material***

The compliance monitoring and enforcement activities for the CWA Section 404 Discharge of Dredge and Fill Material Program are described below.

**General EPA Activities in the CWA Section 404 Discharge of Dredge and Fill Material Program**

1. Consider referrals from Corps Districts under the 1989 MOA, recognizing the role of the Corps as the lead agency for enforcement for all but specifically identified cases, areas and activities.
2. Coordinate, as appropriate, with other federal and state 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 Service (NMFS)) which have significant roles in protection of regulated waters.
3. Meet with Corps Districts on an annual basis to establish regional priorities, and review field level agreements with Corps Districts and revise them to ensure consistency, as appropriate.
4. Work with the Corps Districts to identify potential repeat or flagrant unpermitted activity
5. 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.

**Activities Where EPA is Directly Implementing the Program**

6. Consider referrals from Corps Districts under the 1989 MOA, recognizing the Corps' role as the lead agency for enforcement for all but specifically identified cases, areas and activities.
7. Develop enforcement actions to address unpermitted activity by repeat or flagrant violators or where the Corps has referred a case to EPA.

**EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

8. Monitor and ensure compliance with the MOA and applicable federal regulations governing administration of CWA Section 404 between the State of Michigan and EPA Region 5, and the MOA governing administration of CWA Section 404 between the State of New Jersey and EPA Region 2.

### **Expectations for State, Territory, Tribal, or Local Government Activities in Authorized Programs**

1. Comply with the MOA and applicable federal regulations governing administration of CWA Section 404 between the State of Michigan and EPA Region 5, and the MOA governing administration of CWA Section 404 between the State of New Jersey and EPA Region 2. Michigan and New Jersey are the only states authorized to implement the CWA Section 404 program.

### **CWA Section 311 Oil Pollution Act**

The compliance and enforcement activities for the CWA Section 311 Oil Pollution Act program are described below. EPA implements this program throughout the country.

#### **General EPA Activities in the CWA Section 311 Oil Pollution Act Program**

1. Target and investigate facilities subject to the EPA Oil Spill Prevention and Response Program per OLEM's National Program Guidance and take appropriate enforcement responses at facilities in non-compliance with Spill Prevention, Control, and Countermeasure (SPCC) and Facility Response Plan (FRP) regulatory requirements.
2. Develop enforcement cases to address facility response plan violations at multiple facilities owned or operated by the same company. Where appropriate, consider use of company-wide injunctive relief requirements to bring all facilities of the owner or operator into compliance.
3. Conduct spill enforcement investigations to identify and address significant discharge violations that reach waters of the United States.
4. Coordinate enforcement actions with the Pipeline and Hazardous Materials Safety Administration, recognizing that PHMSA is the regulatory authority at transportation related facilities. This coordination might include development of enforcement cases to address jurisdictional spills on a company-wide basis.
5. Defer to the Coast Guard for releases in the coastal zone.
6. Coordinate with states, for transportation-related facilities not regulated by PHMSA, recognizing the state as the regulatory authority for such facilities.
7. Whenever enforcement is pursued at non-transportation related on-shore facilities subject to EPA regulations, the case development staff should evaluate all potential violations of CWA Section 311 and underlying regulations and consider including claims in the enforcement case to address spills and non-compliance with EPA regulations. The case team should consider appropriate penalties and actions necessary to bring a facility back into compliance.

#### *d. Safe Drinking Water Act (SDWA) Program for Compliance Assurance and Enforcement*

##### **SDWA Public Water Systems (PWSs)**

Most states have primary enforcement responsibility under SDWA Section 1413 for the PWS program (i.e., primacy). EPA directly implements the PWS program in Wyoming, the District of Columbia, and in Indian country (except the Navajo Nation). EPA still has an important oversight role where a state, tribe, or territory is the primacy agency and retains the authority to conduct compliance and enforcement activities.

The compliance monitoring and enforcement activities for those who oversee and those who implement the SDWA PWS Supervision Program are described below. These activities support

the strategic plan goal to reduce the number of community water systems out of compliance with health-based standards (see section II.B.3). EPA is also considering establishing a National Compliance Initiative to increase compliance with drinking water standards (see section II.B.4).

#### **General EPA Activities in the SDWA PWSs Program**

1. Conduct EPA compliance monitoring and enforcement activities to ensure: PWS are complying with the SDWA and its regulatory requirements; compliance with civil judicial consent decrees and administrative orders; consistent implementation of EPA guidance and policies; and, the overall integrity of the PWS program is maintained.
2. Conduct a sufficient number of PWS inspections annually to ensure that PWSs are correcting identified significant deficiencies and are otherwise in compliance with SDWA.
3. Collaborate with states, tribes, and territories to ensure appropriate intervention (including enforcement) to address public health emergencies, resolve violations and prevent future serious noncompliance.
4. Continue to conduct EPA's PWS compliance and enforcement work as part of the core program as EPA considers a transition to a new drinking water national compliance initiative. The focus will be on partnering with states to address the most serious risks to public health, particularly those involving community water systems (CWSs).

#### **Activities Where EPA is Directly Implementing the Program**

5. Directly implement the program pursuant to SDWA Part B.
6. Develop strategies for targeting compliance assurance work and annual plans that consider the following focus areas as a high priority:
  - CWSs with identified significant deficiencies, especially those significant deficiencies involving a written compliance plan and schedule of more than 12 months duration and significant deficiencies related to technical, managerial, or financial capacity.
  - CWSs EPA has reason to believe are at risk of future serious noncompliance (e.g., through the use of predictive analytics).
7. Use the full suite of compliance assurance tools, including enforcement, as appropriate.
8. Where appropriate, initiate enforcement actions pursuant to SDWA Section 1414 to resolve alleged violations.
9. Where appropriate, utilize SDWA Section 1431 to address potential imminent and substantial endangerments involving public water systems and underground sources of drinking water.

#### **EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

10. Ensure consistent collaboration and partnership between EPA and primacy programs with regards to compliance assurance activities, and work collaboratively to determine which enforcement matters will be pursued by EPA, as outlined in the 2018 [Interim OECA Guidance, or successor guidance](#).
11. Oversee primacy programs to assess the effectiveness of SDWA Part B implementation.
12. Conduct joint inspections with primacy programs to ensure consistent identification of violations.
13. Collaborate with primacy programs to conduct joint sanitary surveys as part of a nation-wide effort to increase the frequency of sanitary survey training.
14. Perform periodic enforcement program file reviews of primacy programs.

15. Following joint planning, encourage primacy programs to use the full suite of compliance assurance tools, including enforcement, as appropriate.
16. Following joint planning, encourage primacy programs to, where appropriate, initiate enforcement actions pursuant to SDWA Section 1414 to resolve alleged violations.
17. Where appropriate, utilize SDWA Section 1431 to address potential imminent and substantial endangerments involving public water systems and underground sources of drinking water.

**Expectations for State, Territory, Tribal, or Local Government Activities in Authorized Programs**

1. Conduct a sufficient number of sanitary surveys and inspections annually to ensure that PWSs are correcting identified significant deficiencies and are otherwise in compliance with SDWA.
2. Ensure appropriate intervention (including enforcement) to resolve violations and prevent future serious noncompliance.
3. As necessary, work with EPA to identify and evaluate program areas that could become national priorities/compliance initiatives in the future.
4. When compliance schedules or orders are being developed, renewed or modified, coordinate to ensure that they contain clear schedules for enforcement intervention as appropriate.

***SDWA Underground Injection Control (UIC) Program***

The compliance monitoring and enforcement activities for the Safe Drinking Water Act (SDWA) Underground Injection Control (UIC) Program are described below.

**General EPA Activities in the SDWA UIC Program**

1. Focus UIC compliance and enforcement efforts on alleged violations that pose the greatest threat to public health and alleged violations that may contaminate or endanger underground sources of drinking water.
2. Utilize the 1987 *Underground Injection Control Program Compliance Strategy for Primacy and Direct Implementation Jurisdictions*, or an appropriate regional enforcement strategy, to the extent practicable.

**Activities Where EPA is Directly Implementing the Program**

3. Directly implement the program pursuant to 40 C.F.R. Parts 144-149.
4. Conduct a sufficient number of inspections annually to identify and resolve noncompliance and provide a deterrence to future noncompliance.
5. Use the full suite of compliance assurance tools, as appropriate.
6. Initiate enforcement actions pursuant to SDWA Section 1423 to resolve alleged violations, where appropriate.
7. Utilize SDWA Section 1431 to abate imminent and substantial endangerments to public health stemming from contamination by UIC wells.

**EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

8. Ensure consistent collaboration and partnership between EPA and authorized states, tribes, territories, and localities with regards to compliance assurance activities, and work collaboratively to determine which enforcement matters will be pursued by EPA, as outlined in the 2018 [Interim OECA Guidance](#), or successor guidance.
9. Oversee primacy programs to assess the effectiveness of UIC programs.

10. Use the full suite of compliance assurance tools.
11. Where appropriate, utilize SDWA Section 1431 to abate imminent and substantial endangerments to public health stemming from contamination by UIC wells.

**Expectations for State, Territory, Tribal, or Local Government Activities in Authorized Programs**

1. Implement the approved program consistent with codified authorities in 40 C.F.R. Part 147.

*e. Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Program for Compliance Assurance and Enforcement*

The CERCLA (also referred to as Superfund) cleanup enforcement program protects communities by ensuring that potentially responsible parties (PRPs) perform and pay for cleanups at Superfund sites and by encouraging third party investment in cleanup and reuse of Superfund sites. These actions expand the Agency's ability to clean up hazardous waste sites across the country, to bring human exposure under control and to facilitate reuse of Superfund sites.

**General EPA Activities in the CERCLA Program**

1. Use CERCLA Enforcement Tools to Maximize PRP Performance and Payment for Cleanup
  - Find and engage with Potentially Responsible Parties (PRPs) as early as possible to perform response activities.
  - Utilize enforcement tools and settlement incentives to obtain prompt PRP commitments.
  - Maximize cost recovery of response and cleanup efforts. For sites that still have future work needed, place those funds in Special Accounts to have work continue moving forward for those specific sites.
2. Accelerate PRP Cleanup Action Starts and PRP Cleanup Implementation
  - Initiate Remedial Design/Remedial Action (RD/RA) negotiations close to the Record of Decision (ROD) issuance.
  - Complete RD/RA negotiations within one year (or sooner) from the start of negotiations.
  - Bifurcate RD work from RA work, with the goal of getting design started while negotiations continue.
  - Identify opportunities to increase the timeliness of PRP-lead actions under CERCLA and ensure long term protection.
3. Encourage Third Party Participation in CERCLA Cleanup and Facilitate Redevelopment of Sites
  - Promote the use of prospective purchaser agreements, bona fide prospective purchaser agreements, and comfort letters to help incentivize third private investment at Superfund sites and encourage the cleanup and redevelopment of these sites.
  - Identify opportunities to obtain prompt and effective institutional controls in support of achieving Site-Wide Ready for Anticipated Reuse (SWRAU) milestones.



f. *Resource Conservation and Recovery Act (RCRA) Program for Compliance Assurance and Enforcement*

**RCRA Subtitle C and D Programs**

The compliance monitoring and enforcement activities for the Resource Conservation and Recovery Act (RCRA) Subtitle C and D Programs are described below. EPA is also considering continuing the National Compliance Initiative to reduce toxic air emissions from hazardous waste facilities (see section II.B.4).

**General EPA Activities in the RCRA Subtitle C and D Programs**

1. Meet statutory requirements to conduct a minimum number of thorough inspections annually including financial assurance requirements for Treatment, Storage, and Disposal Facilities (TSDFs), operated by federal, state/local governments, and biennially for non-governmental TSDFs.

**Activities Where EPA is Directly Implementing the Program**

2. Directly implement the RCRA subtitle C program.
3. 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:
  - RCRA Data Integrity: Perform analyses of different sources of generator data (e.g., e-Manifest, BR data, TSDF reports) in order to identify instances of non-reporters, conflicting data, and potential underreporting.
  - Develop approaches and begin utilizing new EPA authority to enforce requirements for coal combustion residuals impoundments and landfills.
  - 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 by conducting Comprehensive Evaluation Inspections which should include conducting Leak Detection and Repair (LDAR) monitoring. The Region should coordinate with OECA in advance of a planned inspection if it will not include LDAR monitoring.
  - Assure compliance and enforcement of core RCRA requirements such as generator status, hazardous waste determinations, and proper treatment and disposal.
4. Consider the following other potential focus areas:
  - RCRA Corrective Action: facilities that have not made meaningful progress in achieving corrective action objectives, and financially marginal or bankrupt facilities. Monitor compliance with orders and permits, identify substantial noncompliance with such instruments, and take enforcement actions where appropriate. Monitor compliance with all corrective action requirements including long-term engineering and institutional controls.
  - Other: use data to identify specific environmental problems in vulnerable communities (e.g., does data show that sham hazardous waste recycling facilities are a problem for vulnerable communities?)

**EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**



5. Ensure consistent collaboration and partnership between EPA and authorized states, tribes, territories, and localities with regards to compliance assurance activities, and work collaboratively to determine which enforcement matters will be pursued by EPA, as outlined in the 2018 [Interim OECA Guidance, or successor guidance](#).

#### **Expectations for State, Territory, Tribal, or Local Government Activities in Authorized Programs**

1. Meet statutory requirements to conduct a minimum number of thorough inspections, including financial assurance requirements, annually for TSDFs operated by federal, state/local governments, and biennially for non-governmental TSDFs.
2. States may use the flexibilities described in the RCRA CMS for Large Quantity Generators.
3. As necessary, work with OECA to identify and evaluate program areas that could become national priorities/compliance initiatives in the future.
4. When permits or orders are being developed, renewed or modified, coordinate to ensure that they contain clear schedules for enforcement processes as appropriate.

#### ***RCRA Underground Storage Tank (UST) Subtitle I Program***

A major focus of the Resource Conservation and Recovery Act (RCRA) Subtitle I Program (RCRA UST Program) is to maintain an enforcement presence concerning leak prevention, leak detection, corrective action, closure and financial responsibility violations. The compliance monitoring and enforcement activities for the RCRA UST Program are described below.

#### **General EPA Activities in the RCRA UST Subtitle I Program**

##### **Activities Where EPA is Directly Implementing the Program**

1. Directly implement the UST program where a state or territory has not received program approval, and in Indian Country.
2. Inspect USTs at least once every three years to determine compliance with RCRA Subtitle I and the underground storage tank regulations.
3. Consider the following focus areas as high priority when developing strategies for targeting and monitoring compliance:
  - New UST operation and maintenance requirements.
  - UST systems deferred in the 1988 UST regulations.
4. Issue enforcement actions and assessment of penalties, as appropriate. Focus on utilizing cost-effective tools such as field citations or expedited settlements, when appropriate.

##### **EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

5. Ensure consistent collaboration and partnership between EPA and authorized states, tribes, territories, and localities with regards to compliance assurance activities, and work collaboratively to determine which enforcement matters will be pursued by EPA, as outlined in the 2018 [Interim OECA Guidance](#), or successor guidance.
6. Where states request EPA take the lead, meet statutory requirements for UST inspections that will produce the greatest environmental and human health benefits, and when taking enforcement actions, utilize cost effective tools such as field citations or expedited settlements, when appropriate. 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.

**Expectations for State, Territory, Tribal, or Local Government Activities in Authorized Programs:**

1. States have primary responsibility for determining facility compliance, ensuring adequate inspection coverage of the regulated universe, and taking appropriate actions in response to non-compliance.
2. Meet statutory requirements to conduct UST inspections in a manner that will produce the greatest environmental and human health benefits, including meeting statutory requirement to inspect each UST at least once every three years.
3. Ensure that the most serious instances of noncompliance are addressed through targeted inspections and enforcement.
4. Continue to implement the new provisions of the [revised UST regulations](#). Optimize compliance and the deterrence effect by utilizing efficiencies including the use of delivery prohibition and addressing noncompliance on a corporate-wide basis where possible.

*g. Toxic Substances Control Act (TSCA) Program for Compliance Assurance and Enforcement*

**TSCA Lead Risk Reduction Program**

The compliance monitoring and enforcement activities for the Toxic Substances Control Act (TSCA) Lead Risk Reduction Program are described below. EPA implements the Lead Disclosure Rule (LDR) nationwide. Most states are authorized for the lead-based paint (LBP) Activities program, and a small number of states and tribes are authorized for the Renovation, Repair and Painting (RRP) program. EPA is considering adding a National Compliance Initiative to reduce children’s exposure to lead (see section II.B.4).

**General EPA Activities in the TSCA Lead Risk Reduction Program**

The compliance monitoring and enforcement activities for the lead-based paint (LBP) program (primarily focused on the Renovation, Repair and Painting (RRP) Rule and secondarily on the Lead Disclosure Rule (LDR)) include national focus areas and approaches (below) that Regions incorporate into their programs to maximize enforcement impacts while supporting and complementing existing regional LBP compliance assurance plans.

1. Work collectively on national focus areas to take cases against renovators and/or other regulated entities whose activities have the greatest impact on potential lead exposures of compliance with the LBP program.
2. Conduct inspections in accordance with applicable guidance, including but not limited to the Inspection Manual for the Lead Renovation, Repair and Painting (RRP) Rule.

**Activities Where EPA is Directly Implementing the Program**

3. Directly implement the TSCA lead risk reduction program where that program has not been authorized or delegated.

4. National Focus Areas: Regions are expected to prioritize investigations of regulated entities that have a large footprint and far-reaching influence on the compliance landscape and take enforcement as appropriate. Regions should, for example, focus some resources determining compliance by firms that operate through multiple physical locations across the nation or that record renovation work to be shown as part of televised renovation shows. Regions and OECA will develop implementation plans to provide guidance and identify objectives for each national focus area. OECA and Regions may identify other focus areas, with appropriate consultation with states/tribes and other partners.
5. Geographic Initiative Approach (also known as a Lead Hot Spot or Place-based Initiative). Regions have used geographic approaches to focus and maximize EPA's compliance and enforcement resources for maximum impact. In addition to working in the National Focus areas described above, Regions should consider conducting at least one geographic initiative, which may be in conjunction with its national focus area, or a regional multi-media lead initiative (if any), or separately. Regions should consider locales based on factors such as high rates of noncompliance or elevated blood-lead levels, age of housing stock, environmental justice concerns, planning with state/tribal/local partners (as discussed in the TSCA Compliance Monitoring Strategy). Geographic initiatives should include compliance assurance performance indicators, for example, changes in the number of certified firms and renovators in the geographic area of focus. As necessary, Regions should work with OECA in the development of their geographic initiatives.

**EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

6. Ensure consistent collaboration and partnership between EPA and authorized states, tribes, territories, and localities with regards to compliance assurance activities, and work collaboratively to determine which enforcement matters will be pursued by EPA, as outlined in the 2018 [Interim OECA Guidance, or successor guidance](#).
7. For authorized states and tribes receiving TSCA State and Tribal Assistance Grant (STAG) funding, Regions must submit an electronic copy of the state submitted End-of-Year Report for each LBP program funded through the Toxics Substances Compliance Monitoring Grant program.
8. Conduct appropriate oversight of authorized state § 402 and § 406 programs.

**Expectations for State, Territory, Tribal, Local Government Activities in Authorized Programs**

Cooperate with EPA through existing TSCA authorities to more effectively protect human health and the environment from exposure to lead-based paint by:

1. Utilizing TSCA STAG funds following existing policies and guidance.
2. Where authorized, conducting LBP compliance monitoring and enforcement activities.
3. Where authorized, implementing the RRP, abatement, and pre-renovation education programs.

***TSCA New and Existing (Core TSCA) Chemicals Programs***

In 2016, TSCA was amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act. The amendments give EPA significant new, as well as continuing, responsibilities for reviewing chemicals in or entering commerce to prevent unreasonable risks to human health and the environment, including unreasonable risks to potentially exposed or susceptible subpopulations. Proper implementation of the TSCA amendments is one of EPA's top priorities.

### **General EPA Activities in the TSCA New and Existing (Core TSCA) Chemicals Program**

1. Work collectively on national focus areas outlined herein to monitor compliance and develop high-impact cases.
2. Focus on enforcement of the TSCA new and existing chemicals including the new regulatory requirements introduced by the amended Frank R. Lautenberg Chemical Safety for the 21st Century Act.
3. Conduct inspections in accordance with applicable guidance, including but not limited to the Core TSCA Inspection Manual.

### **Activities Where EPA is Directly Implementing the Program**

4. Directly implement the Core TSCA program.
5. TSCA New Chemicals Compliance (Section 5): OECA and Regions should focus compliance monitoring and enforcement on failures to meet TSCA Section 5 pre-manufacturing notification requirements (including exemptions) for new chemicals as well as compliance with Significant New Use Rule (SNUR) restrictions and Consent Order requirements. Special emphasis will be on chemicals of concern such as Per- and polyfluoroalkyl substances (PFAS).
6. Border Compliance (Section 5 and Section 13): OECA and Regions should monitor chemical substances and articles imported into the United States for compliance in coordination with U.S. Customs and Border Protection (CBP) and in relying on CBP's Automated Commercial Environment database. Addressing non-compliance with the restrictions on chemicals that are imported in articles, e.g., PFC-containing products, continues to be a focus. Finally, OECA and regions should review chemicals manufactured for "export only" and ensure compliance with labeling and export requirements (section 12).
7. Exemption Compliance (Section 5): OECA and Regions should focus compliance monitoring and enforcement on: Low Volume Exemption (LVE) submissions meeting LVE thresholds; Research & Development (R&D) Chemicals meeting all R&D supervision and document requirements; and Test Market Exemption (TME) meeting documentation requirements and restrictions imposed.
8. TSCA Section 6 Compliance: Upon completion of TSCA Workplan chemical Section 6 Rules and Frank R. Lautenberg Chemical Safety for the 21st Century Act Section 6(b)(1)(A) risk evaluations, OECA and Regions should monitor compliance with rules and take enforcement actions, as appropriate.
9. TSCA Information Reporting (Section 4 and 8): OECA and Regions should monitor compliance with existing chemical reporting and record keeping requirements such as the 2016 Chemical Data Reporting Rule, Toxic Substances Control Act Inventory Notification (Active-Inactive) requirements as well as subsequent reporting period submissions.

### ***TSCA PCB Program***

The polychlorinated biphenyls (PCBs) program under TSCA is federally implemented and not delegable to states and tribes. However, nine states, through cooperative agreements, conduct inspections with federal credentials on EPA's behalf.

### **General EPA Activities in the TSCA PCB Program**

1. Work collectively on nationally significant focus areas to take high-impact cases to prevent, reduce or eliminate releases of PCBs to the environment.
2. Focus primarily on exposures to vulnerable communities (EJ) and sub-populations (children).

### **Activities Where EPA is Directly Implementing the Program**

3. Directly implement the TSCA PCB program.
4. The following areas are high priority when developing plans for compliance monitoring and enforcement:
  - PCB spill, abandoned (buildings still containing electrical equipment) and uncontrolled disposal sites, located in EJ and other large residential communities, should be inspected and responsible parties or redevelopers, able to remediate these sites, should be compelled through enforcement or assisted using regulatory or policy tools, to conduct site cleanups.
  - Approved commercial PCB storage, treatment or land disposal facilities should be inspected at least once every three years using joint TSCA/RCRA compliance monitoring resources in coordination with state and tribal RCRA programs where appropriate.
  - Unapproved facilities (e.g., used oil recyclers, waste paper recycling mills) should be inspected as resources permit. When these facilities have effluent discharges subject to sections 402 or 306(b) of the Clean Water Act, inspections should be coordinated with appropriate federal and state programs.
  - Respond to “tips and complaints” that have the potential for illegal disposal or significant exposure to PCBs.

### **EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

The TSCA PCB program is federally implemented and cannot be delegated. However, most states regulate PCBs under their state clean water, clean air or hazardous waste programs.

5. EPA will continue to explore opportunities to coordinate compliance monitoring and enforcement activities with states.

### **Expectations for State, Territory, Tribal Programs with EPA PCB cooperative agreements**

1. Implement the agreed-upon work plan in cooperative agreements, where applicable.

### ***TSCA Asbestos Hazard Emergency Response Act (AHERA) Programs***

EPA is responsible for implementing the TSCA asbestos program in most of the country. Pursuant to AHERA, EPA may waive federal requirements in states that have established and are implementing an asbestos inspection and management program. EPA retains oversight authority in waiver states. In addition, other states that have not sought a waiver but have entered into a cooperative agreement with EPA conduct inspections on behalf of EPA, but then refer the cases to EPA for enforcement. Both waiver and non-waiver states receive grants from the EPA.

### **General EPA Activities in the TSCA AHERA Programs**

1. Work on AHERA cases to prevent or eliminate releases of asbestos to the environment.
2. Focus primarily on exposures to children and vulnerable communities (EJ).

#### **Activities Where EPA is Directly Implementing the Program**

EPA's intent is to provide flexibility for regional TSCA initiatives to take into account unique regional situations and available resources. EPA regions opting to engage in compliance monitoring and assurance activities for the TSCA Asbestos/AHERA program should:

3. Address the most egregious violations of AHERA consistent with the TSCA CMS, the TSCA Inspection Manual, and the Enforcement Response Policy (ERP).
4. In states that have non-waiver status, review and evaluate inspection reports to determine the appropriate enforcement response.
5. For states and tribes that do not have a cooperative agreement with the EPA, address asbestos worker protection issues not covered by OSHA when possible.

#### **EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

6. EPA will continue to explore additional means to assist states, territories, tribes or local governments with asbestos issues.

### **Expectations for State, Territory, Tribal, or Local Government Activities**

1. Waiver states take enforcement actions under state law.
2. In non-waiver states, submit completed inspection reports to the EPA region for review and enforcement action as appropriate, consistent with the state-EPA cooperative agreement.

#### *h. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Program for Compliance Assurance and Enforcement*

The FIFRA compliance monitoring and enforcement activities, described below, should be implemented to help ensure compliance with FIFRA and its implementing regulations.

### **General EPA Activities in the FIFRA Program**

#### **Activities Where EPA is Directly Implementing the Program**

1. Directly implement the FIFRA program.
2. EPA Regions should consider the following focus areas as a high priority when targeting compliance assurance work and developing annual plans for respective activities in the regions:
  - Product Integrity – Conduct inspections, including sample collection for laboratory analyses, at pesticide production facilities and marketplaces to monitor compliance with regulatory requirements pertaining to establishment and pesticide registration, packaging, label and labeling contents, efficacy, composition, and reporting. Conduct Good Laboratory Practice (GLP) inspections to monitor compliance with regulatory requirements for conducting studies that support pesticide registrations.
  - Import Compliance – To prevent illegal pesticides from entering U.S. channels of trade, leverage data resources such as the Automated Commercial Environment (ACE) and Import Genius for the selection of targets for desk audits and inspections of incoming pesticide shipments, and support national operations

initiatives conducted by U.S. Customs and Border Protection's Commercial Targeting and Analysis Center (CTAC).

- eCommerce - Focus on assuring the compliance of pesticide products offered for sale on eCommerce platforms with emphasis on those which pose the greatest risk of harm to human health or the environment. Examples include unregistered products, restricted-use pesticides (RUPs), Toxicity Category 1 pesticides, or other pesticides of regulatory concern.
- Compliance Assurance – Where EPA has direct implementation responsibility (i.e., Indian Country and Wyoming), monitor label compliance, placing emphasis on the worker protection standard, where applicable.

#### **EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

Continue EPA and state, territory, and tribal cooperation through existing FIFRA authorities to more effectively protect human health and the environment by:

3. Cooperative Agreements - Negotiate and oversee implementation of and review state, territory, and tribal performance under pesticide enforcement cooperative agreements following existing policies and guidance.
4. Collaborative Compliance Assurance - Work with states, territories, and tribes to support one another's compliance monitoring and enforcement activities consistent with the respective authorities established under FIFRA.

#### **Expectations for State, Territory, Tribal or Local Government Activities in Authorized Programs**

Continue EPA and State, Territory, and Tribal cooperation through existing FIFRA authorities to more effectively protect human health and the environment by:

1. Cooperative Agreements – Implement pesticide enforcement cooperative agreements following existing policies and guidance.
2. Collaborative Compliance Assurance - Work with EPA to support one another's compliance monitoring and enforcement activities consistent with the respective authorities established under FIFRA.

#### *i. Emergency Planning and Community Right-to-Know Act (EPCRA) Program for Compliance Assurance and Enforcement*

##### **EPCRA 313 Toxic Release Inventory (TRI)**

The Emergency Planning and Community Right-to-Know Act (EPCRA) Section 313 Toxic Release Inventory program provides information on chemical releases entering the environment. EPA must ensure that companies report accurately and within the required timeframe, so the publicly available database remains accurate and inclusive. The compliance monitoring and enforcement activities for the EPCRA Section 313 Toxic Release Inventory program are described below.

##### **General EPA Activities in the EPCRA 313 TRI Program**

###### **Activities Where EPA is Directly Implementing the Program**

1. Directly implement the TRI program.
2. Prioritize compliance monitoring of targets developed by OECA or Office of Chemical Safety and Pollution Prevention (OCSPP) in collaboration with the regions. If a region,

based on its own regional priorities, decides not to use OECA/OCSP targets and develops its own targets, the region should notify Headquarters, summarizing its proposed areas of focus and describing the improved outcomes of the regional targeting.

3. 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 within the past five years)
  - Additional OECA-provided targeting focusing on revisions, communities, chemicals, sectors of concern or new regulations, and chronic late filers. Regions may focus on facilities whose releases have the most impact on the TRI database. This will allow the regions flexibility in selecting their targets.
4. Track and prioritize tips and complaints, and follow up, as needed.
5. Work with the Air, RCRA, TSCA, and Water compliance and enforcement programs to add EPCRA questions to information requests or inspection checklists where appropriate, evaluate the responses and take appropriate enforcement actions, consistent with national policy, or combine with other enforcement actions.
6. As necessary, work with OECA to evaluate the EPCRA Section 313 program including areas that could 1) identify more efficient compliance and enforcement implementation; 2) identify national priorities; or 3) identify compliance initiatives in the future.

*j. Federal Facilities*

The compliance monitoring, compliance assistance and enforcement activities for the federal facilities compliance assurance and enforcement program are described below:

**General EPA Activities in the Federal Facilities Program**

1. Hold the federal government accountable to the same standard of environmental compliance as other members of the regulated community.
2. Focus resources to ensure federal facilities are in compliance under EPA's National Compliance Initiative (NCI) areas and other agency focus areas, including NPDES and impaired waters, air toxics and chemical accidents, public health threats posed by lead exposure and noncompliance with drinking water standards, and federal facility impact in Clean Air Act non-attainment areas.
3. Except where EPA directly implements a regulatory program, work with state, local and tribal partners to address noncompliance at federal facilities, and when appropriate, collaboratively work towards coordinated compliance monitoring and response actions, or the assignment of appropriate roles for each entity.
4. Build the capacity of state, local and tribal governments to address noncompliance at federal facilities.



5. Provide compliance assistance to regulated federal entities to improve federal facility compliance with regulatory requirements.
6. Use appropriate enforcement response, as warranted, including both formal and informal enforcement, and employ the creative use of EPA enforcement and settlement tools, supplemental environmental projects, and self-disclosures in order to achieve expedited settlements and other consent agreements in accordance with EPA policy.
7. Meet statutory requirements to conduct a minimum number of inspections annually of federal facilities for Treatment, Storage, and Disposal Facilities (TSDF) under the Resource Conservation and Recovery Act.
8. Take timely and appropriate enforcement actions to address and deter noncompliance at federal cleanup sites and facilities.
9. Implement priorities identified through the Superfund Task Force to expedite cleanup and redevelopment, and ensure cleanup adheres to federal facility dispute timelines.
10. Use enforcement tools and authorities, as appropriate, to investigate and address federal sites with emerging contaminants, such as perfluorinated chemicals.
11. Partner and build relationships across the federal family to help identify and address compliance issues through strategic collaborative efforts.

**Activities Where EPA is Directly Implementing the Program**

12. Address noncompliance at federal facilities with an appropriate EPA response, including the use of compliance assistance, compliance monitoring, or informal and formal enforcement.
13. Consult and collaborate with state, tribal, local partners and other impacted stakeholders as appropriate to ensure the protection of public health.
14. Meet all statutorily required federal facility inspection requirements for proper program implementation.

**EPA Activities in Authorized Programs (States, Territories, Tribes, or Local Governments)**

15. Provide leadership in addressing federal facility noncompliance when the unique or limited federal facility environmental enforcement authorities and other special considerations in federal facility enforcement inhibit a state's or tribes ability to act to address the noncompliance.
16. Meet, in conjunction with authorized state and tribal regulators, all statutory federal facility inspection requirements, including the RCRA TSDF annual inspection requirement for federal facilities.
17. Provide state, tribal, and local regulatory programs with assistance in addressing federal facility noncompliance when requested.
18. Build the capacity of state, tribal and local partners, through joint planning, compliance monitoring, capacity building and the employment of appropriate enforcement strategies to address federal facility noncompliance.

**Expectations for State, Territory, Tribal or Local Government Activities in Authorized Programs**

1. Work with EPA and other partners to identify roles and responsibilities for employing appropriate compliance assurance tools.

2. Ensure federal facility noncompliance is addressed through collaborative efforts with EPA and other partners if appropriate.

k. *Criminal Enforcement Program*

The criminal enforcement program investigates and assists in the criminal prosecution of knowing violations of United States environmental laws as well as any associated violations of the U.S. criminal code, such as wire fraud, smuggling, or obstruction of justice. The program often works with other federal law enforcement agencies on cases of mutual interest. The program will continue to work with the civil enforcement program to look for opportunities to advance National Compliance 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 decisions to prosecute civilly or criminally are based on the most appropriate way to respond to the violation. The program will focus on achieving results through providing clarity in situations where civil investigators should refer a matter to the criminal enforcement program, as well as 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.

**General EPA Activities in the Criminal Enforcement Program**

The OECA HQ Civil Program, along with EPA Regions, will coordinate with the Office of Criminal Enforcement, Forensics and Training to:

1. Refer to the criminal enforcement program for consideration any matter that appears to be criminal in nature.
2. 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.
3. 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:

4. Develop priorities for case selection to support the goals of the Agency's Strategic Plan.
5. Conduct semiannual case and docket reviews, with CID Area Offices, to advance and track high-impact Tier 1 (T1), Tier 2 (T2), and newly-opened cases. Determine which cases, if any, need additional oversight from Headquarters.
6. Develop and provide training for civil regulatory counterparts (EPA, state, tribal, and local) to identify and share information regarding criminal conduct.
7. Through NEIC and NCFL, evaluate new and emerging technologies needed to implement enhanced targeting and compliance assurance approaches.
8. Analyze enforcement and compliance information to identify potential criminal violations.
9. Work with Department of Justice to use information obtained pursuant to the Crimes Victim's Rights Act (CVRA) when developing environmental crimes case resolutions, e.g., restitution.

10. Provide targeted training to state, tribal and law enforcement partners, including the International Association of Chiefs of Police, empowering them to identify, report and address environmental violations, while also encouraging capacity building at the state, tribal, and local government levels.
11. Continue international enforcement efforts, such as working with INTERPOL to combat the illegal transnational smuggling of materials which violate U.S. environmental laws.

### **SECTION III. FLEXIBILITY AND GRANT PLANNING**

#### **A. FIFRA Cooperative Agreement Guidance**

The purpose of this guidance is to identify pesticide program and compliance and enforcement program areas that must be addressed in state and tribal cooperative agreements and to provide information on work plan generation, reporting and other requirements. The [FY 2018-2021 FIFRA Cooperative Agreement Guidance](#) was issued in 2017.

#### **B. TSCA Compliance Monitoring Grant Guidance**

OECA updates the [TSCA Compliance Monitoring Grant Guidance](#) annually. EPA regional offices should use this guidance to negotiate and manage TSCA state and tribal grants to conduct compliance assurance and enforcement activities.

## SECTION IV. FY 2020 NATIONAL PROGRAM MEASURES

BFS Code	Measure Text	Indicator (Y/N)	FY 2020 National Planning Target (optional)	Comments/Clarification
TBD	The number of all referred, no complaint filed (RNCF), civil judicial cases that are more than 2.5 years old.	N	TBD	FY 2020 targets not yet developed
TBD	The percentage of EPA inspection reports that are timely completed and communicated to the regulated entity.	N	TBD	FY 2020 targets not yet developed
TBD	Increase compliance in the Clean Water Act National Pollutant Discharge Elimination System (NPDES) by reducing the percentage of permittees in significant noncompliance with their permit.	N	TBD	FY 2020 targets not yet developed
TBD	The number of drinking water priority systems addressed with a formal enforcement action or resolved.	N	TBD	FY 2020 targets not yet developed
TBD	The number of EPA on-site compliance monitoring inspections/evaluations conducted by credentialed EPA inspectors in direct implementation states, territories, and Indian country and in authorized states, territories, and Indian country.	N	TBD	FY 2020 targets not yet developed
TBD	The number of EPA on-site compliance monitoring inspections/evaluations conducted by credentialed EPA inspectors in direct implementation states, territories, and Indian country and in authorized states, territories, and Indian country in support of National Compliance Initiatives (NCIs) per its implementation strategy.	N	TBD	FY 2020 targets not yet developed

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## APPENDIX A. EXPLANATION OF KEY CHANGES FROM FY 2018-2019

*Office of Enforcement and Compliance Assurance*

Section of Guidance	Change from FY 2018-2019 NPM Guidances	Reason for Change	Location of New/Modified Information
General	<p>Requesting comment on FY 2020-2023 National Enforcement Initiatives</p> <p>Emphasize use of full range of compliance assurance tools</p>	<p>New cycle of initiatives to begin in FY 2020</p> <p>To better convey the overarching goal of increased compliance and the use of not only enforcement actions, but the full range of compliance assurance tools.</p>	Section II.B, page 8
Strategic Measures	New measures to support Strategic Plan measures to: reduce the average time from violation to correction and increase the environmental compliance rate	To align OECA priorities and activities to reflect the Agency's FY 2018-2022 Strategic Plan objectives	Section II.B, page 6
Other Core Work	Delineates the roles and expectations for Direct Implementation and Authorized programs	To provide clarity on responsibilities	Section II.C, page 13
Measures	Discontinue Annual Commitment System measures	Focusing on new measures to support EPA strategic measures	Section IV, page 36
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## APPENDIX B. SUMMARY OF KEY CHANGES FOR STATES, TERRITORIES, AND TRIBES

### Office of Enforcement and Compliance Assurance

The following tables summarize only the **top 5-10 significant changes** that will impact states and tribes.

Significant Addition	Programmatic Activities Expected from State and Tribal Grantees
<b>FY 2020-2023 National Compliance Initiatives</b>	Requesting comment on FY 2020-2023 National Compliance Initiatives
<b>SNC Rate Initiative</b>	A goal of reducing the rate of significant noncompliance in the NPDES program by 50% by the end of FY 2022. EPA recognizes the role of authorized states in the NPDES program as the primary implementers and as critical players in the success of this effort. Accordingly, EPA, at the national and regional levels, will continue working closely with states to develop and implement tools and approaches for preventing, deterring, and addressing SNC, to reach the Agency goals for increasing compliance rates in the NPDES program.

Significant Change	Programmatic Activities Expected from State and Tribal Grantees
<b>Focus on Overarching Strategic Measures</b>	The enforcement and compliance assurance program supports the Agency goals of addressing air quality nonattainment areas, impaired waters, public health threats posed by drinking water noncompliance, populations vulnerable to air toxics or chemical accidents, and children’s health exposure to lead. To support these goals, OECA will focus on advancing EPA’s two long term enforcement-related strategic measures: (1) reduce the average time from violation identification to correction, and (2) increase the environmental law compliance rate. OECA will track our progress in advancing these strategic measures by implementing a set of monthly and quarterly measures.
<b>Delineating Roles</b>	This guidance delineates the roles and expectations for Direct Implementation and Authorized programs.
<b>Cooperative Federalism</b>	In support of EPA’s goal to Promote Environmental Compliance through Cooperative Federalism, OECA has highlighted the <a href="#">Interim OECA Guidance on Enhancing Regional-State Planning</a> , or successor guidance_ to begin a more collaborative partnership between EPA and authorized and State Assist Pilot, as well as efforts in improving State-EPA Collaboration, State Capacity Building, and Tribal Government Collaboration.

Major Deletion	Programmatic Activities Expected from State and Tribal Grantees
N/A	There were no major deletions.



Major Work-Sharing & Streamlining Opportunities	Programmatic Activities Expected from State and Tribal Grantees
<b>State Assists Pilot</b>	<p>State Assists began in 2018 as a pilot effort to account for the work do in assisting state compliance assurance programs. This effort will continue as a component of our Enforcement program for Fiscal Years 2020 and 2021. Consistent with the principle of cooperative federalism, EPA recognizes the valuable contributions of the states' work. State Assists are limited to instances where the Region has expended substantial resources to identify the violation, developed the injunctive relief, and/or helped the state take an action to remedy the violation. In short, any instance where the state couldn't take the action without the EPA's help would be measured as a "State Assist."</p>
<b>Interim Guidance</b>	<p>In 2018, OECA's Assistant Administrator (AA) issued the <a href="#">Interim OECA Guidance on Enhancing Regional-State Planning</a> to begin a more collaborative partnership between EPA and authorized states to begin a more collaborative partnership between EPA and authorized states. This guidance applies to all EPA compliance assurance activities, such as inspections and enforcement, in authorized state and tribal environmental programs and addresses two critical areas of regional-state communication and collaboration. First, it outlines best practices for regional-state joint work planning, including the nature, frequency, and scope of planning discussions. Second, it reiterates that states have primacy for implementation of authorized/delegated programs, except for specific situations, and provides examples of the types of situations that could warrant EPA involvement in individual inspections and enforcement (following communication with the state). OECA is developing a final guidance and will release it following an opportunity for public comment.</p>