

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 24, 2003

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Fiscal Year (FY) 2004 OECA Memorandum of Agreement (MOA)
Guidance Update

FROM: John Peter Suarez /s/
Assistant Administrator

TO: Regional Administrators
State Environmental Commissioners

Attached is the Office of Enforcement and Compliance Assurance (OECA) FY 2004 MOA Guidance update. This update serves as the second “out year” in OECA’s 2002/2003 planning cycle and supplements the MOA Guidance issued on June 19, 2001. The decision to treat FY 2004 as a second planning “out year” is the result of recommendations put forth by two workgroups that reviewed existing planning and priority setting practices. OECA initiated and completed a review of its planning and priority setting process, as well as participated in an Agency-wide steering group, which reviewed the same issues. Both reviews resulted in a number of recommendations to improve planning and priority setting and to synchronize program planning activities with the new Strategic Plan, which the Agency is currently revising for implementation in 2005. This FY 2004 MOA planning cycle is the last to be conducted under the process OECA has followed to date.

In February 25, 2003, I signed the “Establishing the Office of Enforcement and Compliance Assurance (OECA) Planning Council” memorandum in which I outlined the function of the Council and a series of suggested planning improvements for its consideration. The Council met for the first time in late April and has begun discussions on: how the recently submitted Regional Strategic Plans can serve as work plans for the Regions, as well as supplant all or part of the MOA; how to choose priorities that are performance based and have clear exit endpoints; and how to tie the performance based results of our priorities to our performance commitments in the Strategic Plan. I will update you accordingly as the Council makes decisions and as the procedure for the FY 2005 planning process is established.

For FY 2004, we will continue to address the existing six national program priorities of: Clean Air Act - Air Toxics; Clean Air Act - New Source Review/Prevention of Significant Deterioration (NSR/PSD); Clean Water Act-Wet Weather; Petroleum Refining; Resource Conservation and Recovery Act-Permit Evaders; and Safe Drinking Water Act-Microbials. The priority write-ups in the attached guidance contain some shifts in direction and performance expectations in FY 2004 from last year's MOA activities. The Air Toxics priority will shift from primarily a compliance assistance and tool development effort to compliance monitoring and enforcement. The NSR/PSD priority focus in FY 2004 is to complete all ongoing investigations and enforcement actions of coal-fired utilities and petroleum refineries and to identify plants or facilities to be evaluated for possible violations of NSR or PSD in new industrial categories. As in the past, we are requesting that the Regions describe, through their MOA updates, any adjustments which they plan to make in FY 2004 regarding implementation of their existing MOA priorities.

OECA identified environmental justice (EJ) as a performance priority for FY 2003, and this will be carried over into FY 2004. The goal for EJ is to ensure that minority and/or low income groups and communities are not disproportionately placed at risk from environmental and/or human health threats. While OECA management is committed to incorporating EJ across OECA's broad range of activities, four key program areas have been identified for increased focus in FY 2004. These areas are: geographic EJ regional initiatives; lead abatement and inspections; CAA- Air Toxics; and Community Right to Know. Program performance expectations in these four key areas are outlined in the FY 2004 MOA Update Guidance.

This guidance update is being sent to Regional Administrators and State Commissioners concurrently. The Regions are also requested to share this document with other appropriate state/tribal contacts that are not listed below. Regional MOA Updates are due to Headquarters by October 15, 2003. Please keep in mind that each region's update will be considered an addendum to its FY 2002/2003 MOA and, as such, we expect relatively short updates focusing only on significant exceptions or adjustments and annual inspection projections.

When submitting your MOA, please provide a hard copy to Robert Tolpa, Chief, Planning and Analysis Branch, Office of Compliance, United States Environmental Protection Agency, Ariel Rios Building - Mail Code 2222A, 1200 Pennsylvania Avenue NW, Washington D.C. 20460. In addition, please submit an electronic version to Tolpa.Robert@epa.gov. If you have questions about the guidance, please contact Mr. Tolpa by e-mail or phone at (202)564-2337.

Your continued commitment to working with us to achieve our enforcement and compliance assurance goals for FY 2004 is sincerely appreciated.

Attachments

cc: Assistant Administrators
Deputy Regional Administrators
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OECA Division Directors
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Introduction

This guidance contains updates to the priorities and core program activities issued in the FY 2002/2003 Memorandum of Agreement (MOA) Guidance. The priorities established in FY 2002/2003 are not changing and we are considering FY 2004 to be a second “outyear” in the planning cycle. OECA remains committed, for the second “out year” of this three year work planning cycle, to implementing the six national program priorities: Clean Air Act (CAA) - Air Toxics; CAA) - New Source Review/Prevention of Significant Deterioration (NSR/PSD); Clean Water Act (CWA) - Wet Weather; Petroleum Refining; Resource Conservation and Recovery Act (RCRA) - Permit Evaders and Safe Drinking Water Act (SDWA) - Microbials. While the priorities remain fundamentally the same, this guidance does identify some shifts and changes in focus for 2004 as the phases of a priority have changed over time. For example, the Air Toxics priority will shift from primarily a compliance assistance and tool development effort to compliance monitoring and enforcement.

Part I, section A of this guidance provides the FY 2004 updates to the priority and core program activities. Each of the priorities has been updated to outline performance expectations for FY 2004 and encourages the regions to look for endpoints or performance measures to indicate when it is no longer necessary to identify a priority as a “national priority”. Additionally, the core has been updated to a limited extent. OECA periodically assesses the core programs and identifies areas that have had a shift in focus or expanded. For example, the core has been updated to include activities the Compliance Assistance Policy and Infrastructure (CAPI) Steering Committee (a group of senior regional and headquarters EPA managers) has developed and recommended to improve the policies and infrastructure of the compliance assistance program. In addition, we have increased the focus on Homeland Security and the resulting increased importance in CAA 112(r) and CWA Section 311 inspections in the core. These changes, and more, are discussed fully in Part I, section B below.

Part II is a short discussion on utilizing the integrated strategies framework and encourages the regions to use the framework in their work planning for FY 2004 and beyond. Pilot projects using this model began this fiscal year in eight regions and will continue in FY 2004.

Part III describes the environmental justice (EJ) performance priority and outlines the expectations for the four key EJ areas which have been identified for FY 2004. The four key focus areas are: geographic initiatives lead, CAA - Air Toxics, and Community Right-to-Know.

Part IV identifies the components of the FY 2004 MOA update expected from each region.

Regional submissions are due to Headquarters on October 15, 2003¹. Please keep in mind that each region's update will be considered an addendum to its FY 2002/2003 MOA and, as such, we expect relatively short updates focusing only on significant exceptions or adjustments and annual inspection projections.

Part I. A: MOA FY 2004 Guidance Updates

As mentioned above, we are not changing the FY 2002/2003 national priorities for this second "outyear" of the enforcement and compliance program planning cycle. These priorities are listed below and are described in greater detail in the FY 2002/2003 MOA guidance, which can be found at: <http://www.epa.gov/compliance/resources/policies/planning/2002moa.pdf>.

FY 2004 NATIONAL PRIORITIES

- * Clean Water Act-- Wet Weather
- * Safe Drinking Water Act-- Microbial Rules
- * Clean Air Act--New Source Review/Prevention of Significant Deterioration (NSR/PSD)
- * Clean Air Act --Air Toxics
- * Resource Conservation and Recovery Act--Permit Evaders
- * Petroleum Refinery Sector

We believe that implementing activities to address these priority areas are still crucial to accomplishing our program goals of improved compliance and reduced risks to human health and the environment. To date, while progress has been made, these six areas remain top priorities that require focused attention and resource commitment in FY 2004.

A. Updates to Existing Priorities: Included below are the updates to all of the national priorities. The priorities have been updated to reflect expected activities in FY 2004.

¹Regions are reminded that Superfund enforcement and RCRA Corrective Action are covered under the new Goal 3. It is important to make sure that the Superfund and RCRA Corrective Action program commitments for GPRA are addressed. The commitments for Superfund are to maximize potentially responsible party participation at Superfund sites by leveraging PRP resources and recovering costs. The commitments for RCRA Corrective Action are to address the two RCRA environmental indicators (EIs), which measure human exposures under control and migration of contaminated groundwater under control. Regions are encouraged to use enforcement authorities and tools where appropriate to address EI's and final clean-up. National program direction for Superfund activities are developed and conveyed through the SCAP process. RCRA Corrective Action is addressed through the Mutual Performance Agreement (MPA) process.

CWA--WET WEATHER

Priority Activity: Implement compliance and enforcement activities to address noncompliance and environmental problems related to CWA wet weather areas: Combined Sewer Overflows (CSOs), Sanitary Sewer Overflows (SSOs), Concentrated Animal Feeding Operations (CAFOs) and Storm Water. These activities should be consistent with the *1994 CSO Control Policy* and the *Wet Weather Water Quality Act of 2000*; *Chapter 10 of the Enforcement Management System (EMS)* relating to SSOs; the *2000 Compliance and Enforcement Strategy Addressing Combined Sewer Overflows and Sanitary Sewer Overflows*; the *National Concentrated Animal Feeding Operations (CAFOs) Sector Strategy* (including the *2003 Clean Water Act Enforcement Strategy Update for CAFOs*); the *Unified National Strategy for Animal Feeding Operations*; and the *2003 Storm Water Compliance and Enforcement Strategy*. EPA regions should work with their states to discuss these strategies and plans for state and federal activities to enhance their effectiveness. This means ensuring that activities are reported in the Integrated Compliance Information System (ICIS), including environmental results (e.g., pollutant loading reductions), and the Regional Compliance Assistance Tracking System (RCATS), including reporting outcome measures, in a timely and accurate manner. Finally, the regions' end of year reports should summarize the progress to date in a manner which is easy for the public to understand.

Selection Rationale: Discharges from wet weather events (e.g., overflows from combined sewers or sanitary sewers, CAFO discharges and run-off, and storm water run-off) are leading causes of water quality impairment as documented in CWA Section 305(b) reports and represent significant threats to public health and the environment.

Both combined and sanitary sewer overflows contain raw sewage and have high concentrations of bacteria from fecal contamination, as well as disease causing pathogens and viruses. These overflows often occur in areas frequented by the public such as parks, beaches, backyards, city streets, and playgrounds. In addition, noncompliance with the *1994 CSO Policy* is a continuing problem that requires enforcement attention. There are over 19,000 SSO communities with approximately 40,000 SSOs occurring each year. Compliance and enforcement tools are a vital component of state and federal efforts to minimize the environmental and human health impacts due to the noncompliance of these systems.

Discharges from CAFOs to water bodies can occur through poor maintenance of waste lagoons, improper storage of animal waste, excessive and improper application of manure to cropland, and excessive rainfall resulting in spills and leaks of manure management areas. New CAFO regulations were promulgated in 2003 and will require significant compliance assistance over the next two to three years. In addition, many CAFOs covered by the 1974 regulations have obligations that

continue to apply and appropriate enforcement efforts to correct noncompliance and significant threats to public health and the environment are vital during 2004.

The total number of storm water dischargers is estimated to be several hundred thousand. According to the “2000 National Water Quality Inventory Report to Congress,” storm water runoff continues to be a leading cause of water quality impairment in waterbodies assessed by the states. OECA has developed a *2003 Storm Water Compliance and Enforcement Strategy* to guide efforts in addressing significant environmental problems resulting from non-compliance with the storm water requirements. Sector-based (e.g., large developers and big box stores) and watershed-based (e.g., Anacostia River watershed) approaches to compliance and enforcement efforts are encouraged, as well as innovative tools such as expedited settlements.

Performance Expectations For the Wet Weather Priority Areas:

General -- National strategies for all of the wet weather areas are now in place and continued implementation of those strategies in 2004 is appropriate. During the remainder of FY 2003 and the first half of FY 2004, OECA will work with regions to define more specific goals with more meaningful measures to demonstrate the progress of compliance and enforcement efforts in correcting environmental and human health problems related to non-compliance and to determine when “national priority” status is no longer necessary. OECA will also specifically update the *2000 Compliance and Enforcement Strategy Addressing Combined Sewer Overflows and Sanitary Sewer Overflows*.

EPA compliance and enforcement efforts in the wet weather area are producing significant gains in the protection of human health and the environment. Since 1995, EPA has settled 32 judicial CSO/SSO cases and has 25 pending CSO/SSO referrals. These settlements will result in over 15.5 billion gallons of raw sewage being eliminated from our Nation’s waterways each year. In addition, Region IV has done outstanding work developing and implementing an innovative self-assessment program for municipal sanitary sewer systems called the Management, Operation, and Maintenance (MOM) Program. The MOM Program is designed to eliminate SSOs by ensuring proper management, operation and maintenance (O&M) of the infrastructure.

CAFO compliance assistance and enforcement efforts have continued since 1998. One hundred and ninety (190) federal administrative enforcement actions have occurred at CAFOs since 1998. In addition, several significant federal judicial settlements have been completed within the last few years. One, involving Premium Standard Farms (one of the largest hog producers in the country), will result in over 50% reduction of the nitrogen content of the manure wastes generated by the Farms, thus reducing the wastes’ impact and the amount of land required for application.

In storm water, several regions are implementing watershed or sector-based storm water approaches (e.g., Region III and the Anacostia watershed and Region VI and the auto salvage sector)

and are piloting an expedited settlement process for storm water violations. A major national settlement in a federal judicial action involving Walmart resulted in the development and implementation of a company-wide environmental management system to improve compliance with storm water regulations/permits.

Combined Sewer Overflows-- Until the *2000 Compliance and Enforcement Strategy Addressing Combined Sewer Overflows and Sanitary Sewer Overflows* is updated, regions should continue to implement their current CSO response plans, ensuring that all CSO communities are under an enforceable mechanism to implement the 9 minimum controls and a long term control plan (LTCP). In addition, regions working with their states should prioritize systems for compliance monitoring efforts focused on implementing the 9 minimum controls and LTCPs, where required by permits or enforcement mechanisms. Regions should also continue undertaking the compliance assistance priorities set forth in this strategy. Any modifications that regions have made to date to these strategies should be provided with their MOA submissions.

By the end of FY 2004, each region should report on the status of each CSO community in every state in the region. The report should include the status of the implementation of the 9 minimum controls and whether LTCPs have been incorporated into an enforceable mechanism. This report will enable OECA to assess the progress of our compliance and enforcement efforts.

Sanitary Sewer Overflows--There are approximately 19,000 separate sanitary sewer systems nationwide, with over 40,000 overflows annually. Until the *2000 Compliance and Enforcement Strategy Addressing Combined Sewer Overflows and Sanitary Sewer Overflows* is updated, Regions should continue to implement their current SSO response plans, ensuring that their SSO inventory is up-to-date and that priority systems (as defined in Chapter X of the EMS) are addressed with appropriate follow-up action. Regions should provide to headquarters the total number of communities by state and the plan the region is using to prioritize SSO communities to receive compliance assistance, inspections and/or enforcement investigations or actions. Special emphasis should be placed on SSOs in priority watersheds or in areas where the receiving waters are impaired by pollutants related to the overflows (e.g., shellfish bed closures, beach closures, fish advisories, or drinking water sources). In addition, the capacity management, operation, and Maintenance (CMOM) program should be considered, and before a region decides to use it, consult with and receive concurrence from the Water Enforcement Division in the Office of Regulatory Enforcement (ORE). In addition, small community outreach and compliance assistance should be utilized where appropriate.

Concentrated Animal Feeding Operations - CAFOs were designated as an OECA MOA priority in FY1998 and OECA issued the Compliance Assurance Implementation Plan for CAFOs in March 1998. There is a substantial need to continue priority efforts in this area including working with states to issue NPDES permits to all CAFOs required to have such permits. The new CAFO regulations were

published in the Federal Register in February, 2003, and significant compliance assistance efforts are underway to ensure implementation of the new requirements. Regions should continue to address noncompliance by CAFOs covered by the 1974 regulations and causing significant environmental or human health impacts. OECA will provide regions with the *2003 Clean Water Act Enforcement Strategy Update for CAFOs* to assist them in developing their plans to address noncompliance with existing, applicable regulations and permits. To implement the 2003 CAFO requirements, OECA is working with the Office of Water to develop an integrated strategy encompassing permits, compliance, and enforcement to implement the new CAFO regulations and ensure CAFO compliance of prior regulatory requirements. This strategy envisions that EPA and its state partners undertake a comprehensive and integrated national approach to ensure that manure and wastewater from CAFOs are properly managed and environmental harm is mitigated. Under this approach, EPA will focus on achieving effective state programs to implement the regulation. Implementation efforts will include: outreach and compliance assistance, development and implementation of regional and state specific implementation strategies, accountability measures, support for effective nutrient management plans, improvements to data quality, CAFO inspections, federal enforcement, measurement of environmental results, and technical guidance. When the strategy is completed, OECA will work with regions on its implementation.

Regions should revise their CAFO compliance and enforcement strategies to be consistent with the OECA strategies mentioned above, including: 1) working closely with states to monitor CAFO compliance and target enforcement activities at large, high-risk CAFOs in non-compliance with applicable 1974 CAFO requirements that remain in effect, as provided by the *2003 Clean Water Act Enforcement Strategy Update for CAFOs* (state strategies/plans should take into account existing state programs, state as well as federal priorities, and set forth criteria for risk-based targeting for inspections and enforcement); 2) ensuring that all regional and state CAFO NPDES permit, compliance, and enforcement information is entered into the Permit Compliance System (PCS); and 3) continuing efforts with states to identify the universe and report performance measures manually as necessary.

Storm Water— Regions should follow the *2003 Storm Water Compliance and Enforcement Strategy* and complete the sweep(s) initiated to identify regulated industrial facilities or large construction sites that have failed to apply for storm water permits or are in violation of their permit requirements. Regions should prioritize storm water inspections, compliance assistance, and enforcement actions where there is water quality degradation and/or a threat to public health (e.g., storm water discharges contributing to impairment of a watershed or drinking water source, issuance of a fish advisory, beach closure, or shellfish bed closure). Watershed and sector storm water targeting initiatives and expedited settlement efforts should be expanded in other regions in FY 2004. OECA will provide support to ensure national consistency and to encourage the use of compliance incentive and compliance assistance programs. Compliance assistance should continue for the Phase I

Stormwater Rule, where appropriate, and be emphasized for construction activities and small municipal separate storm sewer systems (MS4s) regulated under the Phase II Rule.

Timeframes: Wet weather actions should be taken throughout FY 2004. In their MOA submissions, regions should include a brief description of how they are addressing the national wet weather priorities, including specific compliance and enforcement activities planned, watershed and/or sector initiatives, state efforts anticipated in these areas, goals, outcomes, related milestones and measures, and any anticipated tradeoffs. If a region is trading-off inspections at NPDES majors for inspections in the wet weather areas, a description of these tradeoffs, including rationales for any trade-offs involving less than a 2 minors for 1 major ratio should be provided in the MOAs. A region that proposes not to participate in a particular aspect of the national wet weather priority must provide a rationale in its MOA submission.

In FY 2004, OECA, in coordination with the regions, will develop and issue specific wet weather goals, objectives, and endpoints to improve our ability to measure the environmental-related accomplishments of compliance and enforcement efforts in these areas, and to improve our ability to determine when these areas no longer need to be “national priorities” for compliance and enforcement efforts.

SDWA - MICROBIAL RULES

Priority Activity: Ensure compliance with microbial drinking water regulations through enforcement and compliance assistance. ORE expects to review and discuss with the regions quarterly exceptions lists of those public water systems with unaddressed significant non-compliance for microbial rules to ensure that timely and appropriate actions are taken to remedy microbial non-compliance. Similar discussions between regions and states are advisable. In addition, region-specific compliance and enforcement strategies to address microbial non-compliance are recommended.

Selection Rationale: Contaminated drinking water is a direct threat to human health. The effects of contaminated drinking water can be severe, especially on children, the elderly, and persons with compromised immune systems. Adverse health effects of microbiological contamination include gastrointestinal distress, fever, pneumonia, dehydration (which can be life-threatening), or death. Serious effects were seen in the Milwaukee outbreak of cryptosporidiosis that was responsible for symptoms in over 400,000 persons, 4,000 hospitalizations, and over 100 deaths. In Austin, TX, contamination of drinking water wells infected over 1,300 persons. The Centers for Disease Control believes that there are significantly more cases of waterborne illnesses than reported, as mild cases are often mistaken as the flu.

Ensuring compliance with the microbial rules is the highest OECA drinking water compliance

and enforcement priority. This priority is further justified by recent data. For example, data from the *2000 National Public Water Systems Compliance Report* prepared by the Office of Compliance, indicate that 85% of the health-based violations and 47% of significant monitoring and reporting violations were violations of the Total Coliform Rule (TCR) or the Surface Water Treatment Rule (SWTR). This continues a trend, noted in the four prior reports, that microbial rules are the drinking water rules most often violated. The TCR, SWTR and the Interim Enhanced Surface Water Treatment Rule (IESWTR) drinking water regulations deal directly with microbial contamination and have been in effect for a number of years. There has been, and continues to be, substantial outreach and compliance assistance, as well as enforcement activity, in these areas. New rules addressing microbial contaminants in drinking water are expected to be proposed and promulgated. Continued compliance assistance and enforcement activities will be needed to ensure that the regulated community knows its obligations and complies with the rules, thereby protecting public health. These new regulations create the need for continued enforcement efforts to protect the public and obtain the pollution benefits envisioned. EPA will be directly implementing and enforcing these regulations in states until states adopt the new regulations and receive program approval.

In recent years, we have seen the effective use of emergency authorities to address microbial contamination problems. However, regions should generally address non-compliance by public water systems before unaddressed violations lead to emergency situations requiring use of such authorities. Due to the existing high levels of non-compliance and the direct public health effects of violations, the microbial drinking water regulations overall remain a high priority for OECA.

Performance Expectations: Regions are expected to address through enforcement, targeted compliance monitoring or compliance assistance, all public water systems, including federal facilities and tribally owned or operated systems, which become significant non-compliers (SNCs) for any of the microbial rules. Regions will use a rolling-base approach to identify systems as they become SNCs rather than work from a fixed-base of SNCs identified at the beginning of the fiscal year. Regions are expected to address systems in SNC with the microbial rules in a timely and appropriate fashion. As a numerical criteria, regions are expected to address 100% of those public water systems in SNC with the microbial rules before they become unaddressed SNCs on the SDWA exceptions list.

The regulations also provide information on sources of contamination. OECA has a particular interest in enforcement and compliance assistance activities where source water for the drinking water area or wellhead are contaminated or threatened. This may lead to actions against entities who are, or may be, contributors to contamination of source water.

OECA will continue working with regions to define more specific goals with better measures of the progress for compliance and enforcement efforts in correcting environmental and human health problems related to non-compliance and to determine when “national priority” status is no longer

necessary. OECA will present to the regions a straw proposal for refocusing enforcement and compliance priorities on the four microbial rules.

Under the SWTR, in the past, the focus nationally was on ensuring that systems which were unfiltered, and required to filter, were on enforceable schedules to install filtration. This focus will now shift somewhat as the majority of these systems have installed filtration as required. Specifically, regarding SWTR, regions are expected to:

- (a) ensure compliance with those schedules through monitoring progress and by taking additional enforcement actions where there are violations of the schedules;
- (b) review the compliance status of filtered systems with the performance criteria in the rule; take actions against all systems which become SNCs and against non-SNCs to the extent resources allow;
- (c) review the status of ground water systems which have been determined to be under the influence of surface water. Take actions to ensure that those systems required to filter are on an enforceable compliance schedule and are in compliance with that schedule; and,
- (d) review the compliance status of those systems which were never required to filter and are legitimately allowed to remain unfiltered by continuing to meet all of the applicable avoidance criteria. Take actions as appropriate, particularly in priority watersheds.

In FY 2004, regions should continue to focus compliance assistance and enforcement on provisions of the Stage 1 Disinfectant By Product Rule and the Interim Enhanced SWTR. Compliance assistance should continue to have a particular emphasis on small community systems. This effort will include outreach and education programs to ensure that sources understand the requirements and assistance available to help them comply. Enforcement will focus on larger systems and address substantial and imminent endangerment.

Timeframes: Each region should include a brief description of how they are addressing the national microbial priority rules, including specific activities planned, tools, any unique regional measures used, goals, outcomes, related milestones, and any anticipated tradeoffs. Regions should also describe how they are working with their states to address SDWA SNCs and any compliance and enforcement measures they use to evaluate state performance. A region that proposes not to participate in a particular aspect of this national priority must provide a rationale.

CAA-NSR and PSD

- Priority Activities:*
- 1) Complete current investigations;
 - 2) Complete current enforcement actions;
 - 3) Identify plants or facilities to be evaluated for possible violations of NSR or PSD requirements in new industrial categories and initiate appropriate investigations;
 - 4) Inspect plants and issue CAA 114 requests and/or conduct administrative depositions of key plant personnel to identify those activities in new industrial categories that may be PSD or NSR modifications;
 - 5) Initiate enforcement actions and/or provide compliance assistance/incentives, as appropriate.

Selection Rationale: New Source Review (NSR) requirements in the CAA are intended to ensure that the construction of new sources or modification of existing sources does not jeopardize the attainment of National Ambient Air Quality Standards (NAAQS) in non-attainment areas. Prevention of Significant Deterioration (PSD) requirements ensure that areas with relatively clean air are not significantly degraded by the influx of new air pollution sources. The NSR and PSD programs directly control emissions of criteria air pollutants, and the PSD program requires sources to address a number of toxic air pollutants. Criteria air pollutants have been identified by EPA as having serious chronic and acute effects on public health. They also affect public welfare by damaging property and the natural environment. Both NSR and PSD requirements can add substantial costs to the construction or operation of new sources, thereby creating an incentive for sources to avoid permit review by state or federal authorities. In addition, some sources may have unintentionally violated these requirements due to misunderstandings of the applicable law. Avoidance of the required review results in inadequate control of emissions, thereby contributing thousands of unaccounted tons of pollution each year, particularly of NO_x, VOC, SO₂ and PM₁₀. These emissions worsen problems in non-attainment areas and threaten to drive attainment areas into non-attainment. Investigations conducted by EPA at many coal-fired utility companies, refineries, and other industrial facilities reveal that many of them made modifications that were subject to NSR or PSD but failed to obtain the required permits or install necessary controls.

EPA's efforts in the NSR/PSD arena during the recent past have produced large environmental gains. For example, under a coal-fired power plant initiative settlement announced in January of 2002, PSEG Fossil LLC of New Jersey will spend over \$337 million to install state-of-the-art pollution controls to eliminate the vast majority of sulfur dioxide and nitrogen oxide emissions from its Mercer and Hudson coal-fired power plants in Jersey City and Hamilton, N.J. The combined effect of the pollution controls will reduce the company's emissions of sulfur dioxide (SO₂) by 90 percent and its emissions of nitrogen oxides (NO_x) by more than 80 percent. Overall reductions will be at least 36,000 tons of SO₂ and 18,000 tons of NO_x per year. Similarly, an April 2003 landmark CAA settlement with grain industry giant Archer Daniels Midland Company (ADM), will cover operations at 52 plants in 16 states and cost

the company an estimated \$340 million. The settlement is the result of an unprecedented joint federal and state enforcement effort with 14 state and county entities signing onto the consent decree. Under the settlement, ADM will implement sweeping environmental improvements at plants nationwide that will eliminate at least 63,000 tons of air pollution a year. Under the settlement, ADM will install state-of-the-art controls on a large number of units, shut down some of the oldest, dirtiest units, and impose emission limits on others. Additionally, ADM's oilseed operations will accept new, more stringent emission limits for VOC and HAP emissions - limits EPA expects will set new standards for the industry.

Performance Expectations: NSR and PSD programs are the crucial CAA provisions aimed at preserving air quality. Accordingly, this strategy is a current priority, and is expected to continue throughout the FY 2004 MOA outyear. The Region should focus their efforts on successfully completing their existing coal-fired utility matters. In addition, the Regions are to work with OECA to evaluate NOV's in this sector.

Performance expectations for refineries are addressed in the petroleum refinery section of this guidance.

As the existing cases continue, each region should target ethanol, pulp and paper or industrial categories to identify instances where there is "probable cause" to believe there are NSR/PSD violations. Regions should select an average of one plant investigation per state per year in these new categories relating to likely violations of NSR/PSD requirements. For each source identified by the region, the region should initiate an investigation to ascertain if plant activities have (or should have) triggered NSR or PSD. These investigations should include a review of comprehensive information on each plant or facility (e.g., state environmental files, filings with state utility commissions or permitting authorities, FERC and SEC filings, synthetic minor permits, etc.). Each investigation should result in the development of a list of modifications or additions, either physical or operational, that the facility may have undergone without appropriate state or federal review. This list will help focus subsequent inspections, fact gathering and case development. Regions should inspect plants and issue CAA 114 requests and/or conduct administrative depositions of key plant personnel to identify those activities that may be NSR or PSD additions or modifications. Based on the results of the investigation, regions should initiate enforcement actions and/or provide compliance assistance/incentives, as appropriate. Regions should encourage voluntary disclosures and follow EPA's September 30, 1999 *Reduced Penalties for Disclosures of Certain Clean Air Act Violations* policy that allows disclosures of violations discovered during the non-routine review of prior applicability determinations.

In the event of the promulgation of a new rule, the Regions are to consult with OECA prior to resolving any active NSR/PSD case.

Measures: Success in FY 2004 will be measured in investigations completed, active enforcement actions concluded, pending CAA 114 requests resolved and NOV's evaluated.

AIR TOXICS

Priority Activity: In FY 2004, the regions should select two MACT standards per year for which they will make a concentrated effort to identify and address substantive areas of noncompliance. The regions may carry over MACT standards from the previous year if they continue to identify and address substantive noncompliance. The regions will have flexibility in how and where they dedicate their resources to address non-compliance for their selected MACT standards. However, compliance evaluations and enforcement activities are expected to be a feature in all regional plans.

Selection Rationale:: The 1990 CAA Amendments significantly expanded Section 112 of the CAA, providing EPA the authority to regulate 188 hazardous air pollutants. This expansion of Section 112 led to an unprecedented level of regulatory development. Since 1990, approximately 63 hazardous air pollutant standards, also known as Maximum Achievable Control Technology (MACT) standards, have been promulgated with approximately 17 additional standards to be promulgated over the next two years.

Since 2000, the Air Toxics program has been an OECA priority. The objective of the priority has been to distribute the substantial MACT implementation workload between headquarters and the regions through a regional Adopt-a-MACT program. Through the program, the regions adopted MACT standards for which they developed compliance monitoring and compliance assistance tools. This program has resulted in the availability of a wide array of MACT implementation tools such as inspector check lists, applicability flowcharts and compliance timelines.

Now that compliance dates are in place for over 40 MACT standards, and implementation tools are available for the majority of these standards, the focus of the Air Toxics priority will shift from primarily a compliance assistance and tool development effort to compliance monitoring and enforcement. To facilitate this shift in focus, OECA has developed a *Federal MACT Compliance and Enforcement Strategy (MACT Strategy)*. Implementation of the MACT Strategy will help us to establish compliance baselines, and develop and evaluate compliance trends for major MACT sources and source categories.

Performance Expectations: Where regions have developed expertise with an industry or source category, that expertise should be viewed as a national resource that can be applied and utilized in other regions. Consequently, regional commitments may include contributing to MACT compliance monitoring and enforcement activities in other regions. Regions are urged to alternate the sharing and receiving of expertise and resources. Examples of possible regional activities may include:

- Providing training to other regions on a MACT standard for which the region has developed expertise
- Participating on compliance evaluations and case development teams with other regions

If multiple regions select the same MACT standard, those regions should share information and coordinate activities. If non-compliance is detected at a company located in multiple regions, a multi-regional case may be appropriate. In addition, it may be more efficient for one region to serve as the lead for the case, allowing the other region(s) to address other environmental problems.

Each region will submit a plan to headquarters discussing the following:

- the MACT Standards on which they will focus
- the basis and rationale for the MACT standards selected
- the number of planned full and partial compliance evaluations
- the resources the region plans to commit (contract dollars and FTEs)

The MACT Strategy regional plans should be submitted with the 2004 MOA Update. In addition, headquarters and the regions will maintain a dialogue throughout the year to resolve any potential issues regarding MACT selection and implementation prior to the formal MOA submissions.

RCRA PERMIT EVADERS

Priority Activity: Generally, RCRA Permit Evader-related concerns (e.g., historical violations) include but are not limited to: 1) failing to make proper hazardous waste determinations; 2) operating hazardous waste treatment units without appropriate permits; and 3) illegal and unsafe disposal of hazardous wastes. Thus, regions (and states where appropriate) should focus their facility screening, compliance monitoring, and enforcement resources on those companies (including federal facilities) that are evading the RCRA regulatory system. This will ensure that illegal treatment and recycling practices are eliminated and will ensure the equitable treatment of those facilities that have complied with RCRA. As a result, human health and the environment will be protected from exposures to hazardous contaminants released as a result of illegal practices.

Industrial practices and processes of concern include:

- Illegal hazardous waste recycling operations (e.g., “sham recycling”);
- Illegal dilution of hazardous wastes and other practices (e.g., introducing reagents or foreign materials) that circumvent hazardous waste determination requirements (including Toxicity Characteristic Leaching Procedure test results);
- Illegal treatment of hazardous wastes containing lead and other pollutants;

- Illegal treatment, storage, and disposal of wastes that are no longer exempt under the Bevill amendment;
- Illegal disposal of hazardous wastes containing lead and other pollutants in illegal RCRA units;
- Misidentification of hazardous wastes (e.g., relying on outdated or non-representative test results); and
- Companies/Entities that have sought to include themselves within the ambit of various exceptions or exemptions to the RCRA Subtitle C system but failed to meet the terms of those exceptions or exemptions.

Selection Rationale: From FY 2000 through midyear 2003, compliance assurance and enforcement activities provide evidence of continued noncompliance by operators with RCRA requirements. For example, of the approximately 165 federal inspections that occurred at foundries during this timeframe, 38% of these facilities were determined to be in violation of RCRA requirements. Inspections at mineral processing facilities also have revealed violations, several with significant environmental and human health impacts. In addition, regions have taken actions against waste-derived fertilizer facilities for environmentally significant violations.

Allowing facilities to operate outside of RCRA presents an unreasonable risk to human health and the environment. Illegal waste handling and management operations present significant environmental threats. Renegade entities also financially undercut competing firms, jeopardizing the economic prosperity of compliant firms. Thus, our national focus is warranted and should continue.

Performance Expectations for RCRA Permit Evaders: The goal of this priority is to ensure that RCRA regulated facilities properly identify, manage, and dispose of their waste in accordance with all applicable RCRA environmental laws. In our efforts to achieve this goal, we will focus generally on foundries, mineral processing, and waste-derived fertilizer entities. Additionally, regions in consultation with EPA Headquarters, may elect to address similar environmental problems in other industries (e.g., metal services, SIC Code 3471 and 3479) as part of their RCRA permit evader focus. For waste-derived fertilizer, OECA will work with the regions to determine appropriate next steps for the sector. For foundries and mineral processing, OECA will revise the existing strategies and solicit comments from the regions.

Once the foundries and mineral processing strategies are revised, regions should work with OECA to implement the appropriate activities to identify facilities, including federal facilities, for compliance assurance and enforcement-related activities including “homeland security” matters. Each strategy will include the appropriate focus and performance measures and address the following: goals for improving the compliance rate for a given sector; identification of high risk facilities, areas, and/or communities of highest priority; compliance monitoring approach; state involvement; opportunities for

outreach and assistance; opportunities to use innovative approaches to environmental protection; enforcement response options; settlement approaches; and time frames.

While compliance monitoring and formal enforcement actions serve as deterrents, it is also important to utilize other approaches and tools. For example, EPA regions (and states where applicable) will continue to implement appropriate activities associated with the statistically valid non-compliance rate project. Headquarters will continue to identify compliance assistance/outreach and compliance incentive opportunities. Opportunities to achieve significant environmental benefits beyond regulatory compliance levels (e.g., voluntary reductions in emissions) should be pursued where appropriate. Regions are encouraged to include as part of their settlement approach supplemental environmental projects that reduce emissions or discharges associated with “persistent, bio-accumulative and toxic” wastes (PBT) and other priority chemicals being emitted or released. Where appropriate, issuance of RCRA § 7003 and other emergency orders to address upsets and episodic releases or emissions should be considered.

In undertaking activities in this priority, the regions should pay particular attention to two areas that are of significant environmental and programmatic concern, illegal waste treatment units and illegal dilution. Historically, we have identified significant RCRA related, noncompliance issues at foundries pertaining to the operation of certain illegal waste treatment units (e.g., firms using thermal reclamation units to treat hazardous wastes). These noncompliance issues can be nationally significant in scope and therefore, regions should consult with EPA Headquarters before addressing environmental concerns associated with these units. Also, regions should provide OECA site-specific information regarding suspected illegal dilution of hazardous wastes and other practices (e.g., introducing reagents or foreign materials) that circumvent hazardous waste determination requirements including Toxicity Characteristic Leaching Procedure test results.

Timeframes: Regions should continue or initiate appropriate activities to address this priority throughout FY 2004. Regions are to assess their progress at the end of the fiscal year. Special emphasis should be given to measuring environmental results (e.g., annual quantity of wastes illegally treated, managed, or disposed; number of facilities with illegal waste management operations).

PETROLEUM REFINING

Exit Stage of the Strategy: During FY 2004, the emphasis in the petroleum refining strategy will shift to conclude work on the priority. EPA anticipates that by October 2003 this sector will represent a high enforcement success rate, with nearly 80% of national refining capacity having settled with the Government, in settlement negotiations, or been referred to the Department of Justice for civil prosecution. Based on data compiled to date by headquarters, and provided to the regions, out of the 157 refineries in the U.S., 37 have not been subject to any action to date, and evidence of violations at 8

refineries was deemed to be inconclusive after a preliminary investigation. Regions are requested to confirm these numbers. We expect that by October 2003, of the 45 refineries referred to above (37 no actions, 8 inconclusive), each will have been investigated for the four main areas of non-compliance, which are NSR/PSD, LDAR, benzene waste NESHAPS, and flaring/NSPS, or will be under an enforcement action. When possible, the regions should engage any of the remaining 45 facilities in settlement negotiations. The regions may defer the investigations of companies that do enter into settlement negotiations, which will result in fewer than 45 investigations. For those companies that do not engage in settlement negotiations, regions should proceed with investigations which can result in notices of violation and referrals.

While the 80% rate of enforcement coverage discussed above indicates a high level of enforcement success, conclusion of work on refineries as a priority does not negate the need for continued vigilance and effort. Beyond planning for addressing remaining facilities, we expect the regions will engage sufficient internal resources to implement consent decrees and conduct significant outreach to state/local partners to carry out their consent decree responsibilities (e.g., state permitting under authorized and delegated programs) and to build state/local capacity for conducting their own investigations of refineries and other complex facilities.

Nationally, the approach for the petroleum refining priority will be to:

1. Complete any remaining corporate-wide negotiations and all pending federal investigations;
2. Assess refineries that have not been investigated;
3. Continue to ensure region and state capacity to conduct investigations, primarily at facilities not reached by the national initiative; and
4. Contribute, as appropriate, to implementation of existing consent decrees and to capacity building at the state and local level.

Expected Regional Activities: As part of the exit strategy for FY 2004, the regions should develop a plan detailing how they will address the remaining refineries that have not been addressed through investigations or global settlement negotiations for the four CAA issues identified above. This plan should identify all remaining unaddressed refineries and issues, as well as a schedule for addressing them.

The plan should explain how and when compliance with each identified CAA issue will be determined at each remaining refinery. This can be through a combination of regional and state activities. The plan should include a description of how a region will work with its states to achieve the goals described above, including a strategy for communicating with, and involving the states in, case development and enforcement, compliance assistance and compliance monitoring including compliance with consent decree requirements. For nationally directed cases, the regions should actively participate in all settlement discussions and in all CAA enforcement actions resulting from inspections or

investigations taking place in their jurisdiction in FY 2004, as well as in implementation activities associated with existing consent decrees.

MOA Submission Expectations: Each region is expected to submit an exit strategy plan outlining the actions it intends to pursue to address the expected regional activities described above. The plan should show how all refineries will be evaluated regarding the four CAA areas of non-compliance by the end of FY 2004.

Part I. B: FY2004 Update to the Core Activities

There have been some changes to the core program which are included in Attachment 1. Some areas that have been updated include compliance assistance, RCRA, CAA 112(r), and compliance monitoring. The changes in Attachment 1 are highlighted in **bold**. Below are a few of the highlights:

Compliance Assurance Activities

The compliance assistance core write up has been completely updated. A particular update worth noting is the emphasis on integrating compliance assistance and incentives in the state/EPA planning process. An OECA memorandum issued on June 11, 2002, "Integrating Compliance Assistance and Incentives with Enforcement in EPA and State Planning Meetings" provided specific recommendations on how to share compliance assistance tools, showcase and discuss successful efforts of compliance integration efforts on the national, state, and local level, and develop performance measures as suggested topics to discuss and share with states. Additional suggested discussion topics for regional/state planning meetings included the following: 1) share the recommendations from the February 25, 2002 memorandum entitled "Enhancing EPA's Compliance Assistance Program"; 2) share existing EPA tools for CA with states; 3) discuss ways to coordinate with regional and state program offices to help identify CA needs; 4) leverage resources and establish a stronger planning and communication network; and 5) share ideas on emerging environmental problems and related sectors. Many regions had already held their FY 2003 planning meetings before receiving the June 11, 2002 memorandum. We are highlighting this particular update to the core to re-emphasize its importance and timeliness as you begin your FY 2004 planning meetings with states and tribes.

Homeland Security

EPA's Strategic Plan for Homeland Security includes the role of CAA 112(r) and CWA 311 inspections as integral components. For this reason, we have included a new write up of the CAA 112(r) program in the Air compliance monitoring and enforcement core program. Although 112(r) is a CAA authority, the program's placement varies from region to region, and may not reside with the regional division responsible for air compliance and enforcement. Likewise, a small reference to CWA 311 was

previously included in the core under the Oil Pollution Act. The write up has been expanded to include more explicit expectations of activities within the program. Similar to CAA 112(r), placement of responsibility for this program varies across regions. In FY 2004, headquarters plans to continue working with the regions on the future direction of the programs.

Others

Additional updates to the core include expansion to the Inspection Conclusion Data Sheet (ICDS) reporting to include the RCRA, UST, CAA 112 (r) and TSCA inspection programs, the RCRA section and participation in the statistically valid non-compliance rate project, the Air section and expectations for reviewing the Title V annual certifications, and inclusion of language on the necessity of increased attention to chemicals of concern in the RCRA, Toxics/Pesticides, CWA 311, and CAA 11(r) sections. Attachment 1 contains the updated core in its entirety.

Part II. Continue Piloting the Integrated Strategy Framework

Working with the regions and building on earlier work by the ORE, OECA developed the *Framework for a Problem-Based Approach to Integrated Strategies* (Attachment 2) . The regions can also access the *Framework* at <http://intranet.epa.gov/oeca/oc/index.html>. This *Framework* was distributed on November 27, 2002. The *Framework* advocates using a problem-based approach to using and assessing the impact of our compliance assurance tools. Further, the *Framework* advocates the consideration of all tools and the elements of the *Framework* - not necessarily the use of each tool and the application of each element to every problem. The regions are encouraged to use the *Framework* as they plan their work for FY 2004 and beyond. Voluntary pilot projects using this model began in eight regions during FY 2003 and we ask that you consider additional pilots as you plan activities in FY 2004. The undertaking of pilots does remain voluntary for FY 2004.

Although the Agency has been implementing integrated strategies for several years, it has been on an ad hoc basis with limited measurable results. By developing and following a framework for integrated strategies, the Agency can take a proactive approach to considering the best tools, approaches, measures and outreach to improve public health and the environment. The use of the *Framework* will assist in making our decisions on which tool to use more transparent and enable the Agency to more strategically manage for results.

Part III. Environmental Justice Performance Priority

OECA has adopted EJ as a performance priority in FY 2004. The nucleus of this performance priority is to thoroughly integrate EJ into every facet of the national enforcement and compliance assurance program. Using this approach OECA and the regions will work toward ensuring that minority and/or low income groups are not disproportionately placed at risk or suffer from environmental and

human health risks. On a broad scale this means that headquarters and regional programs will integrate EJ into:

- Monitoring and enforcement;
- public access to data;
- compliance assistance and incentives;
- better tracking of activities, actions and outcomes;
- training staff to identify threats to disproportionately affected groups or communities and,
- more effectively work on and in, EJ areas.

The performance expectations for the regions include:

- Identifying EJ communities or areas which display disproportionately high adverse human health or environmental effects on minority and/or low income populations and:
 - S Adjust inspection and investigation targeting to address risks or threats in targeted communities or populations;
 - S Initiate appropriate enforcement responses when noncompliance is identified within an EJ community.
- Ensuring that concluded enforcement actions require human health and/or environmental improvements such as pollutant reductions or physical management or process changes;
- Supplemental Environmental Projects (SEPs) for concluded enforcement actions within EJ areas should be comparable to those in other communities;
- When and where possible, SEPs should compliment or further, overall community improvement;
- Strengthen or reinforce compliance by offering compliance assistance to regulated facilities within EJ areas and,
- Carefully track and report activities, actions, outputs and outcomes of work done to address EJ concerns and issues within each region.

Through a collaborative process, headquarters and regional enforcement managers agreed upon four key program areas to focus staff and resources to address EJ during FY 2004. These areas are:

- Regional EJ Geographic Initiatives;
- Lead, inspection and abatement;
- Clean Air Act - Air Toxics;
- Community Right-to-Know, Non Reporters

Geographic Initiative:

During FY 2004, each region should begin or continue, a geographic initiative specifically targeted at identified EJ communities or populations.

Lead:

The regions will develop and implement an integrated strategy to address lead problems using compliance assistance, monitoring, enforcement and other innovative approaches such as pilot projects. The integrated strategy also will include measuring results to achieve the best use of regional, SEE, and state and tribal resources. The regions will apply these tools, along with base-lining activities to identify and target high-risk areas (i.e. areas with children having elevated blood lead levels). Responses to noncompliance may include the use of negotiated settlements that may utilize innovative approaches as appropriate to help make high risk areas lead safe. Also the regions will explore ways to leverage resources by encouraging the states and tribes to take on a greater role for Sections 402 and 406 activities through the lead state and tribal assistance grants (STAG) funds.

Clean Air Act - Air Toxics:

Regions will select two Maximum Achievable Control Technology (MACT) standards and, utilizing the recently developed MACT Strategy, focus monitoring and enforcement efforts to address substantive areas of noncompliance by major sources within EJ areas or affecting populations suspected to be at high risk.

Community Right to Know/Non-reporters:

Regions are to participate in the development and implementation of a national initiative to address toxic emissions that are not reported to EJ communities. Regions should analyze TRI data to identify facilities in EJ areas that missed the public data release and would have been a major emitter to the community, as well as conduct analyses to determine if any facilities have failed to report to the TRI.

Each region is requested to describe in its FY 2004 MOA Update, the specific activities it plans to undertake to address the four key EJ focus areas. Proposed geographic initiatives should describe the area(s) to be addressed, the nature of the problem(s), anticipated outcomes and, proposed performance measures to track and assess progress. Regions should include within the MOA Updates their completed MACT Strategy which will list the MACTs upon which they will concentrate and how they address EJ populations, areas, or issues. The MOA Update should also include a description of the work to be done in addressing lead contamination and abatement, Community Right-to-Know Initiative and where and how they will addresses EJ.

Part IV: FY 2004 MOA Submission Format

By October 3, 2003, regions should submit, as an addendum to their FY 2002/2003 MOA, a memorandum from their Regional Administrator to John Paul Suarez, OECA Assistant Administrator, attaching the following information:

- A. Regional Updates and Modifications including EJ activities
- B. Annual Inspection Projection Charts
- C. Headquarters and NEIC Support Requests
- D. FTE Resource Charts

A. Regional Updates and Modifications

Regions should describe any adjustments which they plan to make in FY 2004 regarding implementation of the existing MOA priorities. The region should explain the basis for the changes as well as the expected results. The regions may describe such areas as progress, or delays/changes in their implementation efforts for either national or regional priorities or adjustments needed to reflect joint work planning with their states. The region should focus on **significant changes** which impact their enforcement and compliance approach established in the current MOA. This discussion could also include any new information, ranging from environmental data to organizational changes, that may affect implementation of their MOA.

The regions should also include in their update and modification submissions the specific activities it plans to undertake to address the EJ performance priority as described above.

B. Annual Inspection and Homeland Security Inspection Projection Charts

Attachment 3 is forms for the FY 2004 inspection projections from both the regions and states. A new Homeland Security inspections projection chart covering CAA 112(r) and CWA Section 311 inspections has been added for the FY 2004 reporting cycle. Information comprising both regional and state activities provide key information necessary for national program planning, management and implementation. Except for the compliance assistance activity projection chart, please include state projections along with the federal projections. Specifically, regions should complete the following forms:

- NPDES/Pretreatment Inspections
- Drinking Water Fixed Base SNC
- RCRA Inspections
- TSCA Inspections
- EPCRA Inspections
- Air Investigations and Inspections
- FIFRA Inspections
- Compliance Assistance Federal Activity Projections
- Homeland Security Inspections

C. Support and Training Requests

Under this section of their submission, regions should indicate the support they are requesting

from NEIC to assist in implementation of their MOA activities. Attachment 4a provides the information NEIC is requesting by August 1, 2003, to start their review and commitment process.

The process for NETI training class requests will be handled differently for FY 2004. NETI plans to develop a FY 2004 National Course Plan to be made available in November/December 2003. The process and schedule for accomplishing this is laid out in Attachment 4b. Therefore, you do not have to submit your NETI training requests with your MOA in September but should follow the instructions in the attachment.

Regional requests for support **should not** include requests for extramural dollars or increased FTE. Those requests will be addressed outside the MOA process. Support requests with the MOA submission should **only** pertain to programmatic issues such as the need for technical guidance documents, compliance and enforcement strategies, or training.

D. FTE Resource Charts

Attachment 5 contains the FTE resource charts similar to the charts completed as part of the FY 2003 MOA process. The charts are organized by goal, objective and sub-objective and then cross-walked to the media program elements. The importance of the FTE Resource Charts has been growing significantly because of increasing interest from the Office of Management and Budget, the Inspector General and Congress. It is imperative that these charts be completed and sent with the FY 2004 MOA submittal package.

2002 Regional Final - This column contains the same information submitted in your FY 2003 MOA. It should represent each region's budget allocation, derived from the Agency's FY 2002 Enacted Operating Plan.

2003 Regional Final - This column is blank and should reflect the FY 2003 FTE contained in the Agency's FY 2003 Enacted Operating Plan.

2004 Proposed - This column is blank and the information is to be provided by the regions in the FY 2004 MOA submittal package due in September 2003. We recognize that FTE levels may change after the Agency receives the FY 2004 enacted budget after October 1, 2003. Therefore this number is a best guess estimate.

INTRODUCTION TO CORE PROGRAM

OECA is committed to the concept that maintaining a viable core compliance and enforcement program is necessary to achieve a strong and credible enforcement presence to deter non-compliance. All Regional programs should adhere to the guidelines and expectations described in this Core program guidance.

While this guidance is used primarily to develop the regional MOAs, it also is used to initiate discussions with states about the use of program grant funds and work planning for FY 2004. We expect these discussions will include a review of EPA and state priorities, with the goal of developing the best combination of those priorities. OECA believes that issues raised by states about the regional/state phase of the planning process need to be examined through an effort that OECA will convene in the near future.

A. Exceptions to the Core

In the FY 2004 MOA submission, regions need only report exceptions to the core program activities and expectations described in this guidance. Regions may make tradeoffs within the core, either within or across media programs. In its discussion of the core program, the region should identify, by media or program area, any changes or tradeoffs to the core program and provide an explanation. In completing this section of the MOA, the region should explicitly consider:

- whether its level of compliance assurance or enforcement activity is likely to dramatically change in any media;
- whether it will meet national guidance on timely and appropriate responses in all media;
- whether there are data input/timeliness problems with a particular data system;
- whether there are changes to its compliance monitoring program, e.g. to reflect a shift to conduct more resource intensive investigations rather than routine inspections; and
- whether the region will meet expectations set forth in the program specific descriptions which follow later in the document.

B. Cross-Program Core Activities

Basic core program components apply across most of the specific program write-ups included in this guidance. These components include the following specific activities:

- follow the applicable program enforcement response policies (ERPs) and timely and appropriate (T&A) guidance (where these exist);
- follow OECA Nationally Significant Issues (NSI) guidance in all cases as applicable;
- promote OECA's compliance incentive policies (e.g., small business policy, audit policy), with the assistance of state/local agencies, to encourage the regulated community to voluntarily discover, disclose and correct violations before they are identified by regulatory agencies for enforcement investigation or response.
- consider and follow-up on, as appropriate, self-disclosures submitted under the OECA audit policy and small business policy;
- track compliance with consent decrees and with administrative orders and take all necessary

- actions to ensure continued compliance;
- insure that all required data is input into the national databases, where applicable, and complete and enter the case conclusion data sheets for all concluded actions; and
- reduce the backlog of administrative cases (i.e. settle or litigate cases issued in years prior to FY 2002, and ensure investigation and issuance of appropriate action for any open tips/complaints/referrals received by EPA in years prior to FY 2002), and work with the Department of Justice and Headquarters to develop, file, prosecute, and settle outstanding judicial actions.

C. Compliance Monitoring

All Regional programs should conduct appropriate compliance monitoring activities which include conducting compliance inspections and investigations, record reviews, targeting and responding to citizen complaints.

The core compliance monitoring program is defined by a number of specific activities. Compliance monitoring is comprised of all the activities conducted by a regulatory agency to determine whether an individual facility or a group of facilities (geographical, by sector or by corporate structure) are in compliance with environmental laws and regulations, as well as established settlement agreements (e.g., Administrative Orders, Consent Decrees, etc). Compliance determinations are generally documented and filed using various methods (e.g., database, inspection report, etc.). Compliance monitoring activities occur before and at the point when either compliance or an actual violation is determined.

Examples of important compliance monitoring activities include:

- creating a viable field presence and deterrent by conducting compliance inspections, surveillance, and civil investigations in all the environmental media (air, water, waste, toxics, wetlands, etc.) in both delegated and non-delegated programs;
- performing compliance data collection, analysis, evaluation and management;
- developing compliance monitoring strategies that include targeting and information gathering techniques;
- collecting and analyzing environmental samples at specific facilities and sites, and ambient locations;
- reviewing and evaluating self-reported reports and records, environmental permits and other technical information relating to compliance with environmental laws and regulations;
- maintaining compliance files and managing compliance records;
- responding to tips, complaints, and referrals from private citizens, other governmental entities, and non-governmental organizations;
- providing training to fulfill the requirements of EPA Order 3500.1, and other applicable Orders (1440.1, 1440.2, etc.);
- preparing reports and inputting compliance findings/inspection results into national databases;
- analyzing and evaluating the outcomes of compliance monitoring activities;
- working with state, tribal, and local environmental regulatory agencies to monitor environmental compliance with environmental laws by private, state, Federal, and tribal facilities;

- identifying potential environmental crimes through the civil compliance monitoring program, and assisting in bringing environmental criminals to justice;
- developing compliance monitoring tools such as inspection guides, checklists, or manuals;
- promoting the recommendations detailed in the OC guidance, "Role of the EPA Inspector in Providing Compliance Assistance," dated July, 1997, for providing either Tier 1 or Tier 2 compliance assistance during compliance inspections;
- developing, negotiating, or overseeing state or tribal compliance and enforcement grants;
- providing training, assistance, support and oversight of state and tribal compliance inspectors;
- issuing, when appropriate, Federal credentials to state and tribal compliance inspectors;
- performing compliance screens for various Headquarters and/or state programs such as Performance Track.

It is expected that the regions, for each of their programs, will conduct many of these activities. The specific combination of activities will depend upon the availability of intra- and extramural resources, and working agreements made between state and tribal governments.

Compliance monitoring does NOT include: 1) preparation of Notice of Violations (NOVs), warning letters, and administrative or judicial complaints, and 2) development of evidence and other information where a violation has already been determined to have occurred.

Reference: OECA's Office of Compliance, Compliance Monitoring Program Review Team Report, November, 1999

Program Data Management

In FY 2002, OECA began to collect outcomes of some inspections using the Inspection Conclusion Data Sheet (ICDS) for the CAA-Stationary Source, CWA-NPDES, TSCA lead paint, and TSCA/FIFRA Good Laboratory Practices inspection programs.

In 2004, OECA will expand ICDS reporting to include RCRA hazardous waste, RCRA Underground Storage Tanks, TSCA (core, PCB's and asbestos) and the CAA 112(r) inspection programs. Based on FY 2002 inspection data collected, the expansion of ICDS reporting will increase inspections by approximately 3800 records. Regions will continue to have two ways to report ICDS information at mid-year and end of year: 1) manual reporting form, or 2) Integrated Compliance Information System (ICIS). OECA is exploring whether manually reported inspections should be entered into ICIS by the regions. If a decision is made to have regions enter these manual inspections into ICIS, OECA may expand ICDS reporting to those programs.

D. Compliance Assistance

Ensuring compliance should be an integrated process that looks at all available tools

including compliance assistance, compliance incentives, compliance monitoring and enforcement, to determine the most appropriate tool for a particular problem. These functions should be aligned and used in a manner to maximize their collective impact and reinforce one another.

Compliance Assistance includes activities, tools or technical assistance which provide clear and consistent information for: 1) helping the regulated community understand and meet its obligations under environmental regulations; or 2) helping other compliance assistance providers to aid the regulated community in complying with environmental regulations. At least one objective of the assistance may also help the regulated community find cost-effective ways to comply with regulations and/or go “beyond compliance” through the use of pollution prevention, environmental management practices and innovative technologies, thus improving environmental performance.

The Compliance Assistance Core Program in the Regions should include the following:

1. **A strong Regional compliance assistance core program infrastructure:**
 - A full-time Regional Compliance Assistance Coordinator to provide a focal point for planning and coordination of compliance assistance efforts;
 - Communication networks within the region, across regions, with headquarters, states, and external environmental assistance providers;
 - Mechanisms to coordinate and strategically build compliance assistance into national, regional and state planning processes.
2. **Strategic planning for up front consideration and appropriate use of compliance assistance in addressing environmental problems:**
 - Plan and coordinate compliance assistance across organizational and programmatic boundaries (e.g., media programs, enforcement, environmental justice, small business) and include states and other stakeholders in this process;
 - Use integrated strategic approaches to target and address environmental problems, and consider all available tools, such as compliance assistance, compliance incentives (self-audits, opportunities for pollution prevention and Environmental Management Systems (EMS)), compliance monitoring, and enforcement (See November 27, 2002, Framework for a Problem-Based Approach to Integrated Strategies).
3. **Tracking and measuring results of compliance assistance activities:**
 - Report on and track compliance assistance projects in the Compliance

- Assistance Planning Database (CAPD) and Regional Compliance Assistance Tracking System (RCATS)¹**
- **Report all compliance assistance project outputs and for significant compliance assistance projects, also measure and report outcomes. Significant compliance assistance projects include activities that support the national OECA priorities or regional priorities.**
 - **Report on the following measures for compliance assistance:²**
 - ▶ **Percentage of regulated entities reporting increased understanding of regulatory requirements as a result of compliance assistance;**
 - ▶ **Percentage of regulated entities reporting that they changed or improved environmental management practices;**
 - ▶ **Percentage of entities reporting that they reduced or eliminated pollution;**
 - ▶ **Percentage of non-EPA assistance providers reporting improved ability to deliver compliance assistance as a result of using EPA compliance assistance tools and resources;**
 - ▶ **Number of regulated entities reached through EPA or EPA sponsored/funded compliance assistance;**
- 4. Providing compliance assistance targeted to appropriate problems, sectors and geographic areas (i.e., EJ) directly or through other providers (states, P2 providers, etc.)**
- **Develop compliance assistance tools, conduct training, workshops, presentations, onsite visits and/or distribute outreach materials;**
 - **Share compliance assistance tools and opportunities within the regions and externally, e.g., with states, tribes, trade associations;**
 - **Serve as a wholesaler of compliance assistance to enable other providers to offer assistance, including, for example, providing training and tools to providers;**
 - **Place new tools on Compliance Assistance Clearinghouse as they are developed;**
 - **Market and wholesale compliance assistance opportunities and tools, and share success stories.**

¹Report compliance assistance planning and measurement information into the Integrated Compliance Information System (ICIS) when operational.

²Regions may also choose to report on other measures, e.g., pounds of pollutants reduced as a result of compliance assistance.

OECA may be asking regions to discuss their progress in implementing the actions identified in the February 25, 2002 memorandum on *Enhancing EPA's Compliance Assistance Programs*. In that memorandum, OECA asked the Regions to undertake a number of actions to help strengthen their compliance assistance work. The purpose of the request will be to help OECA assess the progress that has been made by the regions in improving the effectiveness of their programs over the past year and to identify areas where OECA can help regions make further progress.

E. Data Quality

The Office of Compliance, Enforcement Planning, Targeting, and Data Division, is developing a comprehensive Data Quality Strategy that will improve upon the disparate approaches previously used in order to provide a strategic vision and implementation schedule to assure that enforcement and compliance data can be used as an effective tool to manage our program and report on our accomplishments. The Data Quality Strategy will be the basis of the new Quality Management Plans that OC will be taking the lead on developing in FY 2002. This strategy will be developed in FY 2001 and will include such activities as:

- identification of key enforcement and compliance program data fields;
- developing standards for verification and validation of the accuracy of data being entered into key data fields in each data base;
- periodic random data audits and targeted data clean-ups; and
- updating guidance on the input and use of certain key data fields in each data base, including identifying where underlying media specific program guidance needs to be updated and/or revised.

F. EPA State Relations

Partnership with the states is a central component of the core program. In developing and maintaining strong partnerships with states, regions will jointly develop enforcement and compliance assurance priorities that consider national program, regional, and state priorities. These priorities should include strategies that use the full range of tools to improve environmental performance and ensure compliance with environmental requirements. Regions and states are also encouraged to include implementation of innovative projects such as Performance Track in their set of priorities. As outlined in the January 19, 2001 memorandum, "Enforcement and Compliance Operating Principles for the National Performance Track Program," as one of the incentives for participation in the first-tier Achievement Track, the Agency has committed to consider all participating facilities as "low priority for routine inspections." All regions are expected to incorporate this commitment into inspection targeting efforts, both in the context of regional targeting and in negotiating with state partners.

In support of the Agency's Achievement Track of the National Performance Track program, the regions (in concert with Headquarters offices and DOJ) are conducting compliance screens of all

applicant facilities. The regional effort includes searches of Agency databases, follow-up on information found there, program by program inquiries about new information not yet accessible on databases. The region will assess the findings against the Performance Track entry criteria, and make recommendations as to the appropriateness of each facility's participation.

The following four areas of focus should be considered in working with states:

1. Joint Planning, Priority Setting, and Work Sharing

Regions and states should implement joint planning, priority setting, and work sharing to achieve efficient and effective identification of enforcement and compliance priorities, deployment of resources, coordination, and greater compliance, all of which will result in improved environmental performance. OECA guidance and policy, such as the 1986 "Revised Policy Framework for State/EPA Enforcement Agreements" and its subsequent addenda, should continue to guide Regional discussions with states. The "Annual Compliance Assistance Plan", issued in April 2001, is OECA's guidance on planned compliance assistance activities.

2. Consultation on Enforcement and Compliance Assurance Activities

Ongoing consultation and communication between EPA and states is critical for a smooth working relationship. Regions and states should ensure that established processes and procedures for notification of inspections and enforcement actions in authorized and non-authorized programs, where applicable, are followed per the "no surprises" policy described in the 1986 Policy Framework and appropriate program specific policy. This includes discussing enforcement activities in priority sectors and the status of enforcement cases with state co-regulators.

3. Environmental Compliance Analysis and Assessment

EPA and states together should assess the general state of compliance and enforcement program implementation in all major program areas using EPA and state sources of information. Each region should meet with its states frequently to identify areas of significant environmental problems and of significant noncompliance, develop strategies to address these problems areas, and evaluate the effectiveness of those strategies. OECA will continue to assist regions in problem identification, strategy formulation and evaluation by providing information available from data systems and other sources on a periodic basis. EPA and states should also find opportunities to share information on compliance assistance activities. For example, one option for states to share compliance assistance information with EPA is to report to the Pollution Prevention Compliance Assistance Measurement System developed by the New England Waste Management Officials Association (NEWMOA).

4. Effective State Enforcement and Compliance Assurance Programs

Regions should work with states to develop enforcement and compliance assurance agreements.

These may be stand-alone agreements or may be incorporated into grant work plans for categorical grants agreements, Performance Partnership Grants, and Performance Partnership Agreements. The work plans may be tailored to specific state conditions and levels of performance. In negotiating grant work plans, regions and states should consult National Program guidance and follow EPA grant regulations, i.e., 40 CFR Parts 31 and 35. Reference should be made to the Core Accountability Measures (joint EPA/ECOS memorandum dated April 22, 1999). Some regions and states are piloting new enforcement and compliance assurance performance measures, which may be used in addition to or in lieu of the accountability measures after consultation with OECA.

2. & 3. CLEAN WATER ACT AND SAFE DRINKING WATER ACT PROGRAMS

The “Water” Program encompasses six separate programs under both the Clean Water Act (CWA) and the Safe Drinking Water Act (SDWA). Each program has different characteristics (e.g., some programs have national data bases and some do not), and, as a result, the “core program” varies somewhat from program to program. Therefore, in order to provide clarity, shared core program elements are listed up front followed by a description of compliance and enforcement activities unique to each water program. Regions should also refer to information contained in the Introduction to Core Program for further detail on shared core program elements.

2. CLEAN WATER ACT PROGRAMS

The following core program elements are shared by all of the CWA programs:

- Regions should implement existing national compliance and enforcement policy and guidance, e.g., the 1989 *National Enforcement Management System (EMS)*;
- Regions should consider all available data in implementing the compliance and enforcement activities described below;
- Regions and states must maintain an effective inspection program in each of the water program areas;
- Each violation deserves a response. Regions and/or states are expected to evaluate all violations, determine an appropriate response, per the EMS if applicable, and take that action. Regions should focus actions in the priority areas listed in the MOA while maintaining a presence in all water programs; and
- Regions/states are expected to take timely and appropriate actions against facilities in significant noncompliance (SNC). Any facility not addressed in a timely and appropriate manner is an exception and should be targeted for Federal enforcement.

A. NPDES and Pretreatment Programs

Compliance Assistance

Regions should refer to the Compliance Assistance section of the Introduction to Core Program for general information regarding these activities. In addition, regions should support and encourage state small community environmental compliance assistance programs that are consistent with EPA's November 22, 1995 Policy on Flexible State Enforcement Responses to Small Community Violations.

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program for general information regarding these activities.

Compliance Monitoring

(A) Inspections

(1) NPDES PROGRAM

It is an Agency goal to provide 100% coverage of all major NPDES facilities and POTWs with approved pretreatment programs or equivalent coverage of a combination of major and priority minor facilities annually. Regions should focus inspections in Clean Water Act priority areas as defined in the MOA. Regions may shift a portion of their total inspection resources from major to minor facilities, particularly in priority watersheds or facilities discharging to impaired waters (e.g. fish advisories, shellfish bed or beach closures, drinking water sources). Since an inspection at a major facility generally requires more resources than an inspection at a minor facility, inspection tradeoffs - that is the number of minor facilities substituted for major facilities - should generally be at a 2:1 or greater ratio. This ratio is based on previous work load models which averaged the amount of resources needed to conduct major and minor inspections. As we continue to focus on newer sources, such as SSOs, or on priority watersheds, minor sources are an important component of our inspection program. The region should briefly explain its inspection targeting process, particularly its rationale for trading off major inspections for minor inspections, in the MOA. Regions proposing to shift inspection resources from majors to minors must ensure that the necessary minor facility information and inspection data is entered into PCS, either by the region or the state, in order to receive "credit." It is very important that minors data be reported into PCS to reflect our activities and document results. We now rely solely on minor data entered into PCS to evaluate and report results.

Biosolids

Although sludge (or biosolids) is not an area of national priority for OECA, we recognize that some regions expend resources conducting sludge inspections. Therefore, regions who are planning to conduct additional sludge inspections at the expense of other CWA core activities should provide a rationale for their investment in this program. Regions should report sludge inspections along with other inspections, where applicable, on the MOA form as part of the end-of-year report.

Performance Expectations

Regions should make projections in the MOA for both state and Federal inspections, identifying the universe of NPDES majors, and projecting the number of majors and the number of minors to be inspected. The projections should be shown as Federal and state by state, as provided in the NPDES inspection chart attached to the MOA guidance.

(2) PRETREATMENT PROGRAM

In the pretreatment program, regions must insure coverage in approved programs as well as those where EPA is the control authority. The goal is to annually inspect 100% of the POTWs with approved pretreatment programs in unapproved states. Where EPA is the control authority, regions should evaluate each SIU file (e.g., review the DMR and periodic compliance reports) and follow-up with field investigations at 100% of the SIUs with violations identified in their periodic reports, or where the region believes that SIU discharge may adversely impact POTW operation or effluent quality or may be impacting receiving water quality.

Performance Expectations

Regions will make projections for both Federal (and state as appropriate) and report by state the number of inspections (and % of universe covered) in approved pretreatment programs and the number of investigations (and % of universe covered) in non-approved programs.

(B) Discharge Monitoring Report (DMR) Review/Review of Permit Compliance System (PCS) Data

Regions should routinely review all DMR reports received for compliance with permit limits. (Note that Regions may accomplish this review through a routine screen of the PCS data and reviewing the DMRs themselves as necessary.) Regions also should routinely review data submitted by states to PCS and review other information available to them on a facility's compliance with its permit and other Clean Water Act requirements.

Enforcement Actions

Regions should refer to the Introduction to Core Program for general information regarding these activities.

Performance Expectations

EPA will consider the following data that is currently reported into PCS: number of SNCs (and % of universe); number (and %) addressed in a timely and appropriate manner; number (and %) exceptions; number (and %) exceptions addressed; and number remaining, with an explanation provided by facility for those remaining on the Exceptions List. No more than 2 percent of all major facilities should be on the exceptions list at any one time. Regions not able to commit to this should identify this as an “exception” in their MOA submission and propose an alternative projection.

Program Leadership and Evaluation

Data Entry/Data Management

There are two components to data management - (1) the programmatic data in the Permit Compliance System (PCS) and (2) the data required to be reported to Docket and in the case conclusion data sheets.

(1) DMR data entry in PCS will be monitored and all the required data elements (“WENDB”) are expected to be put in for majors. Where activities at majors have been traded off for activities at minors (e.g., inspections), regions and states are expected to input the PCS data for the minors.

If regions cannot maintain this level, the region should identify this as an “exception” to the core and indicate what level it will attain.

Headquarters will monitor regional/state data entry quarterly.

(2) Regions are expected to report to PCS and to Docket all administrative orders, administrative penalty orders, and civil referrals, as well as to complete and enter the case conclusion data sheets for all concluded actions.

B. Section 404 (e.g. Wetlands)

The following activities are important to achieving the ongoing environmental goals of “no net loss” of wetlands and achieving a net increase of 100,000 acres of wetlands per year by 2005.

Compliance Assistance

Regions should target compliance assistance activities towards smaller landowners/farmers who may not fully understand the Section 404 program. Regions should closely coordinate these activities with the other Federal agencies which may be involved. In addition, regions should report on compliance assistance activities through RCATS.

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction and the list of shared core program elements for the CWA Programs for general information regarding these activities.

Compliance Monitoring

Regions should have a process for identifying/targeting/inspecting and otherwise responding to illegal activities. Regions should continue to report quarterly to OECA/ORE/WED on 404 violations and investigations. Regions are expected to implement the new timely and appropriate (T&A) policy. Since only two states have been delegated parts of the Section 404 program, this is primarily a Federal effort. The Regions must also coordinate, as appropriate, with other Federal agencies which have significant roles in wetlands protection through the use of memoranda of understanding and memoranda of agreement (e.g., Corps of Engineers, NRCS, Fish and Wildlife Service, etc.).

Performance Expectations

Regions should project and manually report through “the shell” on the number of site visits/inspections in the 404 program. This will be Federal only, except Regions II and V should also submit numbers for state inspections/site visits for New Jersey and Michigan, as well as for Federal actions.

Enforcement Actions

Whenever appropriate in 404 and non-404 water enforcement settlements, regions should use supplemental environmental projects to restore and enhance wetlands and to create wetland mitigation projects.

Program Leadership and Evaluation

The Section 404 program does not have a national data system. Regional wetlands program managers, however, are expected to report to Docket all administrative orders, administrative penalty orders, and civil referrals, as well as to complete and enter the case conclusion data sheets for all concluded actions. Regions are also expected to report violations and responses quarterly to Headquarters (ORE/WED) using the existing format.

Performance Expectation

At midyear and in end of year reports, as appropriate, Regions will describe their review and evaluation of state programs, major findings, and any corrective actions initiated or planned. For Federal programs, regions should describe their program and any corrective actions they have initiated or planned.

C. Oil Pollution Act (Section 311)

Section 311 is a Clean Water Act authority but responsibility for compliance monitoring, enforcement and implementation resides in a number of different Regional divisions with the following titles: Emergency and Remedial Response; Superfund; Hazardous Waste Cleanup; Environmental Cleanup; Ecosystems Protection and Remediation; Waste Management.

Past compliance and enforcement efforts in CWA 311 have focused on ensuring that regulated sources have maintained the required Spill Prevention Countermeasures and Control (SPCC) plans. Regions should check compliance monitoring at facilities subject to SPCC requirements to ensure that the plans are adequate and meet the regulatory requirements, particularly with regard to physical security requirements. In light of continuing concerns regarding chemical safety, Regions should also consider the following factors in focusing their targeting and inspections efforts:

- significant quantities of chemicals of concern**
- proximity to population centers**

Headquarters has worked with some regions to issue an expedited settlement policy allowing Regions to conserve enforcement resources. Headquarters will continue discussions with Regions on future directions for the CWA 311 program. This discussion will include possible targeting strategies for identifying classes of sources which may warrant further investigation or improve how to address homeland security concerns.

Compliance Assistance

Regions should refer to the Compliance Assistance section of the Introduction to Core Program for general information regarding these activities.

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program for general information regarding these activities.

Compliance Monitoring

Regions should refer to the Compliance Monitoring section of the Introduction to Core Program for general information regarding these activities.

Enforcement Actions

While the CWA 311 program does not have a formal EMS, Regions must have a program to identify violations, to prioritize violations for actions, and then to take appropriate actions. Regions are expected to comply with the Section 311 penalty policy. Regions who have prior Headquarters' approval may use the Section 311(b)(3) and Section 311(j) expedited enforcement program as a complement to their full administrative and civil judicial enforcement efforts.

Program Leadership and Evaluation

Regions should routinely review the ERNS database on spills to ensure that all spills are being appropriately addressed.

3. SAFE DRINKING WATER ACT PROGRAM**A. Public Water System Supervision (PWSS) Program**

OECA will be seeking input from the regions and from drinking water stakeholders to develop a strategy to implement the enforcement and compliance recommendations of the annual National Public Water System Compliance Reports, and how activities to support implementation can be incorporated into each region's MOA. The general recommendations are included in the descriptions below.

Compliance Assistance

Regions should target compliance assistance towards smaller drinking water systems, especially those with part-time operators. Regions should work with the states to increase small system operators' awareness of their monitoring and reporting requirements, and to build small systems' technical and financial capacity to perform the required activities. The total coliform rule, historically the most violated MCL, is another area where compliance assistance to small systems can be expected to produce significant results. Here, regions should encourage distribution of compliance assistance materials during sanitary survey inspections, and circuit riders as means of detecting and avoiding the conditions that lead to microbial contamination. When compliance assistance is not effective, regions should pursue enforcement actions.

Regions should also focus compliance assistance on provisions of the Disinfectant Byproducts Rule which will become effective in November 2001. This effort will include outreach and education programming to ensure that sources understand the requirements and assistance to help them develop the program and system changes needed to implement the new rule. We encourage regions to make use of the recently-established Local Government Environmental Assistance Network (LGEAN) as a ready source of compliance assistance information (both from EPA and from its non-governmental

partners), and recommend marketing LGEAN to drinking water system operators as a compliance assistance tool. In addition, regions should report on compliance assistance activities through RCATS.

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program and the list of shared core program elements for the CWA Programs for general information regarding these activities.

Compliance Monitoring

(a) Inspections/Sanitary Surveys

Regions and states should maintain an effective inspection/sanitary survey program. Inspection and sanitary surveys should be reported into RECAP. Since all but two jurisdictions have been granted primacy for the drinking water program, this activity is mostly a state activity. Regions with direct implementation programs (Regions III and VIII) and all regions which directly implement the program on Indian lands should report numbers of inspections completed.

(b) Review of data in the Safe Drinking Water Information System (SDWIS) and review of other information on compliance available to the region.

Regions with direct implementation programs are expected to input required data into SDWIS. This is especially important for regions with direct implementation programs on tribal lands. Data entry for those programs will be monitored quarterly. Regions are expected to routinely review data submitted by states to SDWIS and review other information available to them on a drinking water system's compliance status. No new reporting is required by this measure.

Enforcement Actions

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program and the list of shared core program elements for the CWA Programs for general information regarding these activities.

(a) Resolution of SNCs

In evaluating Regional performance, OECA will look at: the number of SNCs (and % of universe); number (and %) addressed in a timely and appropriate manner; number (and %) exceptions; number (and %) exceptions addressed; and number remaining. Information needed to support this is already reported in RECAP and is already required to be reported to SDWIS. Regions not able to commit to this should identify this as an "exception" in their MOA submission and provide an alternative

projection.

(b) Implementation of the Safe Drinking Water Act Amendments of 1996

These amendments fundamentally changed the drinking water program by providing the Agency and the states new tools, for example, the State Revolving Fund and new enforcement authorities, including administrative order and penalty authority for Federal facilities. Headquarters and the Regions have developed implementation plans.

Performance Expectations

Regions will continue to implement the 1996 amendments consistent with the implementation plans and include Federal facilities as part of other identified drinking water priority activities; conducting EPA inspections at Federal facilities using the newly clarified authorities. Regions should also incorporate a Safe Drinking Water Act component in all regional multimedia inspections of Federal facilities as outlined in the Federal facilities core program section of this MOA guidance. When regions find violations, they should take enforcement action, as appropriate.

c) Targeting Activities

To ensure that water is safe to drink, the regions should evaluate the results of source water assessments and the unified watershed assessments in targeting some enforcement activities in FY 2002/2003 where sources of drinking water are contaminated or threatened.

Program Leadership and Evaluation

Regions and states are expected to ensure that all required data is input into SDWIS, including Federal facilities as applicable. Regions with direct implementation programs, including those on tribal lands, are expected to input the data themselves. If regions are directly implementing any of the new drinking water regulations, they must ensure that the required data is in SDWIS.

B. Underground Injection Control (UIC) Program

Compliance Assistance

Regions should target compliance assistance efforts at Class V wells delineated in source water protection areas and other areas where the potential for groundwater contamination is high (e.g. fractured rock and karst areas; sole source aquifers). In addition, regions should refer to the Compliance Assistance section on the Introduction to Core Program for general information regarding these activities.

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program and the list of shared core program elements for the CWA Programs for general information regarding these activities.

Compliance Monitoring and Performance Expectations

(a) Inspections

Regions should insure an effective field presence through routine inspections of all classes of wells. The actual number of inspections and the distribution by well class will depend on the region and whether or not all or part of the program has been delegated to the states.

(b) Review of Compliance Information

Regions should routinely review inspection reports, mechanical integrity test results and other information available on the compliance status of injection wells. Regions should also review other information available to them which suggests the existence of Class V well or wells. Based on review of this information, appropriate inspections or enforcement actions should be targeted.

Enforcement Actions

Resolution of SNCs

In evaluating Regional performance, OECA will look specifically at: the number of SNCs ; number (and %) addressed in a timely and appropriate manner; number (and %) exceptions; number (and %) exceptions addressed; and number remaining, with an explanation provided. Regions not able to commit to this should identify this as an “exception” in their MOA submission and provide an alternative projection.

In addition, regions should refer to the Introduction to Core Program (p. 1) for general information regarding these activities.

Program Leadership and Evaluation

There is no UIC national program data base; however, regions are expected to ensure that all required data is input into Docket and that case conclusion data sheets are completed and entered into Docket.

4. FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT PROGRAM

EPA and the public rely on pesticide manufacturers and formulators to provide accurate information about pesticides and their associated risks. Unregistered and ineffective antimicrobials, as well as products making false or misleading public health protection claims, pose a potential public health threat when the public makes inappropriate choices based on inaccurate or misleading information. Farm workers must be informed about exposure to pesticides that are used on agricultural crops and must be informed how to properly handle and apply pesticides.

Compliance Assistance

In general, compliance assistance should be a focus in follow-up to the issuance of new or amended regulations, and will also be incorporated into FIFRA national sector initiatives.

For FIFRA, the Agriculture Branch and the National Agriculture Compliance Assistance Center will continue to develop and provide compliance assistance materials related to FIFRA, Worker Protection requirements, and other EPA requirements that impact the agricultural community. Regions should familiarize themselves with the material offered by the Agriculture Division and provide compliance assistance materials as they give presentations to agricultural groups/trade associations. In addition, regions should review compliance data to identify compliance assistance needs and provide input to the Center and the Agriculture Branch in OC. Regions are also encouraged to provide the Center with outreach materials that they/their states develop. Another area for compliance assistance relates to citizen complaints and ensuring that use cases involving allegations of significant harm are tracked under FIFRA section 27 and are responded to adequately.

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program for general information regarding these activities.

Compliance Monitoring

To maintain an effective compliance monitoring program, regions must allocate limited resources as effectively as possible, and trade-offs will have to be made. However, to the maximum extent possible, regions should **work with pesticide state lead agencies and tribal pesticide agencies** to target and conduct inspections and investigations to support the pesticide focus **areas such as worker safety, antimicrobial testing, unregistered sources/product integrity, label enforceability, and e-commerce.**

Inspections are expected to be completed for every FIFRA core program area. Regions should ensure inspection coverage in states without EPA enforcement cooperative agreements. Regions are expected to track and prioritize tips/complaints, and follow-up, as needed. "Follow-up" means that the region needs to evaluate the tip/complaint to determine the appropriate next step, and either: 1) refer the

tip/complaint to a state as appropriate and track it through resolution consistent with national guidance; or 2) obtain additional information through Federal investigation/show cause letter if necessary and issue appropriate Federal action as appropriate. Regions are also expected to follow-up on all referrals received from Headquarters and states.

Performance Expectations

For FIFRA, the primary focus is on providing assistance/training/oversight to states/tribes carrying out FIFRA related enforcement under cooperative enforcement agreements. This includes issuing credentials as appropriate and providing training and grant oversight. Regions should refer to the Federal facilities section of this attachment (Section 9) for guidance on including Federal facilities in core program activities where applicable. EPA is responsible for enforcing data quality requirements (GLPs), section 7 establishment registration and the submission of production data, import and export requirements, and the reporting of unreasonable adverse effects under section 6(a)(2) of FIFRA. States conduct product compliance inspections and may take the enforcement action or in some cases, refer the case to EPA. Regarding enforcement of pesticide use provisions, the statute gives primary use enforcement responsibility to the states. EPA has a state oversight and training role, as well as a compliance assistance role.

In January 2002, the Regions and Headquarters agreed that the following five areas should receive special focus during FY 2003 and FY 2004 from the FIFRA program: worker safety, e-commerce, antimicrobial testing program, label enforceability, unregistered sources/product integrity. The specific activities and outcomes that should flow from this focused attention will be developed by workgroups of Regional and Headquarters members and provided in a separate document.

Enforcement Actions

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program for general information regarding these activities.

Program Leadership and Evaluation

Headquarters has general expectations with regard to data entry, use of press releases, and assessment of state performance under enforcement cooperative agreements.

Data Entry: It is critical that the regions enter all Federal state, and tribal data into the FIFRA/TSCA Tracking System (FTTS), which is then merged into the National Compliance Data Base (NCDB). In addition, regions should refer to the Data Quality section of the Introduction to Core Program (p. 6) for general information on these activities. Administrative penalty cases, NODs and SSUROs should also be entered into ICIS.

Press Releases: The regions should use press releases for regional activities which are not part of national initiatives, as appropriate, in order to promote further compliance.

State Cooperative Agreements: OECA will provide a draft pesticides state enforcement cooperative agreement guidance for review and comment separately from the MOA guidance. This cooperative agreement guidance, once finalized, should be followed by the EPA Regional offices when negotiating enforcement cooperative agreement commitments. For purposes of the MOA discussions, OECA is looking for each Region's projections on the number of FIFRA inspections which they will be using as the basis for negotiations with each of their state enforcement grantees.

5. TSCA/EPCRA PROGRAMS

The program focus for FY 2003/2004 is to ensure that the regulated community provides accurate information about toxic chemicals and their associated risks to the EPA, to the public, and to other Federal, state, and local entities. EPCRA includes two distinct programs, right to know under EPCRA 313 and release notification and emergency preparedness under CERCLA 103 and EPCRA 304, 311 and 312. EPA and the public rely on EPCRA for information on chemicals entering the environment, and on the storage of chemicals at facilities. EPA, state and local entities, and the community rely on the combined EPCRA/CERCLA authorities to prepare local chemical emergency response plans, and to more safely and adequately respond to chemical emergencies. EPA must ensure that companies report accurately and within required time frames. The public's right-to-know is also encompassed in the TSCA regulatory programs for asbestos, PCBs, and lead-based paint, as well as Core TSCA (sections 4, 5, 8, 12 and 13).

In light of continuing concerns regarding chemical safety, Regions should also consider the following factors in focusing their targeting and inspections efforts:

- **significant quantities of chemicals of concern**
- **proximity to population centers**

Compliance Assistance

All regions need to maintain expertise in the EPCRA and TSCA program areas in order to respond to regulated entities and the public. Compliance assistance should be a focus in follow-up to the issuance of new or amended regulations, and will also be incorporated into national sector, or other compliance and enforcement initiatives as appropriate. **In FY 2003-2004, ongoing compliance assistance will be needed for the TSCA 403 rule, EPCRA 313, and AHERA, particularly charter schools.**

Initiatives are collaboratively developed by Headquarters, the regions, and the appropriate program office. Examples of recent compliance assistance initiatives include the National Nitrate Initiative, the Chemical Industry Sector Strategy's EPCRA project, EPCRA 313 reporting guidance for specific industry sectors (food processing, rubber and plastics, and the semiconductor industries), and internet access to comparative TRI data from facilities in five sectors via the Sector Facility Indexing Project (SFIP). Past initiatives which focused on a particular sector resulted in increased compliance rates, and in FY 2003/2004 the regions and program offices will be involved in identifying potential industries or sectors to focus Agency resources. The strategies for previous initiatives included a focused

compliance assistance period with a recommended time frame for targeted assistance to ensure that the regulated community has the information which they need to comply.

For the chemical industry, the regions should promote and utilize, where appropriate, ChemAlliance, the compliance assistance center for the chemical industry. ChemAlliance can be used by regions and states as a tool to provide multi-media compliance assistance, including information related to TSCA, EPCRA and CERCLA 103. Appropriate Regionally-developed compliance assistance materials can also be made available through ChemAlliance.

Regions should communicate with 20% of the known EPCRA Section 313 regulated universe within their region each year. This can be accomplished by telephone calls or by workshops/seminars. This will move toward the goal that every 5 years, the entire known regulated universe has had EPA-provided compliance information. Telephone calls may be initiated by a regulated entity or the region. The region should provide compliance information such as the basic requirement of EPCRA and the criteria that triggers it, the telephone number for the EPCRA Hotline, and the internet address for the TRI Program web page. For Region-initiated calls, outreach and compliance assistance should be targeted at facilities with known or suspected problems. To track our compliance assistance efforts, Regions should maintain a record of each call, recording information such as: date of the call, the name of the regulated entity, and the nature of the information exchanged. Patterns noted from this screening information also help the region identify types of facilities to investigate or inspect. Regions should maintain records of the names and numbers of regulated facilities that attend regional workshops/seminars. OECA believes that such efforts are important in order to quantify the Agency's efforts to communicate fundamental EPCRA Section 313 information to the regulated universe.

Compliance Incentives

Regions will work with OECA to identify candidate industries or sectors for compliance incentive programs in order to focus our efforts to promote compliance. OECA will use national meetings and conference calls as the means for selecting industries and/or sectors for Federal compliance incentive programs. In FY 2003/2004 Federal compliance incentive initiatives may be developed to focus efforts for EPCRA 304/CERCLA 103, EPCRA 311/312, and EPCRA 313. As part of the Agency's PBT program, TPED will continue to work with Regions to further decommission PCB-laden equipment. The Core TSCA Enforcement Center, working with Regions 2 and 5, and any other interested regions, will focus efforts to negotiate corporate compliance audit agreements. Federal compliance incentive programs will be initiated, as appropriate. Regions are encouraged to work with OECA when developing their own compliance incentive programs based on regional needs and priorities.

Except for the minimally-invested Core TSCA regions, regions should review and follow-up on, as appropriate, disclosures submitted under the OECA Audit Policy and Small Business Policy. Under Core TSCA, self disclosures received by minimally-invested regions should be forwarded to TPED for appropriate action.

Compliance Monitoring

To maintain an effective compliance monitoring program, regions must allocate limited resources as effectively as possible. Regions are encouraged to use screening and targeting tools to focus limited Federal resources on national and regional priority areas. A general area of emphasis is to target facilities that meet reporting criteria but have not reported. The Sector Facility Indexing Project (SFIP) is a regional data analysis and targeting tool. The information in SFIP could be used to analyze the relative quantities of data in the system and identify the better facilities.

EPCRA/CERCLA 103 and EPCRA 304, 311 and 312

Regions should target and conduct inspections and investigations on the following areas, focusing on **facilities with significant quantities of chemicals of concern, such as acutely toxic chemicals, also factoring in areas of high population density:**

- EPCRA 313 - data quality, non-reporters, and new reporters for Pb and PBT Rules;
- EPCRA 311/312 - late reporters, non-reporters; and
- EPCRA 304/CERCLA 103 - late reporters, non-reporters - identifying Federally-permitted release violations as part of multi-media cases, particularly in conjunction with Clean Air Act violations.

In the EPCRA 313 program, regions are expected to conduct at least 10 on-site Data Quality inspections each fiscal year as part of their overall inspection commitment.

TSCA

Regions should target and conduct inspections and investigations (including show cause letters or subpoenas where appropriate) focused in the following areas:

- lead-based paint: Lead Disclosure Rule (Section 1018), and TSCA Sections 402/403/406;
- asbestos: AHERA;
- PCBs: in conjunction with PBT efforts; and
- Core TSCA - in conjunction with the Core TSCA Enforcement Center.

Regions should use screening and targeting tools to identify inspection targets based on national and Regional priorities. Regions should ensure inspection coverage in states without EPA enforcement cooperative agreements. With the exception of minimally-invested Core TSCA regions, regions are expected to track and prioritize tips/complaints, and follow-up, as needed. Regions are also expected to follow-up on all referrals received from Headquarters and states. "Follow-up" includes evaluating the tip/complaint to determine the appropriate next step, and either: 1) refer the tip/complaint to a state as appropriate and track it through resolution consistent with national guidance; or 2) obtain additional information through Federal investigation/show cause letter/subpoena if necessary and issue appropriate Federal action as appropriate. Under Core TSCA, minimally-invested regions are to refer tips and complaints to the Core TSCA Enforcement Center for follow-up. Those regions who chose to maintain a minimal presence in this program are expected to respond to questions from the regulated community, to conduct limited inspections as resources allow, and to work with the **Bureau of Customs and Border**

Protection on the import/export program. For those regions (other than 2 and 5) who chose to continue to invest additional resources in Core TSCA compliance and enforcement, the Core TSCA Enforcement Center will assist in targeting inspections, but the Region is expected to provide legal and technical enforcement case support.

In the TSCA lead-based paint program, several relatively new rules merit increased attention and an increased number of inspections. Regions should screen tips and complaints for potential violations of the Lead Disclosure Rule, as well as the Section 402 Abatement, Training and Certification Rule and the Section 406 Renovator and Remodeler Rule, in those states without authorized programs. Each tip/complaint should be reviewed carefully to determine if follow up is necessary. In most instances, letters should be sent to potential violators identified in a tip or complaint as follow-up. After screening the response, in appropriate circumstances Regions should conduct an on-site investigation. In those states without authorized 402 programs, Regions should conduct 402 inspections of training providers and inspect work sites; this activity should be briefly described in the MOA submission as rationale for any trade-offs with Disclosure Rule or Section 406 inspection commitments.

In the TSCA asbestos program, inspection resources should be targeted at school districts with known AHERA compliance problems and at charter schools in states where EPA is the lead for inspections and enforcement. In non-waiver states, Regions will follow-up on violations referred by states, and develop appropriate enforcement responses. Tips and complaints should be followed-up on as appropriate.

Since the inception of the TSCA PCB program some 25 years ago, much progress has been made in reducing the risks of PCBs to the public's health and to the environment. Through EPA's regulatory and enforcement efforts, PCB equipment has been retired and replaced with non-PCB equipment, and much PCB waste has been properly destroyed or disposed. Still, there are over 20,000 PCB transformers that were registered by 2,500 companies with the Agency as of December 1999, that are still in use. Additionally, there are approximately 50 commercially permitted PCB disposal facilities, and 90 PCB commercial storers who continue to handle high volumes/concentrations of PCBs. In FY 2003/2004, the Regions should use their enforcement resources to focus on the continued phase out of PCBs as well as monitoring PCB storage and disposal facilities. Using the Transformer Registration information, Regions should target inspections toward users of high concentration PCBs and non-reporters. Enforcement follow-up to violations detected as a part of these inspections should promote, where possible, the retirement of PCB transformers through Supplemental Environmental Projects (SEPs). Recently, some Regions have reduced their inspections to following-up on tips and complaints, and have not visited commercial storers and disposers for some time. Over the next two-year period, Regions should inspect each commercial storer and disposer in their Region at least once so that a baseline of enforcement activity at these sites can be established. (The Region should include those facilities that have filed TSCA PCB Commercial Permit Applications that are still pending with OPPTS as part of the universe.) In summary, Regions are expected to maintain baseline inspection/ enforcement efforts with biennial inspections of commercial storers and disposers, and to target inspections of high concentration PCB users and non-reporters of PCB transformers. Tips and complaints should be followed-up as appropriate.

Performance Expectations

In FY 2001, some responsibilities for the Core TSCA program were transferred from some of the Regions to the Core TSCA Enforcement Center in Denver, Colorado, which is managed by the Toxics and Pesticides Enforcement Division (TPED). The Center is now responsible for targeting, implementing national compliance assistance and compliance audit programs, negotiating corporate compliance audit agreements, conducting enforcement investigations of corporate-wide misconduct, and assuring continuity of compliance monitoring and enforcement from year-to-year. Regions 2 and 5 are to continue, as in the past, their field investigations and enforcement program.

Enforcement Actions

Regions, other than those who are minimally invested in Core TSCA, are expected to respond to violations in a timely manner, and in accordance with national policy as contained in the individual program enforcement response policies. For Core TSCA, minimally-invested Regions will refer all self-disclosures and other violations to TPED for evaluation and appropriate action.

Regions may be asked to participate in enforcement case initiatives or cluster filings. These tools are used to further focus effort and resources. In all circumstances, cases filed as part of an initiative or cluster filing count as part of the annual MOA commitment, not as an add-on. OECA will remain sensitive to regional priorities when identifying initiatives or cluster filings. Regions will work with OECA to identify candidate industries or sectors for enforcement case initiatives. OECA will use national meetings and conference calls as the means for selecting industries and/or sectors for Federal enforcement initiatives.

Program Leadership and Evaluation

Headquarters has general expectations with regard to data entry, use of press releases, and assessment of state performance under enforcement cooperative agreements:

Data Entry: It is critical that regions enter all Federal and state data into the FIFRA/TSCA Tracking System (FTTS), which is then merged into the TSCA, FIFRA, & EPCRA 313 National Compliance Data Base (NCDB). It is important for timely data entry to occur for purposes of national analysis and publication of data as appropriate. OECA will track data entry and will discuss any data issues with regional management. Administrative penalty cases and Audit Policy cases should also be entered into ICIS.

Press Releases: Regions should use press releases for regional activities which are not part of national initiatives, as appropriate, in order to promote further compliance.

State Cooperative Agreements: For purposes of the MOA discussions, OECA is looking for each Region's projections on the number of asbestos, lead 402, and PCB inspections which they will be using as the basis for negotiations with each of their state enforcement grantees. Regions should also refer to the EPA-State Relations section of the Introduction to Core Program for further information regarding these activities.

5. TSCA/EPCRA PROGRAMS

The program focus for FY 2002/2003 is to ensure that the regulated community provides accurate information about toxic chemicals and their associated risks to the EPA, to the public, and to other Federal, state, and local entities. EPCRA includes two distinct programs, right to know under EPCRA 313 and release notification and emergency preparedness under CERCLA 103 and EPCRA 304, 311 and 312. EPA and the public rely on EPCRA for information on chemicals entering the environment, and on the storage of chemicals at facilities. EPA, state and local entities, and the community rely on the combined EPCRA/CERCLA authorities to prepare local chemical emergency response plans, and to more safely and adequately respond to chemical emergencies. EPA must ensure that companies report accurately and within required time frames. The public's right-to-know is also encompassed in the TSCA regulatory programs for asbestos, PCBs, and lead-based paint, as well as Core TSCA (sections 4, 5, 8, 12 and 13).

Compliance Assistance

All regions need to maintain expertise in the EPCRA and TSCA program areas in order to respond to regulated entities and the public. Compliance assistance should be a focus in follow-up to the issuance of new or amended regulations, and will also be incorporated into national sector, or other compliance and enforcement initiatives as appropriate. In FY 2002, new regulations which will require focused compliance assistance include the TSCA 403 rule, the asbestos Worker Protection Rule, and new reporters for EPCRA 313.

Initiatives are collaboratively developed by Headquarters, the regions, and the appropriate program office. Examples of recent compliance assistance initiatives include the National Nitrate Initiative, the Chemical Industry Sector Strategy's EPCRA project, EPCRA 313 reporting guidance for specific industry sectors (food processing, rubber and plastics, and the semiconductor industries), and internet access to comparative TRI data from facilities in five sectors via the Sector Facility Indexing Project (SFIP). Past initiatives which focused on a particular sector resulted in increased compliance rates, and in FY 2002/2003 the regions and program offices will be involved in identifying potential industries or sectors to focus Agency resources. The strategies for previous initiatives included a focused compliance assistance period with a recommended time frame for targeted assistance to ensure that the regulated community has the information which they need to comply.

For the chemical industry, the regions should promote and utilize, where appropriate, ChemAlliance, the compliance assistance center for the chemical industry. ChemAlliance can be used by regions and states as a tool to provide multi-media compliance assistance, including information related to TSCA, EPCRA and CERCLA 103. Appropriate Regionally-developed compliance assistance materials can also be made available through ChemAlliance.

Compliance assistance goals for the EPCRA 313 enforcement program are revised for FY 2002/2003. Regions should communicate with 20% of the known EPCRA Section 313 regulated universe within their region each year. This can be accomplished by telephone calls or by workshops/seminars. This will move toward the goal that every 5 years, the entire known regulated universe has had EPA-

provided compliance information. Telephone calls may be initiated by a regulated entity or the region. The region should provide compliance information such as the basic requirement of EPCRA and the criteria that triggers it, the telephone number for the EPCRA Hotline, and the internet address for the TRI Program web page. For region-initiated calls, outreach and compliance assistance should be targeted at facilities with known or suspected problems. To track our compliance assistance efforts, regions should maintain a record of each call, recording information such as: date of the call, the name of the regulated entity, and the nature of the information exchanged. Patterns noted from this screening information also help the region identify types of facilities to investigate or inspect. Regions should maintain records of the names and numbers of regulated facilities that attend regional workshops/seminars. OECA believes that such efforts are important in order to quantify the Agency's efforts to communicate fundamental EPCRA Section 313 information to the regulated universe.

Compliance Incentives

Regions will work with OECA to identify candidate industries or sectors for compliance incentive programs in order to focus our efforts to promote compliance. OECA will use national meetings and conference calls as the means for selecting industries and/or sectors for Federal compliance incentive programs. In FY 2002/2003 Federal compliance incentive initiatives may be developed to focus efforts for EPCRA 304/CERCLA 103, EPCRA 311/312, and EPCRA 313. The compliance audit initiative started in FY 2001 for the lead-based paint program will continue in FY 2002. As part of the Agency's PBT program, TPED will continue to work with Regions to further decommission PCB-laden equipment. The Core TSCA Center, working with Regions 2 and 5, and any other interested regions, will develop a compliance audit program in FY 2002, and will focus efforts to negotiate corporate compliance audit agreements. Federal compliance incentives programs started in FY 2001 will be evaluated and may be refined in FY 2002/2003, as appropriate. Regions are encouraged to work with OECA when developing their own compliance incentive programs based on regional needs and priorities.

Except for the minimally-invested Core TSCA regions, regions should review and follow-up on, as appropriate, disclosures submitted under the OECA Audit Policy and Small Business Policy. Under Core TSCA, self disclosures received by minimally-invested regions should be forwarded to TPED for appropriate action.

Compliance Monitoring

To maintain an effective compliance monitoring program, regions must allocate limited resources as effectively as possible. Regions are encouraged to use screening and targeting tools to focus limited Federal resources on national and regional priority areas. A general area of emphasis is to target facilities that meet reporting criteria but have not reported. The Sector Facility Indexing Project (SFIP) is a regional data analysis and targeting tool. The information in SFIP could be used to analyze the relative quantities of data in the system and identify the better facilities.

EPCRA/CERCLA 103 and EPCRA 304, 311 and 312

Regions should target and conduct inspections and investigations on the following areas:

- EPCRA 313 - data quality, non-reporters, and new reporters for Pb and PBT Rules;
- EPCRA 311/312 - late reporters, non-reporters; and
- EPCRA 304/CERCLA 103 - late reporters, non-reporters - identifying Federally-permitted release violations as part of multi-media cases, particularly in conjunction with Clean Air Act violations.

In the EPCRA 313 program, regions are expected to conduct at least 10 on-site Data Quality inspections each fiscal year as part of their overall inspection commitment. In a FY 2002/2003 pilot project, regions may also include “desktop inspections” in lieu of a portion of their traditional EPCRA 313 on-site inspections. Desktop inspections are the functional equivalent of on-site inspections and include the initial targeting and screening activities associated with on-site inspections, but allow regions to obtain information directly from a facility or database and issue an enforcement response (where appropriate) without conducting an actual on-site inspection. The data obtained in a desktop inspection is evaluated for determination of a violation(s), and where a violation(s) may exist, the region will follow-up with the appropriate enforcement response. This activity will save the regions time and travel resources. Because both traditional on-site inspections and desktop inspections can produce similar results, regions wishing to participate in the desktop inspection pilot project may, after negotiation with OECA, adjust their total number of inspection commitments to be offset by a specified number of desktop inspections. Regions combining inspections and desktop inspections should target 2 percent of the regulated universe in their region each fiscal year. The regions participating in the pilot project should manually track the number of EPCRA desktop inspections conducted.

TSCA

Regions should target and conduct inspections and investigations (including show cause letters or subpoenas where appropriate) focused in the following areas:

- lead-based paint: Lead Disclosure Rule (Section 1018), and TSCA Sections 402/403/406;
- asbestos: AHERA and asbestos MAP;
- PCBs: in conjunction with PBT efforts; and
- Core TSCA - in conjunction with the Core TSCA Center.

Regions should use screening and targeting tools to identify inspection targets based on national and Regional priorities. Regions should ensure inspection coverage in states without EPA enforcement cooperative agreements. With the exception of minimally invested Core TSCA regions, regions are expected to track and prioritize tips/complaints, and follow-up, as needed. Regions are also expected to follow-up on all referrals received from Headquarters and states. “Follow-up” includes evaluating the tip/complaint to determine the appropriate next step, and either: 1) refer the tip/complaint to a state as appropriate and track it through resolution consistent with national guidance; or 2) obtain additional information through Federal investigation/show cause letter/subpoena if necessary and issue appropriate Federal action as appropriate. Under Core TSCA, minimally-invested regions are to refer tips and complaints to the Core TSCA Center for follow-up. Those regions who chose to maintain a minimal

presence in this program are expected to respond to questions from the regulated community, to conduct limited inspections as resources allow, and to work with Customs on the import/export program. For those regions (other than 2 and 5) who chose to continue to invest additional resources in Core TSCA compliance and enforcement, the Core TSCA Center will assist in targeting inspections, but the region is expected to provide legal and technical enforcement case support.

In the TSCA lead-based paint program, several new or relatively new rules merit increased attention and an increased number of inspections. Regions should screen tips and complaints for potential violations of the Lead Disclosure Rule, as well as the Section 402 Abatement, Training and Certification Rule and the Section 406 Renovator and Remodeler Rule, in those states without authorized programs. Each tip/complaint should be reviewed carefully to determine if follow up is necessary. In most instances, letters should be sent to potential violators identified in a tip or complaint as follow-up. After screening the response, in appropriate circumstances regions should conduct an on-site investigation. In those states without authorized 402 programs, regions should conduct 402 inspections of training providers and inspect work sites; this activity should be briefly described in the MOA submission as rationale for any trade-offs with Disclosure Rule or Section 406 inspection commitments.

Regions will be responsible for a prorated share of EPA's biannual commitment to conduct 9,000 lease reviews using extramural funds received in FY 2001. To support these efforts, on April 25, 2001 a joint memorandum from the Compliance Assistance and Sector Programs Division (CASPD) and the Toxics and Pesticides Enforcement Division (TPED) to the Regional Enforcement Division Directors outlined the distribution of \$1.23 million dollars in extramural funding to enable the regions to hire Senior Environmental Employment (SEE) Program inspectors to conduct the 9000 lease agreements under the Real Estate Disclosure Rule ("1018 Rule"). On May 1, 2001, that money was reprogrammed to the regions and was available to begin the hiring process. We anticipate that 4.5 lease reviews will equate to one inspection. Therefore, we have targeted a goal of 2000 inspections to be conducted in FY 2002. The regional inspection break out will be forwarded to the regions in June 2001.

In the TSCA asbestos program, inspection resources should be targeted at school districts with known AHERA compliance problems and at charter schools in states where EPA is the lead for inspections and enforcement. In non-waiver states, regions will follow-up on violations referred by states, and develop appropriate enforcement responses. Tips and complaints should be followed-up on as appropriate.

Since the inception of the TSCA PCB program some 25 years ago, much progress has been made in reducing the risks of PCBs to the public's health and to the environment. Through EPA's regulatory and enforcement efforts, PCB equipment has been retired and replaced with non-PCB equipment, and much PCB waste has been properly destroyed or disposed. Still, there are over 20,000 PCB transformers that were registered by 2,500 companies with the Agency as of December 1999, that are still in use. Additionally, there are approximately 50 commercially permitted PCB disposal facilities, and 90 PCB commercial storers who continue to handle high volumes/concentrations of PCBs. In FY 2002/2003, the regions should use their enforcement resources to focus on the continued phase out of PCBs as well as monitoring PCB storage and disposal facilities. Using the Transformer Registration information, regions should target inspections toward users of high concentration PCBs and non-reporters. Enforcement

follow-up to violations detected as a part of these inspections should promote, where possible, the retirement of PCB transformers through Supplemental Environmental Projects (SEPs). Recently, some regions have reduced their inspections to following-up on tips and complaints, and have not visited commercial storers and disposers for some time. Over the next two-year period, regions should inspect each commercial storer and disposer in their region at least once so that a baseline of enforcement activity at these sites can be established. (The region should include those facilities that have filed TSCA PCB Commercial Permit Applications that are still pending with OPPTS as part of the universe.) In summary, regions are expected to maintain baseline inspection/enforcement efforts with biennial inspections of commercial storers and disposers, and to target inspections of high concentration PCB users and non-reporters of PCB transformers. Tips and complaints should be followed-up as appropriate.

Performance Expectations

In FY 2001, some responsibilities for the Core TSCA program were transferred from some of the Regions to the Core TSCA Center in Denver, Colorado, which is managed by the Toxics and Pesticides Enforcement Division (TPED). The Center is now responsible for targeting, implementing national compliance assistance and compliance audit programs, negotiating corporate compliance audit agreements, conducting enforcement investigations of corporate-wide misconduct, and assuring continuity of compliance monitoring and enforcement from year-to-year. Regions 2 and 5 are to continue, as in the past, their field investigations and enforcement program.

Enforcement Actions

Regions, other than those who are minimally invested in Core TSCA, are expected to respond to violations in a timely manner, and in accordance with national policy as contained in the individual program enforcement response policies. For Core TSCA, minimally-invested regions will refer all self-disclosures and other violations to TPED for evaluation and appropriate action.

Regions may be asked to participate in enforcement case initiatives or cluster filings. These tools are used to further focus effort and resources. In all circumstances, cases filed as part of an initiative or cluster filing count as part of the annual MOA commitment, not as an add on. OECA will remain sensitive to regional priorities when identifying initiatives or cluster filings. Regions will work with OECA to identify candidate industries or sectors for enforcement case initiatives. OECA will use national meetings and conference calls as the means for selecting industries and/or sectors for Federal enforcement initiatives.

Program Leadership and Evaluation

Headquarters has general expectations with regard to data entry, use of press releases, and assessment of state performance under enforcement cooperative agreements:

Data Entry: It is critical that regions enter all Federal and state data into the FIFRA/TSCA Tracking System (FTTS), which is then merged into the TSCA, FIFRA, & EPCRA 313 National

Compliance Data Base (NCDB). It is important for timely data entry to occur for purposes of national analysis and publication of data as appropriate. OECA will track data entry and will discuss any data issues with regional management. Administrative penalty cases and Audit Policy cases should also be entered into ICIS.

Press Releases: Regions should use press releases for regional activities which are not part of national initiatives, as appropriate, in order to promote further compliance.

State Cooperative Agreements: For purposes of the MOA discussions, OECA is looking for each Region's projections on the number of asbestos, lead 402, and PCB inspections which they will be using as the basis for negotiations with each of their state enforcement grantees. Regions should also refer to the EPA-State Relations section of the Introduction to Core Program for further information regarding these activities.

6. AIR PROGRAM

The Clean Air Act (CAA) core program covers activities relating to Section 110 (SIPs/FIPs/TIPs), Acid Rain, Title V Operating Permits, Stratospheric Ozone Protection, NSPS, NESHAP/MACT and PSD/NSR requirements, **and Section 112(r)**. Regions should refer to the Office of Air and Radiation's FY 2004 Implementation Plan for additional guidance relating to air compliance programs. Regions should refer to the Introduction to Core Program for general information on shared core program elements. Regions should also refer to the Federal facilities section of this attachment (Section 9) for guidance on including Federal facilities in core program activities where applicable.

A. CAA Section 112(r)

Section 112(r) of the Clean Air Act was not identified as part of the Air core program in previous guidance. Given the importance of EPA's Strategic Plan for Homeland Security, and the role section 112(r) plays in it, we are now clarifying that section 112(r) is a part of the air compliance monitoring and enforcement core program. Although section 112(r) is a Clean Air Act authority, responsibility for enforcement and implementation of section 112(r) varies from Region to Region, and may not reside with the Regional division responsible for air compliance and enforcement.

Past compliance and enforcement efforts in section 112(r) have focused on ensuring that regulated sources have submitted the required Risk Management Plans. Regions are currently shifting efforts towards ensuring that submitted plans are adequate and meet the regulatory requirements. Headquarters will continue to provide support in this area. In light of continuing concerns regarding public safety, Regions should also consider the following factors in focusing their compliance monitoring efforts:

- **significant quantities of chemicals of concern in a process**
- **proximity to population centers of facilities that have significant quantities of**

chemicals of concern

During FY 2004 Headquarters will establish a workgroup to revise the section 112(r) enforcement response policy. This policy, released in August 2001, will be modified to include examples of enforcement cases Regions have taken and will provide more concrete guidance for appropriate enforcement responses based on these examples. Headquarters will also develop an expedited settlement policy allowing Regions to obtain compliance while conserving enforcement resources.

Headquarters and Regions are currently working on modifications to ICIS which will allow compliance and enforcement activities to be tracked. These modifications should be completed before the end of FY 2003. Regions will be entering section 112(r) information directly into ICIS in FY 2004.

Finally, during FY 2004 Headquarters will continue discussions with Regions on future directions for the program. This discussion will include possible targeting strategies for identifying classes of sources which may warrant further investigation, and potential revisions to the section 112(r) penalty policy.

Compliance Assistance

Regions should refer to the Compliance Assistance section of the Introduction to Core Program for general information regarding these activities.

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program for general information regarding these activities.

Compliance Monitoring

States, local, and tribal agencies will have primary responsibility for the delegated or authorized programs and EPA will take the lead on the non-delegated programs (e.g. asbestos and radionuclide NESHAPs, CFCs, certain NSPS and MACT), and for compliance evaluations on tribal lands. The emphasis for **FY 2004** is on evaluating compliance through implementation of the revised Compliance Monitoring Strategy (CMS). Guidance on conducting compliance evaluations will be provided in the

revised CMS, which will include review of all required reports, Title V self-certifications and supporting documentation, facility records, visible emission observations, and source tests. The revised CMS was published in April, 2001. In addition to CMS implementation, there is continued emphasis on investigations, and an increased emphasis on implementation of the air toxics (MACT) program.

- Implementation of the Compliance Monitoring Strategy

Compliance evaluations of Title V major sources and synthetic minor sources that emit or have the potential to emit emissions at or above 80 percent of the Title V major source threshold should be conducted in each region in accordance with the revised Compliance Monitoring Strategy (CMS). The revised CMS provides a mechanism for recognizing and utilizing the wide range of tools available for evaluating and determining compliance. Increased emphasis should be placed on: providing training and implementation support for state, local, and tribal agencies; identifying the universe of sources subject to the CMS policy; ensuring that CMS plans are developed and negotiated; maintaining records of regional, state, local, and tribal compliance monitoring activities; and entering facility-specific compliance data in the national air data base (AIRS/AFS).

Consistent with the revised CMS policy, where source tests are conducted, state, local and tribal agencies should report these activities and the results in the national air data base (AIRS/AFS). Regions should ensure that states enter the appropriate test result information into the national air data base.

Regions should review the Title V annual certifications for half of all of the sources in their states during FY 2004. Regions should give special scrutiny to Title V permits from sources that report full compliance, especially in the source categories targeted as priorities by OECA. Regions should review and comment to the permitting authority on the compliance and enforcement components of at least 5% of the initial Title V permit applications they receive each year. Regions should also compare the information in the compliance certifications to the compliance status reported for sources in AFS to ensure their consistency.

Regions and state, local, or tribal agencies should continue to report into RECAP. In the MOA Clean Air Act investigation and inspection commitments chart, regions should give an estimate of the total number of state and Federal NSR or PSD investigations, number of other investigations, and provide estimates for subsets of this total that includes full compliance evaluations.

- Investigations

Regions are to complete any active investigations or current enforcement actions for coal-fired

power plants. As the existing cases are being completed, the regions in cooperation with participating state, local, or tribal agencies should initiate or continue conducting an average of 1 in-depth investigations per state, per year in new industrial categories. Such investigations should include compliance evaluations, performance tests, and detailed document/data reviews as appropriate. Regions should estimate the number and type of CAA investigations expected in the MOA chart for CAA enforcement and compliance activities. For each investigation cited in the chart, Regions should document the types of violations sought.

- **MACT Implementation**

Regions should place more emphasis on implementation of the core air toxics (MACT) program, focusing on those standards that are of particular importance in their Region. Regions should develop and implement the air toxics program with state and local agencies through conducting compliance evaluations, using compliance assistance tools, assuring proper delegation of the MACT program, issuing applicability determinations, reviewing permits, and inputting data into AIRS/AFS and MACTrax.

Enforcement Actions

Headquarters expects that Federal enforcement will be considered where states fail to take appropriate action. In addition, regions should take appropriate Federal enforcement actions in situations where Federal involvement could be particularly helpful in bringing the matter to a successful and environmentally beneficial resolution (e.g., a company with violations in more than one state, transboundary issues, particularly recalcitrant violators, etc.) or is essential to ensure fair and equal environmental protection mandated by law.

- For all cases newly listed in accordance with the “Policy on T&A Enforcement Response to HPVs” during **FY 2004**, Regions should strictly adhere to the requirements of the Policy.
 - Regions should ensure appropriate enforcement actions are taken for violations reported on annual compliance certifications.
 - Regions should ensure appropriate enforcement actions are taken for synthetic minor violations.
- For older cases, regions should ensure that 33 percent of all High Priority Violators, and all that are 3 years old or older, are addressed each year.
- Regions should evaluate and bring to closure 100% of any self-disclosures received by a region, consistent with national policy.
- Regions should reduce their Federal case backlog as described in the Cross-Program Core

Activities section of the Introduction to Core Program.

- Regions should aggressively exercise EPA's 1997 clarified penalty authority against Federal agencies for Clean Air Act violations in appropriate circumstances.

Program Leadership and Evaluation

As part of the core, regions will participate in reviews of SIPs/FIPs/TIPs, regulations, policies, guidance, delegations, etc. For CAA purposes, Headquarters has the general expectations with regard to data entry and assessment of state performance, outlined below.

Regions should ensure that all necessary information such as the following be entered into the AFS data system to provide accurate and timely information:

- compliance evaluation dates and compliance status after evaluation, including date of violation, if appropriate;
- Title V compliance certification review and appropriate results code;
- stack tests dates and appropriate results code;
- enforcement actions (NOVs, orders, civil actions, criminal actions, etc) and date of action;
- number of settlements and date settlement entered, including penalties accounting for economic benefit.

Please refer to the Compliance Monitoring Strategy and the Minimum Data Requirements (MDRs) (www.epa.gov/ttn/airs/afs/memos/mdr.html) for more detailed guidance on reporting compliance information.

Timely and accurate enforcement data entry is extremely important for purposes of national analysis and publication of data, as appropriate. Accordingly, regions should include adequate data entry as a requirement for a portion of each state, local or tribal agency's Section 105 grant. Headquarters will be tracking data entry and discussing it with regional management.

State, local or tribal performance assessment: Negotiation and development of an agreed upon work plan with state, local, or tribal agencies on enforcement activities, and assessment of their performance, is critical if resources are to be used as effectively as possible. Regions should assess the adequacy of state, local, and tribal agency enforcement programs, particularly with respect to appropriate penalties for High Priority Violators and identification of High Priority Violators, including quarterly/annual reviews, file audits, oversight inspections, etc. Regions will be negotiating Performance Partnership Agreements (PPAs), compliance assurance agreements, SEAs or state/local/tribal grant work plans, which will ensure adequate state, local, and tribal enforcement in all delegated areas, and include Federal roles and responsibilities. These negotiations should be consistent with the principles identified in the discussion of joint planning and priority setting and work sharing identified in the Cross-Program Activities Core and EPA-State Relations sections of the Introduction to Core Program.

Accordingly, regions should include adequate data entry as a requirement for a portion of each state, local, or tribal agency's Section 105 grant, as appropriate (e.g. synthetic minor sources).

7. RCRA HAZARDOUS WASTE PROGRAM

EPA is committed to ensuring that hazardous wastes are managed in manners that are protective of human health and the environment. Agency compliance assurance and enforcement activities will focus on those facilities posing the greatest risk to human health and the environment. **Our focus will generally include foundries, mineral processing, and waste-derived fertilizer entities. This focus will include these and other entities that have sought to include themselves within the ambit of various exceptions or exemptions to the RCRA Subtitle C system, but have failed to meet the terms of those exceptions or exemptions.**

The goal of state and Federal compliance assurance and enforcement activities is to attain and maintain a high level of compliance within the regulated community. Generally, Federal compliance assurance and enforcement activities will complement state activities, where and as appropriate. Regions should refer to the Federal facilities section of this attachment (Section 9) for guidance on including Federal facilities in core program activities where applicable.

Compliance Assistance

Compliance assistance activities should focus on newly regulated handlers, handlers subject to new regulations, small businesses in the priority industrial sectors and other small businesses with compliance problems. Regions should enter their compliance assistance activities in RCATS; however, if the region conducts on-site compliance assistance they can instead record them in RCRAINFO. States are not able at this time to enter their compliance assistance into RCATS so they should continue to use RCRAINFO. Headquarters will generate RCRA compliance assistance numbers for Federal activities out of both RCATS and RCRAINFO.

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program for general information regarding these activities.

Compliance Monitoring

The RCRA core program includes the compliance monitoring activities set forth in Tables I and II below. Both state and Federal compliance monitoring activities may be required in implementing the activities in Table I (e.g., maintaining the annual level of generator inspections). To facilitate accomplishment of Agency **FY 2004** priority activities, achievement of the level playing field principle

and oversight of state compliance assurance and monitoring activities, Regions should maintain a Federal presence in the core program, conducting the compliance monitoring activities set forth in Table II. **Additionally, regions and States (where appropriate) will implement activities associated with the statistically valid non-compliance rate project (i.e., at foundries). In light of continuing concerns regarding public safety, Regions should also consider the following factors in focusing their compliance monitoring efforts:**

- **facilities that generate, treat, store, or dispose of significant quantities of hazardous wastes that pose a threat to public safety**
- **proximity of facilities that generate, treat, store or dispose of hazardous wastes to population centers**

The regions (in consultation with OECA) may conduct fewer or additional compliance monitoring activities if it is determined that such a deviation is warranted (based on the criteria listed below).

Table I - Combined State and Federal Core Activities

<p>Statutory mandated inspections</p>	<p><i>Inspect ANNUALLY:</i></p> <ul style="list-style-type: none"> - <i>Federal facilities under SWDA §3007(c), and as amended by the FFCA</i> - <i>State and local facilities identified under SWDA § 3007(d)</i> <p><i>Inspect ONCE EVERY TWO YEARS:</i></p> <ul style="list-style-type: none"> - <i>Treatment, storage and disposal facilities under SWDA §3007(e)</i> <p><i>Inspect ONCE EVERY THREE YEARS¹:</i></p> <ul style="list-style-type: none"> - <i>Land disposal facilities under SWDA §3007(e)</i>
<p><i>Generators (LQGs)</i></p>	<p><i>Inspect annually 20% of the large quantity generator universe²</i></p>
<p><i>Generators (SQGs)</i></p>	<p><i>Inspect annually (<u>*</u>) % of the small quantity generator universe³</i></p>

- 1 Ground water monitoring inspections (CMEs) should be conducted at any new or newly regulated facilities. Once it is determined that a given facility’s ground water monitoring system is adequately designed and installed, an O&M inspection may become the appropriate ground water monitoring inspection. More frequent CMEs should be conducted in situations involving complex compliance or corrective action requirements; inadequate ground water monitoring systems; significant changes to ground water monitoring systems; and actual or suspected changes in local ground water regimes.
- 2 States with a relatively small universe should generally inspect a higher percentage of its universe.
- 3(*) States and regions should determine the appropriate levels.

Note: Regions should include RCRA Section 6002 inspections in conjunction with inspections of Federal facilities in accordance with E.O. 13101 and FFEO guidance (e.g. as resources allow). Results should be reported to FFEO.

Table II - Federal Core Activities

<p><i>Facilities/Units that are not Part of an Authorized State Program</i></p>	<p><i>Inspect ANNUALLY:</i></p> <ul style="list-style-type: none"> - <i>Federal facilities under SWDA§3007(c), and as incorporated by the FFCA</i> - <i>State and local facilities identified under SWDA § 3007(d)</i> <p><i>Inspect ONCE EVERY TWO YEARS:</i></p> <ul style="list-style-type: none"> - <i>Treatment, storage and disposal facilities under SWDA §3007(e)</i> <p><i>Inspect ONCE EVERY THREE YEARS¹:</i></p> <ul style="list-style-type: none"> - <i>Land disposal facilities under SWDA §3007(e)</i> <p><i>(At the region’s discretion, the region may enter into an agreement with an unauthorized state under which the state would do some of these inspections under their state law)</i></p>
<p><i>Generator</i></p>	<p><i>Annually inspect at least 6 generators per state. (The regions are encouraged to perform these inspections: in community-based areas, priority sectors, and/or in support of EPA National initiatives; to support state referrals; to address illegal recycling and Bevill issues, entities with violations in more than one state, transboundary issues, particularly recalcitrant violators; etc.)</i></p>
<p><i>Treatment, Storage, Disposal Facilities that are part of an Authorized State Program</i></p>	<p><i>Annually inspect at least 2 TSDFs per state. (The regions are encouraged to perform these inspections: in community-based areas, priority sectors, and/or in support of EPA National initiatives; to support state referrals; to address illegal recycling and Bevill issues; at entities with violations in more than one state; to address financial assurance, transboundary, chemical safety (aka “homeland security”) issues; at particularly recalcitrant violators; etc.)</i></p>
<p><i>Other Facilities</i></p>	<p><i>Inspections supporting citizen complaint or criminal investigations; off-site policy-related inspections; corrective action inspections, oversight inspections, non-notifier-related inspections, etc.</i></p>

1 Ground water monitoring inspections (CMEs) should be conducted at any new or newly regulated facilities. Once it is determined that a given facility’s ground water monitoring system is adequately designed and installed, an O&M inspection may become the appropriate ground water monitoring inspection. More frequent CMEs should be conducted in situations involving complex compliance or corrective action requirements; inadequate ground water monitoring

systems; significant changes to ground water monitoring system; and actual or suspected changes in local ground water regimes.

Performance Expectations

The states and EPA regions should work together to determine the appropriate mix of Federal and state compliance monitoring activities to meet core program activities. In making its determinations, each Region should examine the compliance status within its geographic purview. In consultation with states, affected Indian tribes, and OECA, the following criteria should be used (as appropriate) to determine the appropriate field presence and create a credible deterrence:

- “feedback” received from external and internal stakeholders (e.g., environmental justice entities, Inspector General findings, citizens and community groups) regarding the quality of Federal and state enforcement programs;
- use (and frequency) of appropriate sanctions (e.g., administrative orders) to create a deterrence;
- the level of compliance monitoring activities needed to create a credible deterrent;
- abilities of state and EPA enforcement programs to identify violations and violators of concern and take timely and appropriate responses to noncompliance in accordance with criteria set forth in the March 1996 RCRA Enforcement Response Policy (and subsequent revisions);
- trends in compliance shown by performance measures, performance indicators, and other indicators (e.g., SNC rates, rates of compliance) relative to national and Regional levels;
- the degree to which a given enforcement program utilizes multi-media and other (e.g., integrated) strategies in determining priorities and implementing its compliance assurance and enforcement activities;
- “feedback” from joint or “side-by-side” (Federal and state) compliance monitoring activities;
- state environmental program reviews/audit findings and conclusions (including appropriate “self-evaluations”);
- current regional compliance assurance and enforcement commitments reflected in state-EPA work share agreements;
- EPA activities in fulfillment of National EPA priorities; and
- other criteria (e.g., state priorities relative to EPA priorities).

Enforcement Actions

In addition to the general core program activities listed earlier, the RCRA enforcement core program consists of complying with the 1996 RCRA Enforcement Response Policy (and subsequent revisions). This includes: 1) appropriately classifying all facilities meeting the definition of a significant non-complier; 2) taking timely and appropriate enforcement actions; and 3) entering all appropriate data into the national database in a timely and appropriate manner.

Regions should take appropriate Federal enforcement actions in situations where Federal involvement is necessary (e.g., to address public health and environmental concerns; to maintain a level playing field; to achieve National priorities; and to address environmental justice and citizen concerns). Federal enforcement could be particularly helpful in bringing complex matters to a successful and environmentally beneficial resolution (e.g., illegal recycling operations; Beville waste-related issues; entities with violations in more than one state; trans-boundary issues; and particularly recalcitrant violators) or is essential to ensure fair and equal environmental protection mandated by law.

Finally, we expect that the regions will invest compliance monitoring resources to support efforts to develop enforcement actions against significant non-compliers with violations in more than one state.

Program Leadership and Evaluation

Data Entry: The following RCRAInfo data elements are essential with respect to measuring the RCRA program performance and must be entered into RCRAInfo in a timely manner by Federal and state enforcement personnel to accurately reflect program activities:

- 1) Evaluation data elements
- 2) Violation data elements
- 3) Enforcement elements

Note: Regions are reminded of the importance of entering and/or updating SNC determinations. Additionally regions should verify (for accuracy) facility SIC, process, legal status, and operating status codes.

State Oversight: Regions are expected to ensure that quality RCRA enforcement and compliance programs are maintained through traditional state oversight activities, work share agreements with states, and independent EPA compliance assurance and enforcement activities. In addition, Regions should refer to the EPA-State Relations section of the Introduction to Core Program for general information regarding these activities.

RCRA Underground Storage Tank Program

EPA considers implementation of the UST 1998 requirements for upgrading, replacing, or closing old tanks an important activity for protecting human health and the environment. Beginning December 23, 1998, all substandard USTs should have been upgraded (by adding spill, overfill, and corrosion protection) replaced or properly closed (either temporarily or permanently). As of December 22, 1999, all UST systems that were in temporary closure should be either permanently closed, upgraded, or replaced. Regions should also maintain an enforcement presence concerning leak

detection and financial assurance violations. USTs that do not meet these requirements are in violation of Federal and state laws.

Compliance Assistance

States and EPA have done extensive outreach to UST owners and operators over the past 10 plus years. Additional investments in outreach and assistance should be strategically focused (e.g., small businesses with compliance problems).

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program for general information regarding these activities.

Compliance Monitoring

Regions should work with states to assure compliance with UST requirements. EPA should continue to focus its Federal inspection resources in areas that could produce the greatest environmental and human health benefits. Generally, EPA should focus its inspection resources on Federal facilities; owners and operators of multiple UST facilities; owners and operators of USTs located in Indian Country; owners and operators of large facilities with multiple USTs; and facilities that are endangering sensitive ecosystems or sources of drinking water by failing to upgrade, replace or close USTs³.

Performance Expectations

Regions should provide the number of UST facilities inspected (by the region, per state) and the number of UST facilities inspected by the Region in Indian Country. Also, provide the numbers of the following: field citations issued, field citations settled, administrative complaints/orders issued, administrative complaints/orders settled, and self disclosures received.

Enforcement Actions

Regions should take prompt and effective action on UST violations discovered, particularly those that present an imminent and substantial threat to health and the environment. Generally,

³ Some State-EPA cooperative endeavors may include other UST entities (e.g., owners and operators of individual UST facilities).

administrative, or judicial complaints or orders should be issued.

8. FEDERAL ACTIVITIES PROGRAM

The Federal activities core program for FY 2004 is built around the following major areas:

NEPA

- Fulfill Agency obligations under Section 309 of the Clean Air Act, the National Environmental Policy Act, and related laws, directives and Executive Orders (all Regions).

International

- Assist in meeting the multimedia objectives for enforcement and compliance cooperation listed in the U.S./Mexico Border XXI plan (Regions VI and IX).
- Assist in efforts to improve colonias environmental conditions (Region VI).
- Assist in enforcement and compliance cooperative efforts with Mexico and Canada relating to transboundary compliance monitoring on the U.S. borders for hazardous waste, CFCs, selected chemicals (e.g., PCBs, mercury), and other regulated substances (Border Regions).
- Work with representatives of other countries, through established international agreements, to ensure compliance with domestic laws and international agreements (all Regions).

Ensure Federal Actions are Consistent with Goals

NEPA / CAA §309 Review: Regional commitments to carry out EPA's responsibilities to review and comment on major actions taken by other Federal agencies and by EPA to ensure that adverse effects are identified and are either eliminated or mitigated.

NEPA Compliance and "Cross-cutters": Regional commitments to carry out EPA's responsibilities to comply with NEPA and so-called "cross-cutters" (e.g., Endangered Species Act, National Historic Preservation Act, Executive Orders on wetlands, flood plains, and farmland).

Performance Expectations

Regions should review all major proposed Federal actions subject to NEPA and achieve successful mitigation for at least 70% of the adverse environmental impacts resulting from those actions.

Regions should prepare environmental reviews (EISs or EAs) for EPA-issued new source National Pollutant Discharge Elimination System (NPDES) permits where a state/tribe has not assumed the NPDES program; off-shore oil and gas sources; EPA laboratories and facilities; and Clean Water Act wastewater treatment plant grants.

Regions should prepare environmental reviews (EISs or EAs) for Special Appropriation grants (including the Colonias Wastewater Construction and Project Development Assistance programs) for wastewater, water supply and solid waste collection facilities; Border Environment Infrastructure Fund (BEIF) for the US/Mexico Border Environment Cooperation Commission projects; and reviews conducted under the "voluntary NEPA policy."

Enforcement and Compliance with Other Countries

International Programs: The majority of requested commitments fall to Regions VI and IX for U.S. Mexico border work in connection with the La Paz Agreement and NAFTA-related work. Regions VI and IX will continue the implementation of U.S.-Mexico work plans for enforcement and compliance cooperation in the border region; work with the U.S. Customs Service to improve performance of joint responsibilities along the border; review the compliance status of U.S. receiving facilities and track the flow of hazardous waste. Headquarters will process notifications for import and export of hazardous waste to ensure compliance with domestic regulations and international agreements; and track the flow of hazardous waste both in and out of the United States.

9. FEDERAL FACILITIES PROGRAM

In order to complete the core program requirements for the Federal facilities enforcement and compliance program, Regional staff including Federal Facility Program Managers, media program and Regional Counsel staff, where appropriate, are expected to undertake the following activities:

Compliance Assistance

- continue to provide compliance assistance activities at Federal facilities including civilian Federal facilities;
- continue to provide compliance assistance efforts at all Federal agencies through meetings, conferences, publications, and training;
- continue to aggressively advocate and actively promote environmental management reviews for Federal facilities and conduct at least three EMRs per fiscal year (assuming three facilities agree to EMRs conducted and that travel and contract funds, if necessary, are available). Note: EPA is obligated to provide EMRs to Federal facilities under EO 13148; and
- assist Federal facilities and agencies in fulfilling the requirements of EO 13148, Greening the Government Through Leadership in Environmental Management, particularly requirements relating to environmental management systems (EMSs) and to toxic chemical use and release reductions.

Compliance Incentives

- work with their Federal facilities to promote OECA's compliance incentive policies (e.g. audit policy) to encourage the regulated community to voluntarily discover, disclose and correct violations before they are identified by regulatory agencies for enforcement investigation or response;
- consider and follow-up on, as appropriate, disclosures submitted under the OECA audit policy; and
- actively support Performance Track and other innovation initiatives with Federal agencies.

Compliance Monitoring

- have a process for identifying, targeting, and inspecting Federal facilities, and responding to any violations discovered at these Federal facilities;
- continue to conduct at least two multimedia inspections each fiscal year. A multimedia inspection consists of (1) a CAA, CWA, or RCRA inspection plus at least one additional media inspection at the same facility; or (2) some combination of two or more CAA, CWA or RCRA inspections at the same facility;
- increase single and multimedia inspections at Federal facilities in those areas where EPA has new or clarified enforcement authorities against Federal facilities (e.g., SDWA, CAA, UST and TSCA Title IV);
- continue to aggressively seek reimbursement for costs of annual RCRA inspections at Federal facility treatment, storage and disposal facilities;
- include RCRA 6002 inspections in all EPA RCRA inspections of Federal facilities in accordance with FFEO guidance and report results of RCRA 6002 inspections to FFEO;
- conduct EPCRA inspections at Federal facilities to determine compliance with EPCRA sections 301 through 313, per the mandate of E.O. 13148;
- conduct annual inspections (or arrange with delegated states to conduct annual inspections) of all Federal facility treatment, storage, or disposal facilities in accordance with RCRA 3007(c); and
- continue to include Federal facilities as part of strategies to address media-specific MOA priorities, including significant Federal facilities located in place-based priority areas or within other significant sectors.

Enforcement Actions

- continue to lead and support enforcement negotiations, litigation and oversight at Federal facilities;
- utilize as appropriate, any new or clarified penalty authorities (e.g., CAA, SDWA and any other new authorities) and encourage referrals of cases from states that do not have full enforcement authority (e.g., CAA and UST); and
- encourage the use of SEPs as part of the settlement in cases.

Integrated Compliance and Enforcement Strategies

- implement strategies integrating compliance incentives, compliance assistance, compliance monitoring and/or enforcement activities to increase compliance at Federal facilities.

Program Leadership and Evaluation

- continue to utilize and efficiently manage and track regional Federal facility resources, particularly FTE usage and extramural funding provided by FFEO;
- continue to utilize EPA data systems and work to resolve any errors in data;
- continue to assist FFEO in resolving discrepancies in agency-wide environmental compliance status reports issued to agencies by FFEO;
- continue to provide RECAP information to the Office of Compliance in OECA;
- continue to input all Federal facilities compliance assistance activities into RCATS;
- encourage the use of OTIS and SFIP websites by other Federal Agencies; and
- encourage regional participation in monthly conference calls, bi-annual national meetings and other national events in order to promote Regional participation in Federal facility issues.

Regions are also strongly encouraged to use and provide environmental compliance status reports to Federal agencies.

10. MULTIMEDIA PROGRAM

The multimedia enforcement programs in existence at Headquarters and within each region are designed to foster a comprehensive approach to the resolution of environmental problems. "Comprehensive" means that applicable provisions of all environmental laws are used to achieve broad-based environmental benefits. This approach recognizes that many facilities and companies are operating in violation of more than one environmental statute. A multimedia strategy to target and address compliance problems and environmental harm results in a more effective overall management of a facility's or a company's environmental liabilities and is ultimately more cost-effective than bringing two or more independent media-specific enforcement actions. Multimedia-focused activities, including enforcement actions, reflect the goals of Federal reinvention and underlie much of the Agency's enforcement reorganization. Moving multimedia enforcement to the core program recognizes the experience gained, successes generated and resources already committed to implement this program.

Compliance Assistance

The areas that Headquarters believes warrant compliance assistance have been identified within specific program discussions. The primary focus of the Federal multimedia program should be on compliance monitoring and enforcement, rather than compliance assistance. However, the results of a multimedia analysis of specific facilities or entire companies might prove useful in planning future

compliance assistance activities.

Compliance Incentives

Regions should refer to the Cross-Program Core Activities section of the Introduction to Core Program for general information regarding these activities.

Compliance Monitoring

The multimedia program will rely on the compliance monitoring efforts in existence for each media program. However, each region's multimedia targeting strategy and operational plan should establish protocols for coordinating multimedia investigations and actions among the individual media programs. Headquarters hopes to assist the regions in promoting a process-based approach as well as a more targeted and efficient approach to multimedia inspections in general. This targeted approach includes multimedia inspections that might focus on several media, after a particular facility is assessed under all media prior to an actual inspection. The goal is to achieve the best environmental result while using resources efficiently.

Participation in cases developed under the NESS protocols (see paragraph b under Enforcement Actions) could entail the dedication and possible reprogramming of compliance monitoring resources.

Performance Expectations

Regions will be expected to continue to develop and refine their multimedia targeting strategy and operational plan for initiation of multimedia enforcement activities. Elements of this plan should include projected multimedia inspection and case development training, projected numbers of multimedia inspections and projected numbers of multimedia cases. Use of a multimedia checklist is not considered to be a multimedia inspection, but a tool for identification of potential multimedia targets.

Enforcement Actions

(a) General Approach

The multimedia or cross-statutory approach to case development can be employed in the context of three basic types of enforcement actions:

- against single facilities, where entire industrial processes at a facility are examined as a whole;
- against entire companies, where violations of different statutes that occur at various facilities indicate ineffective corporate-wide management of environmental compliance; and
- geographically based enforcement efforts arising from a comprehensive multimedia analysis of the environmental problem(s) in a given area (enforcement activities resulting from this analysis may be single or cross-media).

(b) National Enforcement Screening Strategy (NESS)

Each region should support the National Enforcement Screening Strategy (NESS) by participating in the initial facility screening exercise and to an increasing degree as facilities in the national strategy are identified. This includes case research activities, multimedia inspections of NESS facilities, and leading and/or participating in case development and litigation teams, as appropriate. Once the NESS selection process for identifying companies for a national enforcement investigation is completed, the region must determine the level of effort required for its participation. If the Region does not plan on participating in any aspect of the NESS, it should be reported in the MOA submissions as an exception to the multimedia core program.

Program Leadership and Evaluation

(a) Data Entry/Management

No new reporting is required. Current multimedia reporting requirements are outlined in RECAP. In addition, the number of multimedia and multi-facility referrals and penalty order complaints must be reported pursuant to the End of Year Enforcement and Compliance Data Reporting Guidance. Regions are reminded that in order to obtain an accurate count for multimedia and multi-facility judicial referrals, complaints and compliance orders, a multimedia-multi-facility case form must be completed. Regions are similarly reminded to notify the Multimedia Enforcement Division at Headquarters of all multimedia referrals.

(b) Regional-State Coordination

State involvement in national multimedia casework is strongly encouraged. In the case of enforcement actions developed under the National Enforcement Screening Strategy protocols, Regions should assess the level of state-initiated compliance assistance and enforcement activity once case management teams are developed and, where practicable, encourage state participation in the NESS-coordinated actions. Generally, although there is no oversight of state multimedia program development, per se, the regions may encourage the development of such programs as they see fit, requesting Headquarters assistance and resources as appropriate.

11. ENVIRONMENTAL JUSTICE PROGRAM

EPA is committed to implement Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," by focusing Federal attention on the environmental and human health conditions in these communities. The Office of Environmental Justice has worked with all parts of EPA, through a network of environmental justice coordinators, to integrate environmental justice in all programs, and within OECA to ensure that enforcement and compliance assurance addresses environmental justice concerns and that these activities are coordinated to more effectively address the needs of impacted communities.

Compliance Assistance

When conducting focused compliance assistance activities, the EPA regions and States should

ensure that regulated entities within EJ communities, or impacted communities with significant minority and/or low-income populations, are recipients of EPA's compliance assistance materials and services as appropriate. In addition, when producing compliance assistance materials, EPA should make an effort to ensure that they are reproduced in the appropriate multiple languages of the impacted regulated community whenever possible.

Compliance Monitoring

EPA inspections are subject to the Executive Order 12898 which requires the EPA to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States." Prior to planning and targeting inspections, it may be necessary to consider the following: (1) will the inspection impact enforcement of all health and environmental statutes in areas with minority populations and low-income populations; (2) has there been any public input regarding the area or facility; (3) is there existing research and data collection related to the health of and environment of minority populations and low-income populations and; (4) have differential patterns of consumption of natural resources among minority populations and low-income populations been identified. When targeting inspections, assess whether inspections are being targeted in a manner that offers equal protection to all populations. Equal protection does not mean equitable distribution of inspections. Rather, inspections should be targeted to diminish any excess risk which may be associated with areas that have a high concentration of industrial activity and/or toxins relative to the resident population.

If an inspection is performed as part of a review for a facility permit or approval, note that the EPA has promulgated an "Interim Guidance For Investigating Title VI Administrative Complaints Challenging Permits."

The "Interim Final Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses" offers helpful hints on the collection and evaluation of environmental exposure and environmental health data, and may be of assistance in targeting inspections.

Performance Expectations

To ensure that the goals of environmental justice are accomplished, regional enforcement and compliance personnel should incorporate environmental justice concerns into ongoing enforcement/compliance activities. In particular they should ensure that:

- 1) the public has access to compliance and enforcement documents and data, particularly to high risk communities, through multimedia data integration projects and other studies, analyses and communication/outreach activities;
- 2) EPA's policies, programs and activities, including public meetings, address minority and low income community issues so that no segment of the population suffers disproportionately from

- adverse health or environmental effects, and that all people live in clean, healthy and sustainable communities, consistent with Executive Order 12898;
- 3) noncompliance is deterred and environmental and human health improvements are achieved by maintaining a strong, timely and active enforcement presence;
 - 4) enforcement actions are directed to maximize compliance and address environmental and human health problems in communities of low income and minority populations;
 - 5) when possible, enforcement actions in or near EJ communities require environmental or human health improvements, such as pollutant reductions and/or physical or management process changes; and
 - 6) when practical, participate in collaborative problem solving with other Federal agencies to address local environmental justice concerns; participate in the environmental justice training collaborative; and continue to participate in the National Environmental Justice Advisory Committee meetings.

Enforcement Actions

If an inspection identifies violations, the EPA Supplemental Environmental Projects Policy contains specific guidance on how environmental justice concerns can be addressed. If a SEP is to replace a fine, the Region should ensure that it is equitable when compared with similar actions in other communities.

Program Leadership and Evaluation

Training: Regional EJ Coordinators can be a valuable source of information to assist in integrating an awareness of environmental justice issues into any Regional enforcement training programs.

12. TRIBAL PROGRAM

EPA has the responsibility to directly implement its programs in Indian country, unless and until tribal governments have received that authority. Given that responsibility, the regions will continue to make sure that all the elements of the core enforcement and compliance assurance program are implemented in Indian country. During FY 2002/2003, the regions should continue to increase their presence in Indian country, especially in the areas of compliance assistance, and enforcement, where warranted, against Federal, private and tribal facilities.

During FY 2002/2003, OECA will continue to implement its Strategic Plan for Indian Country, which will be finalized during FY 2001 based upon comments received from the Federally recognized tribal governments, state governments, and EPA regions and program offices on the draft strategy. The strategy, which will be issued under separate cover, identifies the activities that OECA and the regional enforcement programs will take to implement the enforcement and compliance assurance program over the next four years in order to protect human health and the environment in Indian country. The strategy will emphasize compliance assistance, compliance incentives, and enforcement to carry out these goals.

Here are the priority activities that individual OECA offices and the regions should be undertaking in

FY 2002/2003 to implement the strategy:

Assessing Non-Compliance in Indian Country:

Complete and accurate information about the universe of regulated entities and their compliance status in Indian country is necessary for OECA and the regions to successfully protect the environment and enhance compliance. In FY 2002/2003, the regions should use the data developed through regional inspections and the AIEO baseline assessment survey to help identify and address potential areas of noncompliance.

Compliance Assistance

OECA's compliance assistance and capacity building efforts in Indian country are designed to provide Federal facilities, non-tribally-owned or operated facilities, and tribal governments that own or manage regulated facilities with the information and support necessary to maintain compliance. Consistent with EPA's 1984 Indian Policy, and Guidance on the Enforcement Principles Outlined in the 1984 Indian Policy, issued in January 2001, OECA and the regions will utilize compliance assistance as the initial means of resolving non-compliance and maintaining compliance on the part of tribally-owned or managed facilities, although the Agency will take enforcement actions when necessary if compliance assistance fails to correct violations at tribally-owned facilities in a timely fashion. To help implement this approach, during FY 2002/2003, the Regions will work with their tribal governments to assess both short-term and long-term tribal compliance and technical assistance training needs, using the Tribal Environmental Agreements (TEAs) or other process to develop the information.

During FY 2002/2003, OECA's National Enforcement Training Institute (NETI) will continue to provide classroom training and self-instruction training materials available to tribal law enforcement personnel. OECA will also continue work with the regions to address compliance monitoring issues in Indian country related to the potential authorization of tribal inspectors to receive Federal inspector credentials. Authorization of tribal inspectors is a discretionary function of the regions and is possible when an inspector has completed appropriate training designed to ensure Federal inspections are conducted properly under Federal environmental laws and in a manner designed to protect the inspector's health and safety. A guidance document entitled "Authorization Criteria for State and Tribal Inspectors," governing authorization is under final review by OECA.

Compliance Monitoring and Enforcement Actions

OECA will continue to work with the regions to address compliance monitoring issues in Indian country, including the potential authorization of tribal inspectors to conduct inspections on behalf of EPA. Authorization of properly trained tribal inspectors and the issuance of federal credentials is premised upon the existence of an identified and appropriate EPA need for civil inspections conducted by authorized tribal inspectors. OECA continues to work on the "Guidance on EPA Inspection Authority: State and Tribal Inspectors" which addresses why, when, and how Regions make authorization decisions. Regions should direct

questions about authorization and the Guidance to OECA's Compliance Assessment and Media Programs Division.

Until tribal governments are delegated the authority to implement enforcement programs, EPA will take enforcement actions in Indian country under its direct implementation authority against Federal facilities, privately-owned and tribally-owned facilities where warranted. In FY 2001, OECA will work with the regions to compile a list of the facilities for which their Federally recognized tribal governments have requested them to take compliance monitoring activities (i.e., inspections, record reviews or enforcement). The regions will continue to inspect these facilities, which may be located on or near Indian country.

Program Leadership and Evaluation

The regions will be asked to manually report on FY 2002/2003 Tribal Performance Measures. Specific reporting requirements will be issued at a later date.

13. CRIMINAL ENFORCEMENT, FORENSICS, AND TRAINING CORE PROGRAM

Criminal enforcement serves the following purposes:

- addresses suspected or known illegal conduct which presents imminent and substantial endangerment to human health and/or the environment;
- prevents future environmental harm from occurring through referrals for court action and deters others from future similar illegal behavior; and
- levels the economic playing field.

Criminal Investigation Division

In order to achieve these purposes, each Program Office in each region will continue to coordinate and cooperate closely with the Criminal Investigation Division (CID) in the identification, investigation and prosecution of criminal violations of Federal environmental laws, with a particular emphasis on identifying criminal activity which victimizes environmental justice communities. In order to promote cooperation between each region and CID, the regions will:

- identify leads appropriate for criminal investigations and submit them for the regional screening process;
- assist CID in identifying, targeting and prosecuting persons who provide or maintain false data in areas within EPA's jurisdiction, such as false water monitoring reports, etc;
- provide technical support to CID investigations, providing in-house personnel as witnesses when necessary, and maintain legal and staff support to CID at levels sufficient to ensure the prompt prosecution of environmental crimes;

- Ensure that the January 12, 1994, Memorandum on the Exercise of Investigative Discretion document is distributed to all ORC attorneys and regional enforcement staff, and ensure that the content of this document is incorporated into training sessions on criminal enforcement which are periodically held for ORC attorneys and program enforcement staff;
- provide regional support for multi-media prosecutions of alleged criminal violations; and
- ensure that all environmental measurements or samples used to support EPA criminal investigations will be gathered, recorded and analyzed in a manner that complies with the EPA quality assurance system, and that all evidence collected will be handled and kept secure in accordance with EPA policies for the custodial management of evidence.

National Enforcement Investigations Center (NEIC)

Regions will request NEIC support through the planning process established by OCEFT. OCEFT is currently revising this process in coordination with ORE, the NEIC Division, and the regions.

National Enforcement Training Institute

Regions provide input on training needs and state priorities through the MOA process.

Training of Federal, state, local and tribal personnel will be conducted as approved in the annual NETI plan.

NETI monitors efforts to meet key training needs identified through the MOA process and incorporates them in the NETI plan.

Framework for a Problem-based Approach to Integrated Strategies

BACKGROUND

The “Interim Final 11/18/96 Operating Principles for an Integrated EPA Enforcement and Compliance Assurance Program” describes a set of core principles for EPA’s enforcement and compliance program, the various “tools” available to address environmental problems and guidance on the integration of those tools. Over the years, there has been different experience in using the guidance and effectively integrating these tools by the Headquarters and Regional offices who implement the national compliance assurance program. This Framework reaffirms the “Operating Principles” and the general approach it sets forth. A draft white paper on the Use of Integrated Strategies (May 25, 2001) was also developed by OECA which reaffirms the approaches laid out in the Operating Principles and discusses lessons learned in integrating compliance assurance tools. Both of these documents provide relevant background information. This Framework builds on these documents and advocates using a problem-based approach to using and assessing the impact of our compliance assurance tools. Further, the Framework advocates the consideration of all tools and the elements of the Framework - not necessarily the use of each tool and the application of each element to every problem. In some cases, for example, an immediate enforcement response may be the most appropriate approach given the situation and problem.

This Framework is intended to be utilized after national and/or Regional problems have been identified on which federal resources will be expended. The Framework provides guidance for developing “integrated strategies”-- a strategic approach which gives up front consideration to which tool or tools – compliance assistance, enforcement, compliance monitoring and compliance incentives – to use when addressing identified environmental problems. The Framework encourages proactive consideration of the elements of an integrated strategy: 1) data gathering to further define the problem and universe and develop compliance baselines, 2) tool selection and sequencing to effectively address the environmental problem(s), 3) up front development of measures to assess progress and outcomes and 4) communication with stakeholders, partners and the public. Use of the framework can add transparency to EPA’s decision-making process.

I. STATEMENT OF ENVIRONMENTAL PROBLEM (“What” (specify) is the environmental problems or issues?)

To understand the impact and significance of environmental problems/issues, establish a baseline of information on: a) health and environmental impacts; b) potential risks; and c) root and contributory causes. Establishing a baseline of information will help create the framework for the type and level of integrated strategy to be developed and the approach to measure the integrated strategy’s effectiveness.

Below is a list of factors to be considered when establishing the baseline:

- Pollutants involved
- Geographic areas impacted
- Population impacted (environmental justice communities)
- Distinct/specific noncompliance issues or patterns that need to be addressed
- Industry sectors that appear to contribute to the problem
- Health and environmental consequences of the problem
- Current applicable federal, state, & local regulations, regulatory gaps, and opportunities for use of other regulatory authorities or innovative approaches

II. JUSTIFICATION FOR SELECTING THIS PROBLEM OVER OTHERS {"Why is the identified problem one that EPA should devote resources to now?}:

Given competing resource needs and priorities, describe the factors that make this problem(s) ripe for resolution and a relative priority.

Questions to *consider* when making this decision:

- What is the scope/seriousness of the health or an environmental problem?
- How does this environmental problem rank relative to others being considered?
- Is noncompliance contributing to the problem and could it be addressed by EPA intervention?
- Has there been an EPA or state presence in the sector?
- Are there a large number of facilities which will benefit?
- Are there a large percentage of small businesses with limited capacity to comply?
- Is the problem widespread or a growing problem?
- Do the problems fall within EPA's role/authority?
- Does the problem merit the attention of OECA and the Regions?
- Does the proposed problem fit EPA's planning horizon?
- What is the current level of attention?
- Are there new or pending rules that may impact the problem?
- Are there environmental justice considerations?

III. DESIRED/ANTICIPATED OUTCOMES/RESULTS {"What" (specify) are the goals and objectives? "What" (specify) do we hope to accomplish?}:

What do we want to measure? Measures can be used to show: a) progress toward the anticipated outcome - interim measures; b) need for mid course corrections, c) the effectiveness of the integrated strategy and, d) lessons learned for program evaluation. During the development of the integrated strategy identify both final measures of success and interim measures and milestones. Where appropriate, measure each type of tool used in the integrated strategy as well as the synergistic effect of the tools. Measuring each type of tool used may be more appropriate as an interim measure. In determining desired outcomes, consider compliance and "beyond" compliance goals.

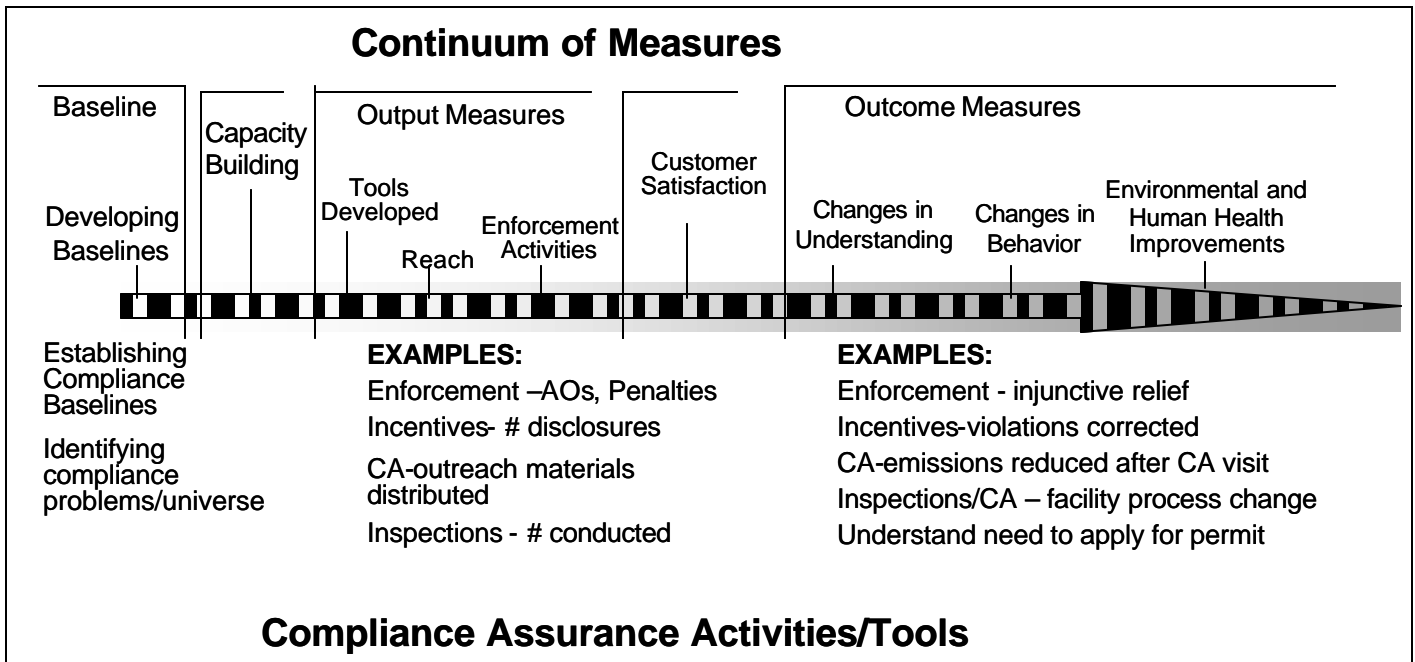
Below are examples of the **generic outcome measures** to be considered in problem based integrated strategies.

- Increased understanding of regulatory requirements
- Facility Management Changes
- Facility Process changes
- Return to Compliance
- Regulatory actions taken
- Pollutant Reductions
- Capacity Building
- Adopt sustainable practices
- Promote/demonstrate changes in industry supply chain

Below are some examples of **interim measures**:

- Tools developed
- CAP program letters sent
- Reach/outputs can be used as interim measures

How will we measure our progress? Identify the outputs/outcomes for your activity and the type and sequence of measurement tools to be used to assess your progress/results. The measurement



continuum is far reaching and ranges from gathering baseline data to measuring environmental improvements.

IV. USE OF AVAILABLE COMPLIANCE ASSURANCE & ENFORCEMENT TOOLS {“How” are we going to address/solve the problems or issues?}

Consider any of the elements below when deciding on and developing integrated strategies. In some cases, enforcement or compliance assistance alone may be an appropriate strategy. It may be appropriate to use cross-programmatic, multimedia and/or cross-regional teams to develop a plan for using the most appropriate tool/tools and sequence of tools. Various partners in the strategy may use different tools (e.g., state Small Business Assistance Programs may use compliance assistance; EPA may use incentives or enforcement). See the attached guidance on factors to consider in choosing and sequencing tools (TO BE DEVELOPED)

Overview¹

- Element 1: **Compliance assistance activities** - What will be the level of CA? Determine the appropriate levels and types of CA that could be used to address the environmental problem. Who will provide it? What tools exist or need to be developed? What will EPA's role be as a CA provider and how will EPA work with other providers?
- Element 2: **Compliance incentive activities** - Will EPA or state policies or activities be used to provide incentives? Consider the usage of policies and activities, including EPA's Audit Policy, Small Business Compliance Policy, Small Communities Policy, and CAPs.
- Element 3: **Compliance monitoring activities** - What is the appropriate level of CM? Will CA be integrated with CM activities? Is there or can we develop common terminology on levels of CM/CA that can facilitate this integration? "The Role of the Inspector in Providing CA" and the ICDS may be useful starting points.
- Element 4: **Enforcement activities** - What Enforcement Response Policies may be used? Determine what kinds of enforcement activities may be used to address the environmental problem.
- Element 5: **Other Relevant Activities** - what other EPA or state activities will be included in the strategy? (e.g., developing new regulations, sustainable industry program activities and other innovative approaches, coordination with other federal agencies, use of compliance-based environmental management systems, pollution prevention activities and other beyond compliance activities, best management practices that help ensure compliance and improved environmental performance, mentoring and demonstration of environmental leadership)

V. RESOURCES [*What resource needs and issues are associated with the effort?*]

Questions to consider:

- What is the best sequence of tools to address the problem? Are there any cost efficiencies associated with certain tools or combination of tools?
- Will different tools be applied to various segments of the regulated community?
- Are the resources available to implement each tool of the integrated strategy?
- What are potential sources for obtaining needed resources, i.e., where can we look for additional resources if we don't have them?
- Can there be varying levels of implementation of the tools to reduce costs?
- What are the economic cost and environmental benefit for implementing each type of tool/cost of implementing the integrated strategy as a whole?

¹ Briefly discuss the sequencing of the elements (and their integration into the overall effort), how the use of a particular element complements the use of the others, etc.

VI. SCHEDULE - (What is the schedule for undertaking the specific tasks in implementing the strategy?]

Draft a schedule with milestones for undertaking the strategy. Consider resource needs, the MOA and state planning processes, reporting deadlines

VII. INVOLVED STAKEHOLDERS AND ROLES AND RESPONSIBILITIES - (*Who are the involved stakeholders and what are their roles and responsibilities?*)

Questions to consider:

- How will EPA work with other regulators, including other federal agencies?
- How will OECA and the regions coordinate with the other EPA program offices, and state offices?
- ◆ Which regulatory body will take the lead?
 - ◆ Enforcement - what regulatory body has the lead for enforcement actions?
 - ◆ Compliance monitoring - What regulatory body has the lead for conducting inspections?
 - ◆ CA - Who has the lead for delivering CA to the regulated entities?
- Which unit within the organization will have the lead for coordinating and implementing the integrated strategy?
- What is the role of the supporting regulatory agencies?
- What is the role of 3rd parties in the development and implementation of the strategy?

a) Federal Regulators:

- HQ - which offices? which programs?
- Regions - which offices? which programs?

b) Other Regulatory bodies: State/local tribal

c) Third Parties: Trades, industry, nonprofit, community groups, suppliers, etc.

VIII. COMMUNICATION {*“How” will stakeholders be informed of the status and results of the activities reflected in the strategy? Has a communication strategy been developed?*}

There are three key audiences that must be kept informed throughout the implementation of the integrated strategy. Each of these audiences has a need for different types of information at different stages of the strategy. These three groups are: a) participants that are working on the integrated strategy; b) federal and state Agency management; and c) external stakeholders including the regulated community and the public (includes the news media).

a) Participants working on the integrated strategy: They need to know all of the elements and actions of the strategy and have a clear understanding of all the activities and outcomes. It is critical to develop a glossary of clear and consistent terms and concepts to ensure that all parties are in agreement. If they are expected to communicate the strategy to others, should talking points and presentations be developed and shared?

b) Federal and state agency managers: A communications plan needs to be developed at the onset of the strategy’s implementation to ensure that management is appraised of the strategy’s progress, and to gain support and potential partnership of the Agency’s efforts to address the compliance issue. The

communications plan usually includes strategies and implementing tools/activities.

c) External stakeholders: A communications plan needs to be developed at the onset of the strategy's implementation to ensure that the regulated community is adequately informed of its compliance responsibilities and EPA's efforts to address the compliance issue/problem. Likewise, the Agency has a responsibility to inform the public on what EPA is doing to address compliance issues/problems, particularly in environmental justice communities. The communications plan usually includes strategies and implementing tools/activities. Regardless, there is a need to ensure consistent messages.

IX. MONITORING & EVALUATION PROCESSES: { "How" will progress relative to goals and objectives be monitored? }

Questions to consider:

- Are we making progress throughout the various interim stages of the strategy?
- Have we addressed the environmental/health problem(s) identified in Section I. The Statement of the Environmental Problem?
- Have parts of the strategy worked but not others?
- Do we need to modify the strategy?
- What is the overall effectiveness of the Integrated Strategy approach?

REPORTING FORMS FOR FY 2004 PROJECTIONS

- NPDES/PRETREATMENT
- DRINKING WATER SNC
- RCRA
- TOXICS
- EPCRA
- AIR
- FIFRA
- Statistically Valid Noncompliance Rates
- Multimedia Inspections
- Compliance Assistance Activity Projections
- Homeland Security

Please use the attached forms to enter regional and state projections. Information comprising both regional and state activities provide key information necessary for national program planning, management, and implementation. Given the timing of state negotiation cycles, however, state projections may be estimates. If necessary, these state estimates can be adjusted during the mid-year reporting process. (State projections for the EPCRA program are not necessary.)

NPDES/PRETREATMENT INSPECTIONS

This measure tracks, against semi-annual targets, the number of inspections of major NPDES facilities; pretreatment POTWs receiving compliance inspections; and the number of inspections of significant industrial users (SIUs) discharging to POTWs without approved programs in unapproved states. The number of biosolids inspections are also tracked; however, no targets have been established and Regions are not requested to provide projections. Biosolids inspections should be entered into PCS.

- Regions and states must maintain an effective inspection program, and the strategy for ensuring this in every state should be defined in the MOA.
- The Agency goal is to provide 100% coverage of all major NPDES facilities (this may include equivalent coverage of a combination of major and priority minor facilities, CAFOs, SSO, CSO, or Storm Water as justified and reported below) and 100% of POTWs with approved pretreatment programs in unapproved states.

Expectations:

- Regions may shift a portion of their total inspection resources from major to minor NPDES facilities, if they are MOA priority areas, priority watersheds, or at other minor facilities with significant discharges of pollutants contributing to the impairment of water bodies (e.g., fish advisories, shellfish bed or beach closures, impacting drinking water sources).
- Inspections at major facilities generally require more resources than inspections at minor facilities. Inspection tradeoffs, the number of minor facilities substituted for major facilities, should be two (2) minors or more for each major facility. This tradeoff is based on previous workload models that averaged the amount of resources needed to conduct major and minor inspections.
- As the CWA NPDES inspection program focuses on impacts of water discharges to water quality, minor NPDES sources may be an important component of an effective inspection program. The number of minor inspections which are being traded for major inspections should be provided on the chart below, broken out by state.
- Regions that shift inspection resources from majors to minors must ensure that the necessary minor facility and inspection data is entered into PCS, either by the region or state, in order to receive "credit." It is critical that minor inspection data is reported into PCS to accurately show activities and produce results since PCS data is the sole mechanism to evaluate and report on NPDES results. OECA may non-concur on the Region's MOA if the region's projections do not reflect the 2:1 minor to major ratio.
- Where EPA is the POTW pretreatment control authority, Regions should evaluate each SIU file and follow-up with the field investigations at 100% of the SIUs with violations identified in their periodic reports, or where the Region believes that the SIU discharge may adversely impact POTW operation, effluent quality, or receiving water quality.
- Regions planning to conduct biosolid inspections in lieu of other CWA compliance monitoring activities should provide a rationale for their investment. Regions should report biosolid inspections, where applicable, in PCS.
- Inspections conducted by either EPA, the state, or other appropriate federal agencies (e.g., the Mineral Management Service) will count towards coverage. Inspection coverage may be achieved by a mix of inspection types including Compliance Evaluation Inspections (CEIs), Compliance Sampling Inspection (CSIs), Biomonitoring Inspections (BIOs), Performance Audit Inspections (PAIs), Diagnostic

Inspections (DIAGs), or Reconnaissance Inspections (RIs) for major NPDES facilities and pretreatment audits or pretreatment inspections for POTWs with approved pretreatment programs. Consolidated multi-media inspections can also be used to achieve inspection coverage. Multiple inspections at any one facility during the year will count as one permittee inspected. Reconnaissance Inspections may be counted toward the commitment only if the following criteria are met:

- (1) The facility has not been in SNC for any of the four quarters prior to the inspection.
- (2) The facility is not a primary industry as defined by 40 CFR, Part 122, Appendix A.
- (3) The facility is not a municipal facility with a pretreatment program.

When conducting inspections of POTWs with approved pretreatment programs, a pretreatment inspection component (PCI) should be added, using the established PCI checklist. An NPDES inspection with a pretreatment component will be counted toward the projection for majors, and the PCI will count toward the projection for POTW pretreatment inspections.

As it is an agency goal to provide 100% coverage of all major NPDES facilities (or equivalent coverage of a combination of major and priority minor facilities) and 100% of POTWs with approved pretreatment programs in unapproved states, projections will be the combined total number of inspections planned against the total universe of majors in the Region, whether the state or the Region has NPDES or pretreatment authority, whether or not the Region retains control authority over a portion of the universe, or whether the state or the Region conducts the inspection.

Proposed regional NPDES inspection projections should be provided on the chart below and included within the Memorandum of Agreement between the region and OECA. Regions should provide the universe of majors and pretreatment POTWs, and SIUs along with semi-annual projection targets. The universe of permittees to be inspected consists of either those permittees designated as "majors" within the Permit Compliance System (PCS) or POTWs with approved pretreatment programs, also designated within PCS. Universe and projection numbers for inspections, along with projection percentages, should be broken out for each state within the region in accordance with the instructions appearing on the chart below.

For further information on the NPDES inspection projection instructions, please contact Kathryn Greenwald (202/564-3252), in the Water Enforcement Division/ORE, Peter Bahor (202/564-7029) or Julie Tankersley (202/564-7002) in the Compliance Assessment and Media Programs Division/OC. For further information on pretreatment inspections please contact Joe Theis (202/564-4053) in Water Enforcement Division/ORE, or Walter Brodtman (202/564-4181) in the Compliance Assistance and Sectors Programs (CASPD) Division/OC.

FY 2004 NPDES INSPECTION PROJECTIONS

NPDES Majors/Minors							
State	Universe (majors)*	Majors Inspection Projections				Minors Inspection Projections (annual projection)****	
		2 nd Quarter		4 th Quarter ** (cumulative)		State Lead	EPA Lead
		State Lead	EPA Lead	State Lead	EPA Lead		
	#	# (%)	# (%)	# (%)	# (%)	#	#
Total***							

* For Region 10, the universe numbers provided should exclude major placer miners.

** 4th Quarter projections/percentages are to be cumulative.

*** Totals of universe and inspection numbers/percentages should be provided.

**** Inspection tradeoffs, the number of minor facilities substituted for major facilities, should be two (2) minors or more for each major facility.

FY 2004 PRETREATMENT INSPECTION PROJECTIONS

Pretreatment Inspections										
State	Universe of Approved Programs	Projected Audits & Inspections								Total Coverage
		2 nd Quarter				4 th Quarter				
		State Lead		EPA Lead		State Lead		EPA Lead		
		A	I	A	I	A	I	A	I	
	#	# (%)	# (%)	# (%)	# (%)	# (%)	# (%)	# (%)	# (%)	# (%)
Total										

FY 2004 PRETREATMENT INSPECTION PROJECTIONS (SIUs)

SIU				
State	SIU Universe (without approved programs in unapproved states)	Inspection Projections		Total Coverage
		2 nd Quarter	4 th Quarter	

Note: This measure requires semi-annual projections for NPDES Inspections and Pretreatment Inspections. Projections for 4th quarter should be cumulative numbers. Biosolids Inspections should be entered into PCS; however, projections are not required. The Significant Industrial User (SIU) table only needs to be filled in by regions that have unapproved States (i.e., Regions I, II, III, V, VII, VIII, and IX).

DRINKING WATER ROLLING-BASE SNC/EXCEPTIONS PROJECTIONS

This measure requires each region to negotiate projections for the number of Drinking Water SNCs/Exceptions, off a rolling-base list, which will be appropriately addressed, either by state or federal action, or returned to compliance in a timely and appropriate manner so as to prevent these public water systems from appearing on a list of unaddressed SNCs (a.k.a, exceptions). This is a somewhat different projection than that asked for in prior MOAs in that with the exception of FY 2001, regions were required to negotiate from a fixed-base of SNCs identified at the beginning of the fiscal year.

Otherwise, we are employing a similar process for negotiating the projections as we have used in those prior years and as was set out in the MOA guidance. In prior years (except for the transition year of FY 2001 in the change from fixed-base to rolling-base), separate projections were negotiated for the Surface Water Treatment Rule (SWTR), Microbiological/Turbidity (M/T), and for Chemical/Radiological (C/R) SNCs and Exceptions. For FY 2004, separate projections should be negotiated only for microbial SNCs and exceptions, as a group, and for chem/rad SNCs and exceptions, as a group. The projections will generally exclude the transient non-community public water systems. As indicated in the national priority section in the MOA guidance, OECA expects the regions/states to address 100% SNCs for the microbial rules; if not, the Region should provide an explanation. In general, if a state and/or region has a relatively small number of SNCs/Exceptions, we expect the state and/or Region to commit to address 100% of the systems. If the regional projection for C/R (including the lead/copper rule), and other non-TCR, non-SWTR microbial rules is less than 100%, an explanation must be provided explaining why the systems will not be addressed. It is possible that we will again in FY 2004 have large numbers of lead/copper rule SNCs. If this is the case, and it is confirmed by Headquarters, we are prepared to negotiate C/R projections using the same guidance we used in FY 1998/1999, i.e. 100% of the large and medium systems and at least 85% of the small systems. A projection of anything less than 85% must be accompanied by a justification (not necessarily system-specific) explaining why the remainder will not be addressed. Please remember that in order to be counted towards the projection, the enforcement action must be taken or the return to compliance must occur by the end of the fiscal inspection year (i.e, June). Note that as in prior years, actions taken or returned to compliance reported in the fourth quarter of FY 2004 also count towards your projections.

It is our understanding, generally, that regions and states should have the resources to address the systems on the fixed base as well as other high priority systems that come up during the year. Where appropriate, substitutions will be allowed under the following conditions: (a) the region (and state) have more SNCs/exceptions on the fixed base than it can address with both regional and state resources; (b) the name of the system for which the substitution is being made, as well as the system which is the substitute, must be provided, in advance. The SNC definition has remained unchanged; refer to the FY 93 PWSS Compliance Report, dated March 1994, pages 43-44.

The contact for this projection is Andy Hudock (202/564-6032) of the Water Enforcement Division/ORE, or Ken Harmon in the Compliance Assistance and Sector Programs Division of OC (202/564-7049).

RCRA REGIONAL PROJECTED COMPLIANCE MONITORING ACTIVITIES:

The following projection charts should be submitted with the draft MOA. Both tables need to be completed since they provide valuable information on different aspects of the national RCRA enforcement program. Table 1 shows where regional RCRA resources will be distributed among the priorities and universe types. Tables 2 shows how federal and state resources will be used to meet the core program requirements. The total number of regional inspection projections should be the same for both tables.

A completed chart for the region showing where inspections were conducted during the fiscal year will be submitted at the end of the year.

A. Regional Priority Inspection Projections

1. Instructions for completing Table 1

- ! For the region, indicate the number of facilities where EPA activities are *projected* to occur in the fiscal year 2004.
- ! To avoid double counting between priorities, use the hierarchy of permit evaders and petroleum refining. For all other activities, list in order of importance to the regional RCRA program and use that as the hierarchy to count compliance monitoring activities once.
- ! To avoid double counting of facilities, use this hierarchy to count compliance monitoring activities once, e.g. an inspection planned for an LDF with an incinerator, credit one activity to the Incinerator column.
 - 1. Federal Facility (See 1. Special Factors)
 - 2. State and Local TSDF (3007(d))
 - 3. Incinerators
 - 4. Boilers and Industrial Furnaces
 - 5. LDFs
 - 6. TSFs
 - 7. Large Quantity Generators (LQGs)
 - 8. Small Quantity Generators (SQGs)
 - 9. Non-notifiers
 - 10. Transporters

RCRA Regional Projected Compliance Monitoring Activities - cont.

Facility Type	Federal Facility	State & Local TSDf 3007(d)	Inc	BIFs	LDFs	TSFs (non-combustion)	LQG	SQG	Non-Notifiers	Transporters	Other (used oil, tips, etc.)	Compliance Assistance Activities	TOTALS
Priority													
Permit Evaders													
- Waste-derived fertilizer													
- Bevill													
- Foundries													
- Other													
Petroleum Refining													
Other Priorities (please list in order of importance to the RCRA program)													
TOTALS													

RCRA REGIONAL AND STATE PROJECTED CORE PROGRAM COMPLIANCE MONITORING ACTIVITIES - FY 2004

Compliance monitoring activities for the core program should be reported below for both the regions and states.

! Indicate the number of facilities where regional and state activities are *projected* to occur in the fiscal year 2004. Regions should indicate the number of regional inspections that will be conducted in each state. Inspections commitments/projections should include ALL RCRIS evaluation types, except for the SNC determinations, SNN and SNY.

! To avoid double counting of facilities, use this hierarchy to count compliance monitoring activities once:

1. Federal Facility (See 1. Special Factors)
2. State and Local TSDF (3007(d))
3. Treatment, Storage, and Disposal Facilities (TSDFs)
4. Large Quantity Generators (LQGs)
5. Small Quantity Generators (SQGs)
6. Other (Facilities other than those listed in 1-5 above; i.e., non-notifiers transporters, used oil, etc.)

	Federal Facility	State & Local TSDF 3007(d)	TSDFs 3007(e)	Large Quantity Generators	Small Quantity Generators	Other (Non-notifier, transporter, used oil, etc.)	TOTALS
Total Regional Inspection Commitments (by State)							
Total State-by-State Inspection Projections							

The contact for the RCRA and UST projection charts is Caroline Ahearn (564-4012), in the RCRA Enforcement Division/ORE, or Gregory Fried (202/564-7016) in the Compliance Assessment and Media Programs Division/OC.

UST INSPECTION PROJECTIONS

	UST Inspections at Federal Facilities	UST Inspections in Indian country	Other	Total UST Inspections
Regional UST * Inspections (by State)				
Totals				

** Please note that state UST inspection projections are not requested. Instead, report regional inspections by state and include all inspection information in one master chart. Please indicate the number of regional inspections conducted by the categories identified; also provide overall totals as well as totals by category.*

1. Special Factors for Redirection of Statutorily Mandated Inspections at Federal Facilities.

The Federal Facility Compliance Act (1992) amended RCRA Section 3007 (c) and requires EPA to conduct annual inspections at all Federal facilities. This has been interpreted as the Federal Treatment, Storage and Disposal Facilities (TSDFs) universe. Currently, there are 274 Federal TSDFs which should receive annual inspections by EPA or authorized states.

In order to meet the statutory intent of the 1992 Act while providing the maximum disinvestment flexibility to the regions and states, inspections at Federal TSDFs should be redirected to Federal Large and Small Quantity Generators (LQGs/SQGs) and/or Civilian Federal Agencies (CFAs) such as: Department of Interior, Department of Transportation, Veterans Administration, etc. only if the following criteria are met:

- 1) Federal TSDF has received annual EPA/state inspection within the last five fiscal years.
- 2) Federal TSDF is not a High Priority Violator (HPV).
- 3) Federal TSDF has no open or unresolved enforcement actions.

Satisfying the three (3) above mentioned criteria should provide Regions and states justification for the disinvestment in inspections of

Federal TSDFs. The shift in investment to Federal LQGs, SQGs, and/or CFAs should still meet the Congressional intent of the 1992 Act.

TSCA INSPECTION TARGETS

Please fill in projected numbers for each category in the chart below.

REGION/ PROGRAM	Core TSCA (§§4,5,8,12, 13)	PCBs	Lead 1018	Lead 402/404	Lead 406	Asbestos	TOTAL TSCA Inspections
Regional Federal							
State-by-State							

If you have any questions regarding PCBs or core TSCA inspection projections reporting please contact Gerald Stubbs (202/564-7043) of the Toxics and Pesticides Enforcement Division/ORE. For core TSCA questions, please contact John Mason (202/564-7037) of the Compliance Assistance and Sector Programs Division/OC. For PCB questions, please contact Joanne Callahan (202/564-5009) of the Compliance Assistance and Sector Programs Division/OC. For the lead program, please contact Carl Eichenwald (202/564-4036) of the Toxics and Pesticides Enforcement Division/ORE.

EPCRA INSPECTION TARGETS:

Please fill in projected numbers for each category in the chart below. Please note: If a region conducts a combined EPCRA inspection, for example a joint 313/304 inspection, then it should be counted as 1 inspection. The region should footnote which sections of EPCRA that the joint inspection covered.

REGION/PROGRAM	EPCRA §313 non-reporter Inspections	EPCRA §313 Data Quality Inspections	EPCRA §304 CERCLA §103 Inspections	EPCRA §311/312 Inspections	Total EPCRA Inspections
Regional Federal					

For further information on this projection, please contact Carl Eichenwald (202/564-4036) of the Toxics and Pesticides Enforcement Division/ORE, or John Mason (202/564-7037) and Sally Sasnett (202/564-7074) of the Chemical, Compliance Assistance and Sector Programs Division in the Office of Compliance.

CLEAN AIR ACT INVESTIGATION AND EVALUATION COMMITMENTS FOR FY 2004

Please fill in the following table to reflect the active regional and ongoing state investigations as well as the required new commitments for the air program.

Investigation Type/ Region and state	Number of NSR or PSD Investigations		Number of Other Investigations	
	Ongoing	Initiated	Ongoing	Initiated
Region				
State-by-state				

Please fill in the following table to reflect regional and all major state sources and 80% synthetic state minor evaluation commitments for the air program. Although the Compliance Monitoring Strategy (CMS) identifies a 2-year planning cycle, Full Compliance Evaluation commitments are required to be made annually.

Evaluation Type/ Region and State	Total Number of Full Compliance Evaluations	Major Source Full Compliance Evaluations	80% Synthetic Minor Source Full Compliance Evaluations	* Other Source Full Compliance Evaluations	Partial Compliance Evaluation (PCE)	Number of Stack Tests Conducted**
Region						
State-by-state						

* All Full Compliance Evaluation commitments negotiated as alternatives to the major and 80% Synthetic Minor source commitments under the April 2001 CMS.

** Please note only the regions are required to report PCEs. State commitments should be included as appropriate.

CLEAN AIR ACT TITLE V CERTIFICATION COMMITMENTS

Please fill in the following table to reflect regional Title V Certification Review commitments for the air program.

Certification Type/region and state	Number of Initial Title V Certifications	Number of Annual Title V Certifications
Region		
State-by-state		

If you have any additional questions regarding air evaluation commitments, please contact Mario Jorquera (202/564-1079) in the Air Enforcement Division in the Office of Regulatory Enforcement or Mamie Miller (202/564-7011) in the Compliance Assessment and Media Programs Division of the Office of Compliance.

FIFRA INSPECTION TARGETS:

Please fill in projected numbers of each category in the chart below. Please refer to the FY95 Pesticide Enforcement Cooperative Agreement Guidance, Appendix II for a complete discussion of reporting definitions.

Pesticides Enforcement Cooperative Agreement Output Projections												
Inspection Projections State-by-State	Agricultural		Nonagricultural		Experi- mental Use	Producing Estab- lishment	Market- Place	Imports	Export	Certified Applicator Records	Use Restricted Pesticide Dealers	Total
	Use	Follow up	Use	Follow up								

For further information on reporting for this projection, please contact Carl Eichenwald (202/564-4036) of the Toxics and Pesticides Enforcement Division/ORE, or Jack Neylan (202/564-5033) in the Agriculture Division of the Office of Compliance.

**FY 2004 MOA
INSPECTION COMMITMENTS FOR STATISTICALLY VALID NONCOMPLIANCE RATES**

The inspections for the noncompliance rates efforts are prescribed by population (sector and regulation). Because this list is more specific, in fact a subset, of the inspections delineated in the other MOA inspection charts, a separate form is required for the noncompliance rates inspections.

This table is to be completed and submitted with your FY 2004 MOA submittal due in September 2003.

Region _____ FY 2004 Inspections for Statistically Valid Noncompliance Rates Effort	
Population (Sector/Regulation)*	Number of Projected Inspections**
Populations for FY 2004 TBD	

*Inspection plans, and a list of facilities for each identified population will be provided to the regions in July.

**Projected inspections includes entire sample which will be 75% targeted inspections and the rest random.

If you have any additional questions regarding this reporting process, please contact Donna Inman (202/564-2511) of the Office of Compliance.

MULTIMEDIA INSPECTION PROJECTIONS

This measure requires each region to provide its projected number of consolidated and coordinated multimedia inspections. These projections will assist us in ensuring that each region’s multimedia targeting strategy and operational plan are integrating a cross-program/multimedia perspective into all stages of environmental enforcement planning and decision-making. These inspections will encourage application of multimedia/cross-program enforcement approaches to achieve additional health and environmental protection results, deterrence, and efficiency which could not have been achieved by traditional single-media approaches alone.

While we are not requesting projections of single media inspections that utilize a multimedia checklist, we will continue to request those totals as part of the end-of-year accomplishments reporting. For reporting purposes CERCLA §103 and EPCRA §304 are considered the same program.

For further information on this measure, contact Philip Milton (202/564-5029) in the Multimedia Enforcement Division of the Office of Regulatory Enforcement.

Multimedia Inspection Projections		
Region	Inspection Type	Projection
	Consolidated ¹ multimedia inspections	
	Coordinated ² multimedia inspections	

¹A consolidated inspection occurs when a single inspection covers two or more programs under different statutes (for reporting purposes CERCLA §103 and EPCRA §304 are considered the same program). A consolidated inspection might be conducted by one fully trained inspector. Single program inspections using a multimedia checklist should not be credited as a consolidated inspection.

²To count as a “coordinated” inspection or action, no more than three months may have elapsed between inspection by one program and subsequent inspection by another program. The coordinated inspection must be a result of prior collaboration and planning between programs or based on information obtained during the initial inspection.

Compliance Assistance Activity Projections

A new compliance assistance activity projection chart was added for the FY 2003 reporting cycle. This chart will continue to be used in FY 2004. The information helps establish a baseline of the regional compliance assistance work that is being done to support the Agency's priorities and core program efforts. At the current time, we anticipate that the MOA CA projections data will be used: 1) as additional information in the briefing books prepared for OECA senior management's Regional visits; and 2) in conjunction with the Reporting Compliance Assistance Tracking System (RCATS) data to generate the targets for the GPRA Goal 5 performance measures. In addition all the activities identified as CA MOA projections will be tracked, e.g., were they undertaken, are they in RCATS, what outcomes resulted from these activities, for end-of-year accountability. Please note that this chart does differ from the inspection projection charts in that it is to be used for projecting **Federal compliance assistance activities only**.

This chart can be generated by the Compliance Assistance Planning Database (CAPD). Activity level data must be entered into CAPD to generate the roll-up summary below. The CAPD is located at: <http://www.otis.abtassoc.com/capd/> (You will be prompted for the following: user name: epacapd and password: assist0307) In order to use this automatically generated form, the activity must be designated as a compliance assistance "MOA projection" in CAPD and you will be required to select the priority area supported (categories below) and complete the follow-up measurement question. Some activities may include more than one compliance assistance outreach method; thus multiple selections are allowed (i.e. one activity with tools developed for a workshop). There were some problems with the data reported in the first year that this form was used that we'd like to highlight in order to avoid similar problems. Specifically, note that Regions are to report the number of tools developed not the number of tools delivered. Also, regions should report the number of discrete compliance assistance activities not on the number of entities reached by the activity. The final Regional roll-up of the compliance assistance "MOA projections" can be generated by pressing the MOA form button in CAPD .

Definitions for the compliance assistance activity categories are included below.

Contact: Rochele Kadish 202-564-3106

Priority Area	Number of Activities	Activity Outputs				Number of Activities with outcome measurement
		Tools Developed	Workshop/Training	Hotlines/WEB sites	Onsite visits	
National OECA MOA Priority						
National OECA MOA Core						
Other Program MOA (Air, Water, Toxics...) Priority						
Regional Priority						
Other (cross-programmatic priorities, e.g., children's health, environmental justice, etc.)						
TOTALS						

FOR ALL CATEGORIES: One project with multiple outputs (tools, workshops...) will be counted as one project and x outputs. For example: training for hospitals with 4 training sessions will be counted as one project and four workshop/training.

Tools Developed: The development or modification of all forms of printed materials (e.g., newsletters, fact sheets, information packets, brochures) as well as videos, slide shows. Tools also include plain language guides, self-audit checklists, and expert systems. Tools intended to help the regulated community, other compliance assistance providers and the public understand environmental requirements.

Workshop/Training: Events that are sponsored in whole or in part by EPA to educate regulated entities, other compliance assistance providers or the public understand environmental requirements or outreach/education events that are not sponsored by the program but where EPA is called upon to do an educational presentation. Training for federal, state, local or contractor inspectors to conduct inspections is **not** compliance assistance.

Hotlines/WEB sites: Actual use and maintenance of toll-free hotlines and publicly available web sites, including Clearinghouses, Compliance Assistance Centers, and fax back services.

Onsite Assistance: Facility visits to provide technical assistance, compliance assistance, environmental management reviews and pollution prevention assessments, or any other time where EPA is **not** representing itself as an official inspector.

Homeland Security Projections

CAA 112(r) Inspections

Although 112(r) is a CAA authority, responsibility for implementation of the program varies among the Regions, and may not reside with the Regional divisions responsible for air compliance and enforcement. Please note, any inspections in this area should be reported by the appropriate office in ICIS, not AIRS/AFS. This reporting replaces the previous manual reporting.

Please fill in the following table to reflect regional 112(r) inspection commitments.

Inspection Type	Regional Commitment
Risk Management Plans (RMP) Inspection	
Section 68.220 RMP Audits	
General Duty Clause Inspections	

If you have any questions regarding the CAA 112(r) inspection chart, please contact Ken Gigliello (202/564-2300) of the Office of Compliance or Craig Haas at (202/564-6447) of the Office of Regulatory Enforcement.

CWA Section 311

Please fill in the following table to reflect region CWA 311 inspection commitments.

	Spill Prevention Countermeasures and Control (SPCC) Inspections at Federal Facilities	SPCC projections in Indian Country	Other SPCC Inspections	Total SPCC Inspections
Regional Inspection Projection *				

* CWA 311 is a federal only program and does not apply to states.

If you have any questions regarding the CWA 311 inspection chart, please contact Dan Chadwick (202/564-7054) of the Office of Compliance or David Drelich at (202/564-2949) of the Office of Regulatory Enforcement.

NEIC Support Requests

NEIC will continue to direct its new activities toward national and regional initiatives and priorities as described in the OECA MOA guidance and the regional MOAs. NEIC project selection will also be guided by the Administrator's themes, the Agency Strategic Plan, GPRA, and the national goals effort. NEIC activities will be focused on an enforcement/compliance end point. Furthermore, NEIC will be examining requests for assistance based upon the potential for producing measurable environmental results and the degree to which activities provide opportunity to use or enhance unique capabilities (e.g., multi-disciplined teams, in-depth process evaluations, complex analytical procedures, etc.). As in the past, NEIC will continue to support ongoing projects to the extent commitments were made in previous years, including case preparation and enforcement support.

To initiate discussions necessary to plan and schedule appropriate enforcement support for FY 2004, NEIC would like to receive requests from the regions by August 1, 2003. It is important that NEIC receive all regional submissions by August 1, 2003 to allow for an examination of all projects in line with resources. These requests should be as specific as possible, and include information to help NEIC determine whether they can provide the requested support. As completely as possible, this information should include:

- facility/project name and location;
- desired enforcement support (type of investigation, technical assistance, information request, etc.);
- desired time frame (if critical);
- desired outcome of project (enforcement, measurable environmental impact, corrective action, settlement, compliance, etc.);
- Regional/Headquarters priority(ies)/initiative(s) involved;
- a brief description regarding how and why this particular facility/project was selected for NEIC support; and
- a name and phone number of a contact for additional information.

During the review of the requests, NEIC will have discussions with the various regional contacts regarding aspects of each request. The combination of information sent with the original request and that obtained during these discussions will enable NEIC to determine whether the requested support can be provided. The final decisions and commitments will be included in the negotiated MOAs.

If you have any questions regarding this process please contact either Gene Lubieniecki, (303) 236-6112, or Robert Tolpa (202) 564-2337. Please send NEIC support requests to both Gene and Robert.

Gene Lubieniecki
Civil Program Coordinator
US EPA-NEIC, Denver Federal Center
Building 53, PO Box 25227
Denver, CO 80225

Robert Tolpa
Chief, Planning Branch (2222-A)
US EPA-OECA, Office of Compliance
Ariel Rios Building
1200 Pennsylvania Ave., NW.
Washington, DC 20460

National Enforcement Training Institute

The National Enforcement Training Institute (NETI) is the division of OCEFT responsible for developing, coordinating, publishing and delivering training for federal, state, local and tribal attorneys, inspectors, civil and criminal investigators and technical experts in all phases of environmental enforcement. NETI was established by the 1990 Pollution Prosecution Act and is EPA's only Congressionally mandated training entity. NETI promotes a balanced training approach using traditional classroom training, distance learning tools such as computer-based training, and cooperative agreements with other organizations to reach a broad audience.

A complete list of NETI courses, their description and availability can be found at NETI's website <http://www.epa.gov/compliance/training/neti> or by calling 1-800-EPA-NETI.

Due to realities such as Homeland Security, increased enforcement capacity demands by our state partners, reduced resources, and new agency web initiatives, there are now changes in the way environmental enforcement training is promoted and evaluated. In April 2002, NETI formally assumed the responsibility of tracking all enforcement training provided by EPA, including both HQ (OECA) and the regions. This includes prospective planning, in order to effectively market training opportunities and avoid duplication of effort, and will result in a National Enforcement Training Plan. In addition, NETI will continue its retrospective review of activities and statistics for end-of-year reporting and GPRA purposes.

An important part of this effort is the EPA Enforcement Training Network, which includes representatives from each OECA office and every region. These contacts are vitally important to the effective coordination of training efforts. **For the fiscal year 2004 MOA cycle we are providing the most current list of members of the EPA Enforcement Training Network. We are asking that the Network members work with MOA Coordinators, appropriate management/technical staff, and interactively within the Enforcement Network to provide the following information:**

- By August 30, 2003 - Regions are requested to submit proposed course plans and/or course delivery support requests for the FY 2004 MOA cycle. Please provide the name of the course, a brief description, support needed if any, a course contact name, phone number and email address.
- By September 15, 2003 - NETI will compile regional training plans and course delivery support needs. NETI will distribute consolidated report to regions and OECA offices.
- By October 10, 2003 - NETI will conduct a meeting of regional and HQ enforcement training contacts to discuss a proposed national training plan and tentative support commitments.
- November/December 2003 - NETI publishes a National Course Catalog for Calendar Year 2004

Questions or concerns regarding these request can be directed to Ray Brown of the National Enforcement Training Institute Division of OCEFT at 202-564-5007 or e-mail address (brown.alphonso@epa.gov).

Summary of NETI Services:

NETI offers new assistance in helping your office to effectively train your audience. For those needing to develop a new course to respond to a training need, NETI has developed a user-friendly WEB based course delivery template that could save your office time and thousands of dollars in structural design and development cost associated with course creation. This tool will allow you the freedom to focus on course content. For those who have existing training products, NETI could assist you in marketing by means of the new OECA Training WEB page. This site will serve as a "one stop shop" for enforcement training activities and resources originating from EPA HQ, the Regions and our external environmental enforcement partners.- NETI also has registration and course management help via the expanded utilities of NETI-Online and/or publication through "Training Times," a monthly NETI publication of scheduled courses. For more information about these resources, please contact Ray Brown of the National Enforcement Training Institute Division of OCEFT at 202-564-5007 or (brown.alphonso@epa.gov).

EPA ENFORCEMENT TRAINING NETWORK

Revised 02/03

OECA Training Liaisons			
Office	Name	Phone	Mailcode
Federal Facilities Enforcement Office (FFEO)	Priscilla Harrington	202-564-2461	2261A
Office of Compliance (OC) Front Office EPTDD CAMPD CASPD AD	Nicholas Franco Joe Schive Iliana Tamacas Veronica Silas Amar Singh	202-564-0113 202-564-4156 202-564-0802 202-564-7084 202-564-4161	2221A 2222A 2223A 2224A 2225A
Office of Criminal Enforcement, Forensics, and Training (OCEFT): Criminal Investigation Division (CID)	Fred Burnside	303-236-6508	n/a
Office of Criminal Enforcement, Forensics, and Training (OCEFT): National Enforcement Investigations Center (NEIC)	Gary Young	303-236-6101	n/a
Office of Environmental Justice (OEJ)	Nicholas Targ	202-564-2406	2201A
Office of Federal Activities (OFA)	Cheryl Wasserman	202-564-7129	2251A
Office of Planning, Policy Analysis, and Communications (OPPAC)	Van Housman	202-564-0143	2201A
Office of Regulatory Enforcement (ORE)	Mike Calhoun	202-564-9933	2248A
Office of Site Remediation Enforcement (OSRE)	Patricia Kennedy	202-564-6061	2271A
AA's Office: Senior Enforcement Counsel	Michael J Walker	202-564-2626	2201A

EPA Regional Enforcement Training Coordinators		
Region	Name	Phone
1	Ken Rota Joann Muniz	617-918-1751 617-918-1187
2	Charles Zafonte	212-637-3515
3	Catherine King Garth Connor	215-814-2657 215-814-3209
4	Antonio Quinones	706-355-8703
5	Linda Mangrum Tywana Greene	312-353-2071 312-353-5793
6	Walter Biggins (Enforcement Coordinator)	214-665-8180
7	Monica Espinosa Pamela K Johnson	913-551-7058 913-551-7480
8	Marvin Frye	303-312-6902
9	Kate Nooney ChereAmie Bischoff	415-947-4266 415-947-3234
10	Diane Ruthruff	206-553-5139

Network Contacts at NETI		
Name	Phone	Primary Responsibility
Zena Aldridge	740-773-4039	Liaison with Regions 1-5
A. Ray Brown	202-564-5007	Liaison with OECA Offices
Daniel Couturier	303-236-6770	Liaison with Region 10 and NEIC
Don Gipe	303-236-6770	Liaison with Regions 7 & 9
Jeff Lightner	303-236-6770	Liaison with Regions 6 & 8

ENFORCEMENT AND COMPLIANCE ASSURANCE RESOURCE INFORMATION

REGIONAL FTE

Goal 9: A Credible Deterrent to Pollution and Greater Compliance With the Law

Objective/Sub-objective/ Program Component	CWA NPDES			CWA Wetlands			SDWA UIC			SDWA PWSS			Stationary Sources			Hazardous Waste			Pesticides			Toxic Substances		
	2002 Final	2003 Reg Final	2004 Proposed	2002 Final	2003 Reg Final	2004 Proposed	2002 Final	2003 Reg Final	2004 Proposed	2002 Final	2003 Reg Final	2004 Proposed	2002 Final	2003 Reg Final	2004 Proposed	2002 Final	2003 Reg Final	2004 Proposed	2002 Final	2003 Reg Final	2004 Proposed	2002 Final	2003 Reg Final	2004 Proposed
DETERRENCE																								
<u>GOAL 9:</u>																								
<u>OBJECTIVE 1</u>																								
Civil & Criminal Enforce. Actions <u>Sub-objective 01</u>																								
Inspections & Civil/Criminal Invest. <u>Sub-objective 02</u>																								
International Enforce. & Compl. <u>Sub-objective 03</u>																								
<u>OBJECTIVE 2</u>																								
Compliance Incentives Program (Self-audit, ELP, CSI, & Proj. XL) <u>Sub-objective 01</u>																								
Compl. Assistance Program <u>Sub-objective 02</u>																								
NEPA Program <u>Sub-objective 03</u>																								
Other																								

ENFORCEMENT AND COMPLIANCE ASSURANCE RESOURCE INFORMATION

REGIONAL FTE

Goal 9: A Credible Deterrent to Pollution and Greater Compliance With the Law

EPCRA			Regional Counsel			Federal Facilities			Sector and Multimedia Enforce.			Environ. Review and Coordination			Non-Enforcement			TOTAL		
2002 Final	2003 Reg	2004 Final Proposed	2002 Final	2003 Reg	2004 Final Proposed	2002 Final	2003 Reg	2004 Final Proposed	2002 Final	2003 Reg	2004 Final Proposed	2002 Final	2003 Reg	2004 Final Proposed	2002 Final	2003 Reg	2004 Final Proposed	2002 Final	2003 Reg	2004 Final Proposed