

Environmental Protection Agency
2004 Annual Performance Plan and Congressional Justification
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Environmental Protection Agency

FY 2004 Annual Performance Plan and Congressional Justification

A Credible Deterrent to Pollution and Greater Compliance with the Law

Strategic Goal: EPA will ensure full compliance with laws intended to protect public health and the environment.

Resource Summary (Dollars in thousands)

	FY 2002 Actuals	FY 2003 Pres. Bud.	FY 2004 Request	FY 2004 Req. v. FY 2003 Pres Bud
A Credible Deterrent to Pollution and Greater Compliance with the Law	\$398,150.1	\$402,462.9	\$430,560.5	\$28,097.6
Increase Compliance Through Enforcement.	\$344,680.1	\$346,590.5	\$372,173.1	\$25,582.6
Promote Compliance Through Incentives and Assistance.	\$53,470.0	\$55,872.4	\$58,387.4	\$2,515.0
Total Workyears	2,434.8	2,330.7	2,480.4	149.7

Background and Context

Protecting public health and the environment from risks posed by violations of federal environmental requirements is basic to EPA's mission. EPA's compliance and enforcement program has been the centerpiece of efforts to ensure compliance, and has achieved significant improvements in human health and the environment. Access to information about compliance with environmental regulations and its impact on environmental conditions and human health helps inform decision making of both regulators and the public in assessing the general environmental health of communities.

Many of the environmental improvements in this country during the past 30 years can be attributed to a strong set of environmental laws and EPA's efforts to ensure compliance with those laws using tools including enforcement, compliance monitoring, compliance assistance, and compliance incentives. The combination of these tools, in cooperation with our regulatory partners, provide a broad scope of actions designed to bring about the protection of public health and the environment.

Means and Strategies

Due to the breadth and diversity of private, public, and federal facilities regulated by EPA under various statutes, the Agency must target its enforcement and compliance assurance

activities strategically to address the most significant risks to human health and the environment and to ensure that certain populations do not bear a disproportionate environmental burden. A strong enforcement program identifies and reduces noncompliance problems, assists the regulated community in understanding environmental laws and regulations, responds to complaints from the public, strives to secure a level economic playing field for law-abiding companies, and deters future violations. EPA's continued enforcement efforts will be strengthened through the development of measures to assess the impact of enforcement activities and assist in targeting areas that pose the greatest risks to human health or the environment, display patterns of noncompliance, and include disproportionately exposed populations. Further, EPA cooperates with states and other nations to enforce and ensure compliance with cross-border environmental regulations.

The Agency reviews and evaluates the activities of the regulated community to determine compliance with applicable laws, regulations, permit conditions and settlement agreements and to determine whether conditions presenting imminent and substantial endangerment exist. The majority of workyears devoted to compliance monitoring are provided to the regions to conduct investigations and on-site inspections including monitoring, sampling and emissions testing. Compliance monitoring activities are both environmental media- and sector-based. The traditional media-based inspections compliment those performed by states and tribes and are a key part of our strategy for meeting the long-term and annual goals established for the air, water, pesticides, toxic substances, and hazardous waste environmental goals included in the EPA Strategic Plan.

In addition, the EPA's enforcement program supports the environmental justice efforts by focusing enforcement actions and criminal investigations on industries that have repeatedly violated environmental laws in minority and/or low-income areas.

The Agency's enforcement and compliance assurance program uses compliance assistance and incentive tools to encourage compliance with regulatory requirements and reduce adverse public health and environmental problems. To achieve compliance, the regulated community must understand its regulatory obligations and how to comply with those obligations. EPA supports the regulated communities by assuring that requirements are clearly understood and by helping industry discover cost-effective options to comply through the use of pollution prevention and innovative technologies. EPA also enables other assistance providers (e.g., states, universities) to provide compliance information to the regulated community. Maximum compliance requires the active efforts of the regulated community to police itself. EPA will continue to investigate options for encouraging self-directed audits and disclosure; measure and evaluate the effectiveness of Agency programs in improving compliance rates; provide information and compliance assistance to the regulated community; and develop innovative approaches to meeting environmental standards through better communication, cooperative approaches and application of new technologies.

State, tribal and local governments bear much of the responsibility for ensuring compliance, and EPA works in partnership with them and other Federal agencies to promote environmental protection. EPA also cooperates with other nations to enforce and ensure compliance with environmental regulations. At the Federal level, EPA addresses its Federal

responsibilities under the National Environmental Policy Act (NEPA) by seeking remedies for potentially adverse impacts of major actions taken by EPA and other Federal agencies.

EPA will continue to ensure the security and integrity of its compliance information systems. Efforts will be made to upgrade computer systems, databases, and tracking systems to enable the Agency to respond to increasing demands for compliance and environmental information. The Agency will greatly facilitate the exchange of compliance and permitting information in the National Pollutant Discharge Elimination System (NPDES) program with the states and tribes through a modernized information system.

The Enforcement and Compliance Program will continue to contribute to the Agency-wide Access to Interpretive Documents (AID) project. This project is intended to make all significant Agency guidance, policy statements and site-specific interpretations of the regulated entities' environmental management practices electronically accessible to the regions, states, industry and the public.

The Administration's evaluation of civil enforcement in the PART process found that outcomes could not easily be determined for this program. However, with better long term and annual outcome performance measures, program planning could be adjusted to achieve more effective results. Therefore, as part of the development of the new Strategic Plan, both goals and outcome oriented performance measures will be developed. A second finding reiterated other evaluations that had concerns about data collection and management. As a result, \$5 million is proposed for an improved compliance data system.

Strategic Objectives

- Increase Compliance Through Enforcement
- Promote Compliance Through Incentives and Assistance

Highlights

Environmental Enforcement

The civil and criminal enforcement program, in contributing to EPA's mission to protect public health and the environment, aims to level the economic playing field by ensuring that violators do not realize an economic benefit from noncompliance and seeks to deter future violations.

Coordinating its activities with the states, EPA will continue to support deterrence and compliance activities by focusing its compliance monitoring on site inspections and investigations. In setting Federal compliance and enforcement priorities and strategic direction of the program, EPA coordinates its efforts with and solicits the views of our states partners. The Agency works with the Environmental Council of States (ECOS) as a vehicle to advance the coordination of efforts and to promote joint strategic planning between EPA and the states.

The Agency will continue to work with states and tribes to target areas that pose risks to human health or the environment, display patterns of noncompliance, or include disproportionately exposed populations. Media-specific, industry sector and problem-based priorities will be established for the national program through the Office of Enforcement and Compliance Assurance's Memorandum of Agreement 2004/2005 guidance, developed in conjunction with the Regional offices.

Homeland Security

The Agency's Criminal Enforcement program has lead responsibility within EPA for coordinating law enforcement activities and delivering environmental crimes expertise necessary to support federal, state, local, and tribal law enforcement homeland security planning and operational activities. In FY 2004, special agents will continue to provide environmental crimes expertise to various Federal task forces and response teams.

State, Tribal, and International Capacity Building

A strong state and tribal compliance and enforcement presence contributes to creating deterrence and to reducing noncompliance. In FY 2004, the enforcement and compliance assurance programs will work with and support state agencies implementing Environmental Management Systems. Members of the environmental justice community will have increased and improved access to data and information they need to hold facilities and local government managers accountable for meeting their goals.

Environmental Justice

EPA's environmental justice program will continue education, outreach, and data availability initiatives. The Program provides a central point for the Agency to address environmental and human health concerns in minority and/or low-income communities--a segment of the population that have been disproportionately exposed to environmental harm and risk. The program will continue to manage the Agency's Environmental Justice Community Small Grants program that assists community-based organizations that are working to develop solutions to local environmental issues.

The Agency will continue to support the National Environmental Justice Advisory Council (NEJAC) which provides the Agency significant input from interested stakeholders such as community-based organizations, business and industry, academic institutions, state, Tribal and local governments, non-governmental organizations and environmental groups. The Agency will also continue to chair an Interagency Working Group (IWG) consisting of eleven departments and agencies as well as White House offices to ensure that environmental justice concerns are incorporated into all Federal programs.

Compliance Incentives and Assistance

EPA will continue to maintain the regulated community's compliance with environmental requirements through voluntary compliance incentives and assistance programs.

In FY 2004, the compliance incentives program will continue to implement the policy on Incentives for Self-Policing, the Small Business Compliance Policy, and the Small Communities Policy as core elements of the enforcement and compliance assurance program. Through the compliance assistance program the Agency will provide information and technical assistance to the regulated community to increase its understanding of all statutory and regulatory environmental requirements, thereby reducing risk to human health and the environment and gaining measurable improvements in compliance. The program will also continue to develop strategies and assistance tools that will improve compliance in specific industrial and commercial sectors or with certain regulatory requirements. The annual Compliance Assistance Activity Plan provides information on planned compliance assistance activities in the upcoming fiscal year and will serve as a reference for other assistance providers and the public on EPA's planned tools and activities.

In FY 2004, the Agency will continue to support the sector based Compliance Assistance Centers, update the Compliance Clearinghouse, sponsor a Federal advisory committee on compliance assistance and will continue to develop and enhance a "Platform" from which to launch additional assistance centers. In addition, EPA will begin to work with partners to develop three new Centers. Possible candidates include a tribal center, centers for schools, and the plastics industry. The Centers are a key component of EPA's efforts to help small and medium-sized businesses and governments better understand and comply with Federal environmental requirements.

External Factors

The Agency enforcement and compliance program's ability to meet its annual performance goals may be affected by a number of factors. Projected performance could be impacted by natural catastrophes, such as major floods or significant chemical spills, that require a redirection of resources to address immediate environmental threats. Many of the targets are coordinated with and predicated on the assumption that state and tribal partners will continue or increase their levels of enforcement and compliance work. In addition, EPA's enforcement relies on the Department of Justice to accept and prosecute cases. The success of EPA's activities hinges on the availability and applicability of technology and information systems. Finally, the regulated community's willingness to comply with the law will greatly influence EPA's ability to meet its performance goals.

Other factors, such as the number of projects subject to scoping requirements initiated by other federal agencies, the number of draft/final documents (Environmental Assessments and Environmental Impact Statements) submitted to EPA for review, streamlining requirements of the Transportation Equity Act for the 21st Century (TEA-21), and the responsiveness of other federal agencies to environmental concerns raised by EPA, may also impact the Agency's ability to meet its performance goals. The NEPA Compliance workload is driven by the number of project proposals submitted to EPA for funding or NPDES permits that require NEPA compliance, including the Congressional projects for wastewater, water supply and solid waste collection facility grants which have increased in recent years.

Finally, our evolving user community will also affect the success of our information efforts. As more states and Tribes develop the ability to integrate their environmental information, we must adjust EPA's systems to ensure that we are able to receive and process reports from states and industry under Agency statutory requirements. Local citizens organizations and the public at large are also increasingly involved in environmental decision-making, and their need for information and more sophisticated analytical tools is growing.

Environmental Protection Agency

FY 2004 Annual Performance Plan and Congressional Justification

A Credible Deterrent to Pollution and Greater Compliance with the Law

Objective: Increase Compliance Through Enforcement.

EPA and its state, tribal, and local partners will improve the environment and protect public health by increasing compliance with environmental laws through a strong enforcement presence.

Resource Summary (Dollars in Thousands)

	FY 2002 Actuals	FY 2003 Pres. Bud.	FY 2004 Request	FY 2004 Req. v. FY 2003 Pres Bud
Increase Compliance Through Enforcement.	\$344,680.1	\$346,590.5	\$372,173.1	\$25,582.6
Environmental Program & Management	\$248,431.2	\$233,721.7	\$272,507.2	\$38,785.5
Hazardous Substance Superfund	\$17,075.6	\$18,687.9	\$19,148.7	\$460.8
Science & Technology	\$10,429.7	\$11,269.5	\$12,562.5	\$1,293.0
State and Tribal Assistance Grants	\$68,743.6	\$82,911.4	\$67,954.7	(\$14,956.7)
Total Workyears	2,017.8	1,932.6	2,079.3	146.7

Key Program (Dollars in Thousands)

	FY 2002 Enacted	FY 2003 Pres. Bud.	FY 2004 Request	FY 2004 Req. v. FY 2003 Pres Bud
Capacity Building	\$9,417.1	\$10,342.7	\$5,785.3	(\$4,557.4)
Civil Enforcement	\$102,997.6	\$99,718.8	\$113,460.3	\$13,741.5
Compliance Assistance and Centers	\$406.7	\$378.0	\$0.0	(\$378.0)
Compliance Incentives	\$284.6	\$292.6	\$0.0	(\$292.6)
Compliance Monitoring	\$54,055.9	\$51,198.4	\$59,716.0	\$8,517.6
Criminal Enforcement	\$41,697.5	\$42,538.1	\$45,166.6	\$2,628.5

	FY 2002 Enacted	FY 2003 Pres. Bud.	FY 2004 Request	FY 2004 Req. v. FY 2003 Pres Bud
Data Management	\$16,069.9	\$16,372.7	\$27,216.2	\$10,843.5
Enforcement Training	\$3,947.3	\$3,880.4	\$3,900.2	\$19.8
Environmental Justice	\$0.0	\$0.0	\$4,726.1	\$4,726.1
Facilities Infrastructure and Operations	\$25,957.5	\$27,464.3	\$28,458.7	\$994.4
Homeland Security-Critical Infrastructure Protection	\$14,447.8	\$3,807.0	\$3,879.7	\$72.7
Legal Services	\$988.5	\$1,057.4	\$1,096.5	\$39.1
Management Services and Stewardship	\$5,804.7	\$6,391.3	\$6,549.5	\$158.2
NEPA Implementation	\$226.9	\$237.4	\$0.0	(\$237.4)
Planning and Resource Management	\$0.0	\$0.0	\$1,881.2	\$1,881.2
RCRA Enforcement State Grants	\$42,904.7	\$42,904.7	\$42,904.7	\$0.0
Regional Management	\$90.0	\$0.0	\$2,382.1	\$2,382.1
State Multimedia Enforcement Grants	\$0.0	\$15,000.0	\$0.0	(\$15,000.0)
State Pesticides Enforcement Grants	\$19,867.8	\$19,867.8	\$19,900.0	\$32.2
State Toxics Enforcement Grants	\$5,138.9	\$5,138.9	\$5,150.0	\$11.1

FY 2004 Request

The Agency's enforcement and compliance assurance program has been the centerpiece of efforts to provide a deterrent to pollution by ensuring compliance with environmental laws and regulations, and has achieved significant improvements in public health and the environment. By identifying and addressing violations of environmental statutes and regulations, the enforcement and compliance assurance program will work together with states and tribes toward continuous improvement in compliance with standards, permits and other established requirements to mitigate and avoid environmental problems and their associated risks.

Given the scope of its responsibilities and the large, diverse universe of private, public, and federal facilities regulated under the various statutes, the Agency also will work to maximize its effectiveness by strategically targeting its compliance and enforcement activities to address the most significant risks to human health and the environment and to address disproportionate burden on certain populations. A strong compliance and enforcement program achieves environmental protection by identifying noncompliance problems, holding violators accountable

and deterring future violations, while ensuring a level economic playing field for all regulated entities.

State, tribal and local governments bear much of the responsibility for ensuring compliance. EPA will continue its efforts to cooperate with states, tribes, and other Federal agencies to promote environmental protection. Further, EPA will cooperate with other nations to enforce and ensure compliance with international agreements affecting the environment. These activities also ensure a level economic playing field in an increasingly global trading system.

Environmental Enforcement

The Agency's compliance monitoring, civil enforcement, criminal enforcement, and homeland security programs support this objective. In FY 2004, the Agency's enforcement and compliance assurance program will measure its performance not only in terms of inspections and enforcement actions, but also in terms of pollutant reductions, and other human health and environmental outcomes the program produces. The FY 2004 annual performance plan contains annual goals and measures to show results such as reducing significant non-compliance and behavioral changes resulting from compliance assistance and enforcement efforts. These measures complement the traditional enforcement measures and portray a more complete picture of the environmental results of the enforcement and compliance assurance program.

Compliance Monitoring. The Agency reviews and evaluates the activities of the regulated community to determine compliance with applicable laws, regulations, permit conditions and settlement agreements and to determine whether conditions presenting imminent and substantial endangerment to human health or the environment exist. The majority of workyears devoted to compliance monitoring are provided to the Regions to conduct investigations and on-site compliance inspections including monitoring, sampling, and emissions testing and also to review performance reports submitted by sources. Compliance monitoring activities are both environmental media- and sector-based. The traditional media-based inspections are conducted to supplement those performed by States and Tribes and to implement programs that are not delegated to States and Tribes. These compliance inspections are key to meeting the long-term and annual goals established for air, water, pesticides, toxic substances, and hazardous waste in the EPA Strategic Plan. The multi-media approaches, such as cross-media inspections, sector initiatives, and risk-based targeting, allow the Agency to take a more holistic approach to protecting ecosystems and to solving the more intractable environmental problems. EPA also monitors compliance by Federal facilities with environmental regulatory requirements and executive orders, including conducting single media and multimedia inspections to ensure their compliance.

In FY 2004, EPA will conduct approximately 15,500 inspections targeted to areas that pose risks to human health or the environment, display patterns of non-compliance, or involve disproportionately-exposed populations. EPA will work with States and Tribes to identify where these inspections will have the greatest benefit to achieving environmental results. In addition to conducting evaluations that focus on facilities with significant non-compliance problems and those which will maximize the deterrent effect, the Agency will direct resources to achieve an adequate field presence.

Maintaining an effective inspection program depends on a well-trained workforce. In order to maintain EPA's expertise in field monitoring and to ensure compliance with EPA Order 3500.1, the Agency will support development of inspector manuals, training modules, and delivery systems for training Regional, State, and Tribal inspectors and program managers. The EPA Order 3500.1 establishes consistent Agency-wide training and development standards for EPA employees leading environmental compliance inspections/field investigations to ensure that they have working knowledge of regulatory requirements, inspection methodologies, and health and safety procedures. The Order consists of a three-level training program for EPA compliance inspectors/field investigators: Occupational Health and Safety Curriculum, Basic Inspector Curriculum, and Program-Specific Curriculum. EPA compliance inspectors/field investigators must complete the required training before leading a compliance inspection/field investigation. The materials developed may include sampling tools, use of new technology including the use of EPA's information systems and how to conduct inspections as EPA moves to e-sign processes (a process where forms/reports may be filled out electronically and certified as legal documents). The Order also serves as a potential model to states, tribes and local environmental agencies that may want to develop their own inspector training program.

In FY 2004, EPA will continue to review and respond to 100 percent of the notices for transboundary movement of hazardous waste, ensuring that these wastes are properly handled in accordance with international agreements and Resource Conservation and Recovery Act (RCRA) regulations. Through analysis of notices, manifests, tracking documents, and annual reports, EPA monitors compliance with relevant regulations and takes enforcement actions as necessary. While the vast majority of the hazardous waste trade occurs with Canada, the U.S. also has agreements concerning international trade in hazardous wastes with Mexico, Malaysia, Costa Rica and member countries of the Organization for Economic Cooperation and Development (OECD). In calendar year 2002, EPA responded to 1,431 notices regarding 8,758 distinct waste streams.

In FY 2004, the compliance monitoring program will continue to focus on the national program priorities established through the Office of Enforcement and Compliance Assurance's Memorandum of Agreement 2004/2005 guidance. Based on recommendations from the Managing for Improved Results (MIR) Steering Committee, which was charged with conducting an overall assessment of the Agency's planning processes, a decision was made to carry over existing priorities and planning guidance an additional year (2004) in order to focus on longer-term planning reforms. EPA will continue to work with States and Tribes to target areas that pose risks to human health or the environment, display patterns of noncompliance, or include disproportionately exposed populations and will issue a supplemental 2004 program planning guidance for problem-based media-specific and/or industry sector-based priorities, if necessary.

Civil Enforcement. The Agency's civil enforcement program will address violations of environmental laws and ensure that violators come into compliance with these laws and regulations. The civil enforcement program achieves the Agency's environmental goals through consistent, fair and focused enforcement of all environmental statutes. The overarching goal of the civil enforcement program is to protect public health and the environment, and therefore, the program targets its actions based on health and environmental risk. Further, it aims to level the

economic playing field by ensuring that violators do not realize an economic benefit from noncompliance, and seeks to deter future violations.

To accomplish these goals, the civil enforcement program is responsible for the development, litigation and settlement of administrative and civil judicial cases against serious violators of priority environmental laws. The federal program will focus its resources on national environmental and human health problems, transboundary pollutants, and multi-state industrial violators. The Federal facilities enforcement program will continue to ensure that Federal facilities and Government-Owned-Contractor-Operated facilities conduct their activities in an environmentally sound manner and comply with all applicable laws, regulations, permits and executive orders.

In FY 2004, program management will provide direction to, set goals and priorities for, and evaluate and review the national enforcement program. Enforcement and compliance staff will develop guidance and policy for technical evaluations, investigations, and case development strategies that may include the use of injunctive relief, supplemental environmental projects and other civil penalties as appropriate. Further, enforcement staff will participate in the development of, or revision to, regulations and interpretive guidance.

Criminal Enforcement. The criminal enforcement program brings to bear the Agency's most powerful enforcement tool against the most significant environmental violations. By demonstrating that the regulated community will be held accountable for serious, willful statutory violations in terms of jail sentences and criminal fines, the program acts to forcefully deter violations of environmental laws and regulations in a way that civil judicial and administrative enforcement might not achieve. EPA's special agents, located nationwide, will conduct criminal investigations, develop information to support grand jury inquiries and decisions, and work with other law enforcement agencies to present a highly visible and effective force in the Agency's enforcement strategy. Cases are referred to the U.S. Attorney's Offices of the Department of Justice for prosecution, with special agents serving as key witnesses in these judicial proceedings. The criminal enforcement program places particular emphasis on cooperation with state and local law enforcement through participation in task forces and enhancing capacity through specialized training and community policing efforts.

EPA's efforts to work more closely and cooperatively with industry are complemented by the criminal enforcement program. The Agency is sending a clear message to the regulated community that those who choose to cooperate, in good faith, will reap the benefits of that partnership. Those whose noncompliance is distinguished by culpable conduct can expect the serious implication of criminal investigation and prosecution. In FY 2004, EPA estimates that it will conduct 400 criminal investigations targeted to areas that pose risks to human health or the environment, display patterns of noncompliance or include disproportionately exposed populations. EPA will also continue to develop and deploy and secure network to ensure proper handling of law enforcement confidential information used in the criminal program.

The Agency's forensic program provides specialized support for the nation's most complex civil and criminal enforcement cases and technical expertise for non-routine Agency compliance efforts. To effectively support these activities, the program must maintain state-of-

the-art skills and equipment capable of dealing with an increasingly sophisticated regulated community. EPA's National Enforcement Investigations Center (NEIC) is the only accredited forensics environmental center in the nation. NEIC's Accreditation Standard has been customized to cover the civil, criminal, and special program work conducted by the program.

In FY 2004, the forensic program will function under more stringent International Standards of Operation for environmental data measurements to maintain its accreditation. The program will also continue to develop emerging technologies in field and laboratory analytical techniques. Efforts to stay at the forefront of environmental enforcement will include the refinement of successful multi-media inspection approaches, use of customized laboratory methods to solve unusual enforcement case problems, and further development of a computer forensic expertise for use in seizure and recovery of data and in investigative support related to computers and data fraud. The program will also provide technical support for national, regional, state, and tribal initiatives and priorities as well as the Agency's integrated compliance assurance program using a unique process-based approach.

Homeland Security

EPA's enforcement and compliance assurance program has lead responsibility for coordinating Presidential Decision Directive (PDD) 39, 62 and 63 on crisis management (i.e., law enforcement) activities. In this capacity, EPA will deliver environmental crimes expertise necessary to support federal, state, local, and tribal law enforcement homeland security planning and operational activities. In FY 2004, special agents will continue to provide environmental crimes expertise to various Federal task forces and response teams as needed. The enforcement program will also coordinate with the Agency's consequence management resources needed to detect, prepare for, prevent, protect, as well as to respond to and recover from a human or cyber terrorist threat or attack.

Data Systems Modernization

Reliable, comprehensive and up-to-date data systems are key to EPA's ability to identify non-complying facilities, target compliance monitoring and assistance to environmental problems posing the highest risk and measure the effectiveness of its enforcement activities. The Agency will continue to maintain and support the thirteen information systems that house the national enforcement and compliance data archive. EPA will expand the development of its Quality Management Plans (QMPs), building on those developed for the National Compliance Database/Federal Insecticide Fungicide Rodenticide Act (FIFRA) and Toxic Substance Control Act (TSCA) Tracking System, the Resource Conservation and Recovery Information System, and a final data quality audit for the Permit Compliance System (PCS). The Enforcement and Compliance program has developed a Data Quality Strategy focusing on: expansion of the public access and error correction functions of the Integrated Data for Enforcement Analysis system (IDEA) and the Online Targeting Information System (OTIS), objective verification of core data fields across systems and programs through random sampling technology, and resolution of data quality problems as they relate to interpretation of data definitions. In FY 2004, the Agency will have a QMP or equivalent in place for Phase I of the Integrated Compliance Information System (ICIS).

In FY 2002, ICIS Phase I was successfully implemented in all EPA Regions. When fully implemented (all phases), ICIS will be a consolidated enforcement and compliance information management system that will provide a single integrated source of information for the national enforcement and compliance assurance program. ICIS will consolidate and streamline enforcement and compliance information that is currently contained in the thirteen legacy media-based systems. The new system will reduce burden and duplication by providing a single source for data entry, will improve public access to data, support the development of risk reduction strategies, and will provide states and regions with a modernized system to meet their program management and accountability responsibilities. Phase II of ICIS was initiated in FY 2002. Major progress was made in the development of a detailed design for a modernized Permit Compliance System (PCS), which serves the permitting and compliance program needs of the Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES).

In FY 2003, the Agency continues its phased implementation of ICIS with the completion of the detailed design and the start of the development of system software for ICIS Phase II, PCS Modernization. In addition, in FY 2003 EPA is completing the requirements analysis for the Aerometric Information Retrieval System (AIRS) Facility Subsystem (AFS) (Phase III). The modernization of these systems is key to the Agency's ability to use information collected from States and localities to direct and manage the permitting and enforcement programs.

In FY 2004, the Agency is requesting an increase of \$5,000,000 to support Permit Compliance System (PCS) modernization. These resources will support system testing, data migration, training, documentation and implementation. PCS has little or no data for major new NPDES requirements, such as Concentrated Animal Feeding Operations (CAFOs), storm water, and Sanitary Sewer Overflows (SSOs). PCS modernization will address these serious data gaps, provide for easy use of and access to the system via the use of current information technology, support the Agency's initiative for data integration, and will promote exchange and data sharing with our state partners.

The Enforcement and Compliance Assurance Program will continue to make enforcement and compliance information available to the public through the Enforcement and Compliance History On-line (ECHO) internet website during 2004. The existing website will be improved in response to the comments of the public as well as interested industry groups. The compliance and enforcement program will also continue to make all significant enforcement and compliance guidance, policy statements, planning documents and accomplishments electronically accessible to the Regions, states, industry and the public through the internet.

State, Tribal, and International Capacity Building

A strong state and tribal enforcement and compliance assurance presence is essential to EPA's long-term strategic plan objective to identify and reduce significant noncompliance in high priority areas while maintaining a strong enforcement presence in all regulatory program areas. Most of the Nation's environmental laws envision a strong role for state governments in implementing and managing environmental programs. In FY 2004, the enforcement and compliance assurance program will continue to support state agencies implementing authorized, delegated, or approved environmental programs. Consistent with regulations and Agency policy,

EPA will provide an appropriate level of oversight and guidance to states to ensure that environmental regulations are fairly and consistently enforced across the Nation.

EPA works with Indian tribes on a government-to-government basis to identify enforcement, compliance assistance, and capacity building issues affecting tribal lands. The Agency's goal is to help tribes develop their own enforcement and compliance assistance programs so that they can assume greater management of environmental programs in Indian Country. In FY 2004, the enforcement and compliance assurance program will continue implementation of the Tribal Strategy in order to direct compliance monitoring and compliance assistance capacity-building efforts. By monitoring and evaluating progress made, EPA will ensure that the plan's commitments are met in a timely fashion. These efforts will help implement EPA's 1984 Indian Policy in which EPA works with tribal governments as full partners to enhance protection of the public health and the environment on tribal lands.

The state and tribal grant programs are designed to build environmental partnerships with states and tribes and to strengthen their ability to address environmental and public health threats. These threats include contaminated drinking water, pesticides in food, hazardous waste, toxic substances and air pollution. In FY 2004, the enforcement and compliance assurance program will continue to award state and tribal enforcement grants to assist in the implementation of the compliance and enforcement provisions of the Toxic Substances Control Act (TSCA) and the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). These grants support state and tribal compliance activities to protect the environment from harmful chemicals and pesticides. The enforcement component of RCRA state grants is also included in this objective.

- Under the Pesticides Enforcement Grant program, EPA provides resources to states and Indian tribes to conduct FIFRA compliance inspections and take appropriate enforcement actions, and implement programs for farm worker protection.
- States receive toxic substances grant funding for compliance inspections of asbestos and PCBs and for implementation of the state lead abatement enforcement program. The funds will complement other Federal program grants for building state capacity for lead abatement, and enhancing compliance with disclosure, certification and training requirements.
- EPA will also provide grant funding for states to inspect federal, state, and local RCRA facilities that store, treat, or dispose of hazardous waste. Inspections will emphasize compliance with facility-specific requirements or interim status requirements. RCRA enforcement orders and supplemental environmental projects will incorporate waste minimization provisions, where appropriate.

The Agency also provides single media enforcement grants to states that are funded under other environmental goals supporting air and water programs.

The strategic mission and objectives of the international enforcement program include promoting international and border environmental security through enforcement and compliance

means; fostering cooperation with foreign countries which are of strategic interest to the United States, as prescribed in treaties and trade agreements, through capacity building and other means; and integrating, analyzing and utilizing data about transboundary movements of regulated substances/wastes to promote environmental enforcement. Achieving these strategic objectives and environmental benefits requires an EPA enforcement presence to effectively implement international commitments for cooperation in enforcement and compliance activities with other countries, especially those along the U.S. border. Through such arrangements, EPA works to reduce environmental risks to U.S. citizens from external sources of pollution, as well as to prevent or reduce the impact of pollution originating in the United States.

Environmental Justice

EPA's environmental justice program will continue education, outreach, and data availability initiatives. The program provides a central point for the Agency to address environmental and human health concerns in minority and/or low-income communities--segments of the population that have been disproportionately exposed to environmental harms and risks. The program will continue to manage the Agency's Environmental Justice Community Small Grants program that assists community-based organizations that are working to develop solutions to local environmental issues. The Community Small Grants Program was established in 1994 and has awarded more than 973 grants of up to \$20,000 each to community organizations. As a result of these grant awards, community-based organizations (i.e., grassroots groups, churches, and other nonprofit organizations) have expanded citizen involvement and given people the tools to learn more about exposure to environmental harms and risks, and, consequently, to protect their families and their communities as they see fit. These small grants have served as "seed-money" to empower the residents of these communities, which has allowed them to more fully participate in environmental matters affecting their community.

During FY 2003, EPA continues to encourage the use of alternative dispute resolution through training and multi-stakeholder partnering. By FY 2004 the Agency and communities will have increased capacity to resolve disputes through alternative dispute resolution. Through the use of ADR, the Agency expects to reduce time and resources accompanying litigation and expects decisions to be more efficient and favorable for all parties involved.

The Agency will continue to support the National Environmental Justice Advisory Council (NEJAC) which provides EPA significant input from interested stakeholders such as community-based organizations, business and industry, academic institutions, state, Tribal and local governments, non-governmental organizations and environmental groups. Six subcommittees were created around the Agency's broad statutory mandates and are sponsored by the appropriate EPA office. The subcommittees are: Air/Water; Enforcement; Health/Research; Indigenous People; International; and Waste/Facility Siting. In FY 2004, the council will address the implications of cumulative impacts on communities with exposure to multiple sources of environmental degradation.

The Agency will also continue to chair an Interagency Working Group (IWG) consisting of eleven departments and agencies as well as White House offices to ensure that environmental justice concerns are incorporated into all Federal programs. In 2004, the IWG will continue its

efforts to work collaboratively and constructively with all levels of government and throughout the public and private sectors to effectively address the environmental, health, economic and social challenges facing our communities through the selection of fifteen new demonstration and revitalization projects. These new projects will continue to implement the 2000 Action Agenda centered around fifteen demonstration projects in diverse urban and rural communities in virtually all regions of the nation. The agenda is dynamic and will continue to increase with the selection of projects to achieve a variety of goals, ranging from environmental cleanup, Brownfields and economic development and children's health to community education and capacity building. To date, these demonstration projects have leveraged more than \$12 million in public/private resources.

The Agency supports State and Tribal environmental justice programs and conducts outreach and technical assistance to states, local governments, and stakeholders on environmental justice issues. In order to be able to respond to an allegation of environmental injustice, it is essential to identify the "affected community." In 2001, the Environmental Justice Mapper was developed for the Internet to provide all stakeholders with information about a selected location. The Environmental Justice Mapper reflects environmental data available from the Agency's data warehouse and demographic data provided by the U.S. Census Bureau. Links are provided to the health-related database of the Department of Health and Human Services. Another essential tool to foster the integration of environmental justice into Federal programs, policies and activities is training. In FY 2002, a Fundamentals Workshop on Environmental Justice was developed. In FY 2003 a module on how the issuance of permits under RCRA, CWA, and CAA is being added to the course. EPA will provide 25 training sessions to over 750 individuals in FY 2004.

In support of the Agency's environmental justice efforts, criminal investigations and civil enforcement actions will be focused on industries that have repeatedly violated environmental laws in minority and/or low-income areas.

Enforcement Training

The Agency's enforcement training program is mandated by the Pollution Prosecution Act to provide environmental enforcement training nationally through the National Enforcement Training Institute (NETI). The program oversees the design of core and specialized enforcement courses and their delivery to lawyers, inspectors, civil and criminal investigators and technical experts. In FY 2004, the program will continue development and enhancement of a training center on the Internet. "NETI Online" offers timely, targeted technical training courses to a nation-wide and international audience. The site also provides for tracking individual training plans as well as developing and managing the program's training delivery processes.

The Agency also provides specialized classroom training in criminal environmental law enforcement at the Department of Treasury's Federal Law Enforcement Training Center (FLETC) in Glynco, GA. FLETC develops and delivers basic and advanced training to EPA Special Agents and their state, local and tribal partners across the United States and in selected counties worldwide. FLETC provides one of the few opportunities for state, local, and tribal enforcement professionals to obtain criminal investigations training. In FY 2004, the

enforcement training program will enhance opportunities for experiential training with an additional practical exercise site at its NETI-West facility in Denver, Colorado.

FY 2004 Change from FY 2003 Request

EPM

- (+\$14,000,000, +100 FTE) This increase in FTE, payroll, and extramural dollars will allow the Agency to improve its ability to maximize compliance and achieve environmental results through targeted inspections and enforcement, including review of facility self-monitoring reports, respond to citizen and other types of complaints, and enhance field presence to address recalcitrant violators of water, air and hazardous waste laws. The Agency estimates that an additional 1,500 inspections will be conducted in areas that pose significant health or environmental risk. These additional inspections will contribute to reducing an additional 50 million pounds of pollutants from the environment. Headquarters and Regional offices are working together to effectively deploy enforcement and compliance resources to address environmental problems.
- (+7,823,400, 12 FTE) This increase includes a shift in resources for payroll and working capital fund from capacity building to compliance monitoring and enforcement. The shift of capacity building resources was based on an internal distribution and there was no negative impact to the program.
- (+\$8,530,600) This increase includes a \$5 million investment to modernize the Agency's Permit Compliance System. The availability of more comprehensive data in a modernized PCS will enhance the Agency's ability to more effectively manage the Clean Water Act (CWA) NPDES program. The systematic tracking of discharge monitoring data for existing and new NPDES program areas will provide the Agency the capability to determine national compliance rates for program areas such as CAFOs. Similarly, the capability to determine national compliance rates for combined sewer and sanitary sewer systems where wet weather related overflows have been identified as a major environmental problem will also be possible. The remainder of this increase is due to increases for payroll, cost of living, and enrichment for new and existing FTE.
- (+\$72,700) This increase in criminal enforcement is a result of a combined reduction in payroll \$310,000 due to repricing and an increase of \$380,000 to support criminal enforcement activities in the homeland security program.
- (+\$3,826,100, +16 FTE) The Agency's environmental justice program has been moved from Goal 7 to this objective. This does not reflect an increase to the program.
- (+\$2,382,100, +23.6 FTE) This change represents the distribution of resources for Regional Information Management across all Regions.
- (+1,633,400, +7.6 FTE) Resources, dollars and FTE, associated with rent are allocated in proportion to Agency-wide FTE located in each goal, objective. Resources, dollars and

FTE, associated with utilities, security and human resource operations are allocated in proportion to Headquarters FTE located in each goal, objective. Changes reflect shifts in FTE between goals and objectives. Resources, dollars and FTE, associated with contracts and grants are allocated in proportion to Headquarters' contracts and grants resources located in each goal, objective. Changes in these activities reflect shifts in resources between goals and objectives. *(Total changes -> rent: +\$1,417,000, utilities: +\$2,374,800, Security: +\$3,425,000 and 75 FTE, Human Resources: +\$870,400 and +5.4 FTE, Contracts: +\$642,400 and -18.5 FTE, Grants: +\$3,015,500 and +19.7 FTE)*

Superfund

- (+\$900,000) The Agency's environmental justice program has been moved from Goal 7 to this objective. This does not reflect an increase to the program.
- (+330,300, +1.2 FTE) Resources, dollars and FTE, associated with rent are allocated in proportion to Agency-wide FTE located in each goal, objective. Resources, dollars and FTE, associated with utilities, security and human resource operations are allocated in proportion to Headquarters FTE located in each goal, objective. Changes reflect shifts in FTE between goals and objectives. Resources, dollars and FTE, associated with contracts and grants are allocated in proportion to Headquarters' contracts and grants resources located in each goal, objective. Changes in these activities reflect shifts in resources between goals and objectives. *(Total changes -> rent: +\$1,417,000, utilities: +\$2,374,800, Security: +\$3,425,000 and 75 FTE, Human Resources: +\$870,400 and +5.4 FTE, Contracts: +\$642,400 and -18.5 FTE, Grants: +\$3,015,500 and +19.7 FTE)*

STAG

- (-\$15,000,000) In FY 2004, the Agency is not proposing to fund the multi-media enforcement state grant program that was requested in the FY 2003 President's Budget.

Multi Appropriation

- (EPM, +\$2,144,600, +9.4 FTE and Superfund, +\$485,500, +0.7 FTE) Resources for public access previously in Goal 7 have been consolidated with the rest of OECA's data management program under this objective. OECA will continue to support data integration projects, such as Integrated Data for Enforcement Analysis (IDEA) that makes integrated compliance data from several media-specific databases available nationally in an interactive online mode. In addition, OECA will continue to contribute to the Agency-wide Enhanced Public Access Project, intended to make all significant Agency guidance, policy statements and site-specific interpretations of the regulated entities' environmental management practices electronically accessible to the Regions, states, industry and the public. The Enforcement and Compliance History On-Line (ECHO) web site will make some enforcement and compliance data available to the public through the internet.

There are additional increases for payroll, cost of living, and enrichment for new and existing FTE.

GOAL: A CREDIBLE DETERRENT TO POLLUTION AND GREATER COMPLIANCE WITH THE LAW

OBJECTIVE: INCREASE COMPLIANCE THROUGH ENFORCEMENT.

Annual Performance Goals and Measures

Non-Compliance Reduction

- In 2004 EPA will direct enforcement actions to maximize compliance and address environmental and human health problems.
- In 2003 EPA will direct enforcement actions to maximize compliance and address environmental and human health problems.
- In 2002 Based upon one measure, this APG was not met.

Performance Measures:	FY 2002 Actuals	FY 2003 Pres. Bud.	FY 2004 Request	
Millions of pounds of pollutants required to be reduced through enforcement actions settled this fiscal year.(core optional)	261	300	350	M pounds
Percent of concluded enforcement actions require physical action that result in pollutant reductions and/or changes in facility management or information practices. OECA will break out the %.	77	75	80	Percent
Develop and use valid compliance rates or other indicators of compliance for selected populations.	5	5	5	Populations

Baseline: Protecting the public and the environment from risks posed by violations of environmental requirements is basic to EPA's mission. To develop a more complete picture of the results of the enforcement and compliance program, EPA has initiated a number of performance measures designed to capture the results of lowering the timeline for significant noncompliers to return to compliance, reducing noncompliance recidivism rates, and improvements in facility process and/or management practices through behavioral changes. The baseline rates for many of these measures were established in FY00. These measures will complement the traditional enforcement measures of inspections and enforcement actions to provide a more complete picture of environmental results from the enforcement and compliance program.

Inspections/Investigations

- In 2004 EPA will conduct inspections, criminal investigations, and civil investigations targeted to areas that pose risks to human health or the environment, display patterns of non-compliance, or include disproportionately exposed populations.
- In 2004 EPA will provide direct investigative forensic, and technical support to the Office of Homeland Security, FBI and/or other federal, state, and local law enforcement agencies to help detect and prevent, or respond to, terrorist-related environmental, biological or chemical incidents.
- In 2003 EPA will conduct inspections, criminal investigations, and civil investigations targeted to areas that pose risks to human health or the environment, display patterns of non-compliance, or include disproportionately exposed populations.
- In 2003 EPA will provide direct investigative, forensic, and technical support to the Office of Homeland Defense, FBI and /or other federal, state and local law enforcement agencies to help detect and prevent, or response to, terrorist-related environmental, biological or chemical incidents.
- In 2002 EPA exceeded all targets for inspectons and investigations
- In 2002 EPA provided support to Office of Homeland Security and other law enforcement. agencies as requested.

Performance Measures:	FY 2002 Actuals	FY 2003 Pres. Bud.	FY 2004 Request	
Number of EPA inspections conducted (core required)	17668	14,000	15,500	Inspections
Number of Criminal Investigations	674	400	400	Investigations
Number of Civil Investigations	541	180	225	Investigations
EPA will respond to investigative leads that relate to security of homeland environment, FBI requests for support, and participate in all National Special Security Events as requested.	100	100	100	Percent

Baseline: The compliance monitoring program works with states and tribes to target areas that pose risks to human health or the environment, display patterns of noncompliance, or include disproportionately exposed populations. The number of inspections projected varies each year by the complexity of facilities targeted.

Quality Assurance

In 2004 Identify noncompliance, and focus enforcement and compliance assurance on human health and environmental problems, by maintaining and improving quality and accuracy of data.

In 2003 Identify noncompliance, and focus enforcement and compliance assurance on human health and environmental problems, by maintaining and improving quality and accuracy of data.

In 2002 EPA continues to operate and modernize enforcement and compliance databases.

Performance Measures:	FY 2002 Actuals	FY 2003 Pres. Bud.	FY 2004 Request	
Operate 14 information systems housing national enforcement and compliance assurance data with a minimum of 95% operational efficiency.	95	95		Percent
Complete the detailed design and software development system lifecycle stage of Phase II of ICIS (modernization of the Permit Compliance System (PCS)) by September 2003.		1		lifecycle stage
Have Phase I of the Integrated Compliance Information system ICIS fully operational in March 2002.	1			Phase
Complete system implementation lifecycle stage (i.e. data migration and testing) of Phase II of ICIS by September FY 2004.			1	lifecycle stage

Baseline: EPA's ability to target and measure effectiveness of its enforcement activities depends upon reliable and up-to-date data systems. EPA's 14 data systems will continue to operate at 95% or better operational efficiency. In conjunction with the operation and maintenance of existing systems, EPA will continue its system modernizing efforts and improve data integration and consistency.

Capacity Building

In 2004 Improve capacity of states, localities and tribes to conduct enforcement and compliance programs. EPA will provide training as well as assistance with state and tribal inspections to build capacity, including implementation of the inspector credentials program for tribal law enforcement personnel.

In 2003 Improve capacity of states, localities and tribes to conduct enforcement and compliance programs. EPA will provide training as well as assistance with state and tribal inspections to build capacity, including implementation of the inspector credentials program for tribal law enforcement personnel.

In 2002 Capacity building efforts greatly assist state and tribes who are delegated inspection monitoring and enforcement activities under many statutes. This year, EPA began collecting Regional training performance data therefore the results are significantly higher than in past years.

Performance Measures:	FY 2002 Actuals	FY 2003 Pres. Bud.	FY 2004 Request	
Conduct EPA-assisted inspections to help build state program capacity	1081	250	400	Inspections

Baseline: Improve capacity of states, localities and tribes to conduct enforcement and compliance programs by providing training as well as assistance with state and tribal inspections.

Program Assessment Rating Tool

As part of the Administration's overall evaluation of effectiveness of Government programs, the Civil Enforcement program was evaluated with the following specific findings:

1. The program lacks adequate outcome oriented performance measures. This impacts both program planning and results. With better outcome performance measures, program planning could be adjusted to achieve more effective results.
2. Outside evaluators have criticized the program for: a) lack of adequate workload analysis to support existing staffing and priorities, and b) lack of good quality data to accurately determine compliance and monitor the effectiveness of enforcement activities.

In response to these findings the Administration will:

1. Fund \$5 million for an improved compliance data system.
2. Revise EPA's strategic plan with a focus on defining EPA's federal enforcement role and appropriate outcome performance measures.

Verification and Validation of Performance Measures for 2004

FY 2004 Performance Measure: Percent of concluded enforcement actions require physical action that result in pollutant reductions and/or changes in facility management or information practices. OECA will breakout the percentage among, physical, facility management and information practices.

Performance Database: ICIS, which tracks EPA civil, judicial and enforcement actions.

Data Source: Most of the essential data on environmental results in ICIS are collected through the use of the Case Conclusion Data Sheet (CCDS), which Agency staff prepares after the conclusion of each civil (judicial and administrative) enforcement action. EPA implemented the CCDS in 1996 to capture relevant information on the results and environmental benefits of concluded enforcement cases. The information generated through the CCDS is used to track progress for several of the performance measures. The CCDS form consists of 27 specific questions which, when completed, describe specifics of the case; the facility involved, information on how the case was concluded; the compliance actions required to be taken by the defendant(s); the costs involved; information on any Supplemental Environmental Project to be undertaken as part of the settlement; the amounts and types of any penalties assessed; and any costs recovered through the action, if applicable. The CCDS requires that the staff identify if the facility/defendant, through injunctive relief, must: (1) reduce pollutants; and (2) improve management practices to curtail, eliminate or better monitor and handle pollutants in the future.

Methods, Assumptions and Suitability: For enforcement actions which result in pollution reductions, the staff estimate the amounts of pollution reduced for an immediately implemented improvement, or an average year once a long-term solution is in place. There are established

procedures for the staff to calculate, by statute, (e.g., Clean Water Act), the pollutant reductions or eliminations. The procedure first entails the determination of the difference between the current “out of compliance” concentration of the pollutant(s) and the post enforcement action “in compliance” concentration. This difference is then converted to mass per time using the flow or quantity information derived during the case.

QA/QC Procedures: Quality Assurance/Quality Control procedures [See references] are in place for both the CCDS and ICIS entry. There are a Case Conclusion Data Sheet Training Booklet [See references] and a Case Conclusion Data Sheet Quick Guide [See references], both of which have been distributed throughout regional and headquarters’ (HQ) offices. Separate CCDS Calculation and Completion Checklists [See references] are required to be filled out at the time the CCDS is completed. A Quality Management Plan for ICIS is under development.

Data Quality Review: Information contained in the CCDS and ICIS are required by policy to be reviewed by regional and headquarters’ staff for completeness and accuracy.

Data Limitations: The pollutant reductions or eliminations reported on the CCDS are estimates of what will be achieved if the defendant carries out the requirements of the settlement. Information on expected outcomes of state enforcement is not available. The estimates are based on information available at the time a case is settled or an order is issued. In some instances, this information will be developed and entered after the settlement, during continued discussions over specific plans for compliance. Because of the time it takes to agree on the compliance actions, there may be delay in completing the CCDS. Additionally, because of unknowns at the time of settlement, different levels of technical proficiency, or the nature of a case, OECA’s expectation is that based on information on the CCDS, the overall amounts of pollutant reductions/eliminations will be prudently underestimated.

Error Estimate: Not available

New & Improved Data or Systems: In November 2000, EPA completed a comprehensive guidance package on the preparation of the Case Conclusion Data Sheet. This guidance, issued to headquarters’ and regional managers and staff, was made available in print and CD-ROM, and was supplemented in FY2002 [See references]. The guidance contains work examples to ensure better calculation of the amounts of pollutants reduced or eliminated through concluded enforcement actions. EPA trained each of its ten regional offices during FY 2002. Additionally, OECA began implementing an Information Quality Strategy (IQS) in FY2002 [See references]. The Office of Compliance’s (OC) Information Quality Strategy is a plan, developed with participation across OC, The Office of Environmental Information (OEI), EPA’s regional offices and states, to ensure information used and produced from national data systems are reviewed for quality, problems identified and corrective steps followed. It includes an implementation plan that describes a series of projects OC is undertaking to carry forward the strategy. These projects will be updated annually. Additionally, the IQS provides the basis of OC’s Quality Management Plans [See references] produced in accordance with the Agency’s data quality requirements.

References: Quality Assurance and Quality Control procedures: Data Quality: Life Cycle Management Guidance, (IRM Policy Manual 2100, dated September 28, 1994, reference Chapter

17 for Life Cycle Management). Case Conclusion Data Sheets: Case Conclusion Data Sheet, Training Booklet, issued November 2000 available: www.epa.gov/compliance/resources/publications/planning/caseconc.pdf; Quick Guide for Case Conclusion Data Sheet, issued November 2000. Information Quality Strategy and OC's Quality Management Plans: Final Enforcement and Compliance Data Quality Strategy, and Description of FY 2002 Data Quality Strategy Implementation Plan Projects, signed March 25, 2002. ICIS: U.S. EPA, Office of Enforcement and Compliance Assurance, ICIS Phase I, implemented June 2002. Internal EPA database; non-enforcement sensitive data available to the public through the Freedom of Information Act (FOIA).

FY 2004 Performance Measure: Millions of pounds of pollutants required to be reduced through settled enforcement actions. (Core optional)

Performance Database: ICIS, which tracks EPA civil, judicial and enforcement actions.

Data Source: Most of the essential data on environmental results in ICIS are collected through the use of the Case Conclusion Data Sheet (CCDS), which Agency staff prepare after the conclusion of each civil (judicial and administrative) enforcement action. EPA implemented the CCDS in 1996 to capture relevant information on the results and environmental benefits of concluded enforcement cases. The information generated through the CCDS is used to track progress for several of the performance measures. The CCDS form consists of 27 specific questions which, when completed, describe specifics of the case; the facility involved, information on how the case was concluded; the compliance actions required to be taken by the defendant(s); the costs involved; information on any Supplemental Environmental Project to be undertaken as part of the settlement; the amounts and types of any penalties assessed; and any costs recovered through the action, if applicable. The CCDS requires that the staff identify if the facility/defendant, through injunctive relief, must: (1) reduce pollutants; and (2) improve management practices to curtail, eliminate or better monitor and handle pollutants in the future.

Methods, Assumptions and Suitability: For enforcement actions which result in pollution reductions, the staff estimate the amounts of pollution reduced for an immediately implemented improvement, or an average year once a long-term solution is in place. There are established procedures for the staff to calculate, by statute, (e.g., Clean Water Act), the pollutant reductions or eliminations. The procedure first entails the determination of the difference between the current "out of compliance" concentration of the pollutant(s) and the post enforcement action "in compliance" concentration. This difference is then converted to mass per time using the flow or quantity information derived during the case.

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References: Quality Assurance and Quality Control procedures: Data Quality: Life Cycle Management Guidance, (IRM Policy Manual 2100, dated September 28, 1994, reference Chapter 17 for Life Cycle Management). Case Conclusion Data Sheets: Case Conclusion Data Sheet, Training Booklet, issued November 2000 available: www.epa.gov/compliance/resources/publications/planning/caseconc.pdf; Quick Guide for Case Conclusion Data Sheet, issued November 2000. Information Quality Strategy and OC's Quality Management Plans: Final Enforcement and Compliance Data Quality Strategy, and Description of FY 2002 Data Quality Strategy Implementation Plan Projects, signed March 25, 2002. ICIS: U.S. EPA, Office of Enforcement and Compliance Assurance, ICIS Phase I, implemented June 2002. Internal EPA database; non-enforcement sensitive data available to the public through the Freedom of Information Act (FOIA).

FY 2004 Performance Measure: Develop and use valid compliance rates or other indicators of compliance for selected populations.

Performance Databases: The Permit Compliance System (PCS) tracks National Pollutant Discharge Elimination System (NPDES) permit and enforcement actions, as well as reporting and scheduling requirements. The Air Facility Subsystem (AFS) captures emission, compliance and permit data for major stationary sources of air pollution. The Resource Conservation and Recovery Act Information System (RCRAInfo) supports permit, compliance and corrective action activities carried out by the hazardous waste handlers.

Data Source: EPA's regional offices, and delegated states

Methods, Assumptions and Suitability: EPA is working to establish statistically valid noncompliance rates for selected regulated populations. This requires establishing the universe of the population and then verifying the compliance status of the selected population. This effort began in FY 2000. The first year that a population is addressed establishes the baseline. EPA can then build on these results to measure changes in behavior as a result of targeted enforcement and compliance assurance activities. Populations that have been addressed and may continue to be include: municipal sewage treatment plants for conventional pollutants Biological Oxygen Demand (BOD) and Total suspended Solids (TSS); petroleum refining sector for ammonia levels; and iron and steel sector for lead and zinc.

QA/QC Procedures: All of the systems have been developed in accordance with the Office of Information Management's Lifecycle Management Guidance, which includes data validation processes, internal screen audit checks and verification, system and user documents, data quality audit reports, third-party testing reports, and detailed report specifications for showing how data are calculated.

Data Quality Review: Regarding AFS, EPA Inspector General (IG) reports in 1997 and 1998 [See references] highlighted states' problems with identifying and reporting significant violators of the Clean Air Act, impairing EPA's ability to assess non-compliance. EPA issued High Priority Violator Guidance [See references] to improve tracking of sources of violations. As a result of the reports, EPA has enhanced oversight and headquarters' outreach to regions, states, and local governments.

Data Limitations: For all systems, there are concerns about quality and completeness of data and the ability of existing systems to meet data needs. Incompatible database structures/designs and differences in data definitions impede integrated analyses. Additionally, there are incomplete data available on the universe of regulated facilities because not all are inspected/permited. System modernization will resolve many of these problems. Additionally, there are issues of programmatic scheduling that influence when statistically valid compliance measures can be calculated. For example, rates based on self-reported Discharge Monitoring Reports in the NPDES program, cannot be calculated until more than a fiscal quarter after the reports are received, due to programmatic and associated system rules for determining significant non-compliance.

Error Estimate: Not available.

New & Improved Data or Systems: PCS modernization is underway and will be nearing completion in FY2004. EPA is preparing Quality Management Plans (data quality objectives, quality assurance project plans, baseline assessments) for all major systems. A new Integrated Compliance Information System (ICIS) supports core program needs and consolidates and streamlines existing systems. A pilot project to develop statistically valid compliance rates for selected universes of regulated facilities will be completed in 2003. Also, measures directed at the impact of EPA strategies on recidivism focuses attention on better compliance assurance targeting, i.e., monitoring, compliance assistance, incentives and enforcement.

References: EPA Inspector General reports in 1997 and 1998: 1997 EPA IG Reports: Validation of Air Enforcement Data reported to EPA by Massachusetts (7100305) available: http://www.epa.gov/oigearth/ereading_room/list997/7100305.pdf;
EPA Region 3's Oversight of Maryland's Air Enforcement Data (7100302) available: <http://www.epa.gov/oigearth/list997/7100302.pdf>;
Region 6's Oversight of Arkansas Air Enforcement Data (7100295) September 26, 1997 available: http://www.epa.gov/oigearth/ereading_room/list997/7100295.pdf;
1998 EPA IG Reports: Region 6's Oversight of New Mexico Air Enforcement Data - March 13, 1998 (8100078) available http://www.epa.gov/oigearth/ereading_room/list398/8100078.pdf;
Idaho's Air Enforcement Program - September 30, 1998 (8100249) available http://www.epa.gov/oigearth/ereading_room/list998/8100249.pdf]
High Priority Violator Guidance: U.S. EPA, Office of Regulatory Enforcement, Issuance of Policy on Timely and Appropriate Enforcement Response to High Priority Violations (HPVs), dated February 22, 1999, available: <http://www.epa.gov/compliance/resources/policies/civil/caa/stationary/issue-ta-rpt.pdf>

FY 2004 Performance Measure: Number of EPA inspections conducted.

Performance Databases: Integrated Data for Enforcement Analysis (IDEA) integrates data from major enforcement and compliance systems, such as the Permit Compliance System (PCS), Air Facilities Subsystem (AFS), Resource Conservation and Recovery Act Information System (RCRAInfo), and Emergency Response Notification system (ERNS).

Data Source: EPA's regional and Headquarters' offices.

Methods, Assumptions and Suitability: N/A

QA/QC Procedures: All the systems have been developed in accordance with the Office of Information Management's Lifecycle Management Guidance, which includes data validation processes, internal screen audit checks and verification, system and user documents, data quality audit reports, third-party testing reports, and detailed report specifications for showing how data are calculated.

Data Quality Review: Regarding AFS, EPA Inspector General (IG) reports in 1997 and 1998 [See references] highlighted states' problems with identifying and reporting significant violators

of the Clean Air Act, impairing EPA's ability to assess non-compliance. EPA is now using an updated Clean Air Act Compliance monitoring strategy [See references] that clarifies reporting definitions and enhances oversight of state and local compliance monitoring programs.

Data Limitations: For all systems, there are concerns about quality and completeness of data and the ability of existing systems to meet data needs. Incompatible database structures/designs and differences in data definitions impede integrated analyses. Additionally, there are incomplete data available on the universe of regulated facilities because not all are inspected/permitted. In addition, the target is based on a preliminary estimate of the impact of redirecting resources to the state and tribal enforcement grant program.

Error Estimate: N/A

New & Improved Data or Systems: PCS modernization is underway and will be nearing completion in 2004. EPA is preparing Quality Management Plans (data quality objectives, quality assurance project plans, baseline assessments) for all major systems. A new Integrated Compliance Information System (ICIS) supports core program needs and consolidates and streamlines existing systems. A pilot project to develop statistically valid compliance rates will be completed in FY2003. Additionally, OECA began implementing its Data Quality Strategy in FY2002.

References: EPA Inspector General reports in 1997 and 1998: 1997 EPA IG Reports: Validation of Air Enforcement Data reported to EPA by Massachusetts (7100305) available: http://www.epa.gov/oigearth/ereading_room/list997/7100305.pdf;
EPA Region 3's Oversight of Maryland's Air Enforcement Data (7100302) available: http://www.epa.gov/oigearth/ereading_room/list997/7100302.pdf;
Region 6's Oversight of Arkansas Air Enforcement Data (7100295) September 26, 1997 available: http://www.epa.gov/oigearth/ereading_room/list997/7100295.pdf;
1998 EPA IG Reports: Region 6's Oversight of New Mexico Air Enforcement Data - March 13, 1998 (8100078) available http://www.epa.gov/oigearth/ereading_room/list398/8100078.pdf;
Idaho's Air Enforcement Program - September 30, 1998 (8100249) available http://www.epa.gov/oigearth/ereading_room/list998/8100249.pdf]
Clean Air Act Compliance Monitoring Strategy, April 25, 2001, www.epa.gov/compliance/resources/policies/monitoring/cmstrategy.pdf.

FY 2004 Performance Measure: Number of criminal investigations

Performance Databases: The Criminal Docket System (CRIMDOC) is a criminal case management, tracking and reporting system. Information about criminal cases investigated by the U.S. EPA-Criminal Investigation Division (CID) is entered into CRIMDOC at case initiation, and investigation and prosecution information is tracked until case conclusion.

Data Source: U.S. EPA-CID offices.

Methods, Assumptions and Suitability: N/A

QA/QC Procedures: The system administrator performs regularly scheduled quality assurance/quality control checks of the CRIMDOC database to validate data and to evaluate and recommend enhancements to the system.

Data Quality Review: N/A

Data Limitations: N/A

Error Estimate: N/A

New & Improved Data or Systems: A new case management, tracking and reporting system (Case Reporting System) is currently being developed that will replace CRIMDOC. This new system will be an easier to use database with greater tracking, management and reporting capabilities.

References: CRIM-DOC: U.S. EPA, Office of Enforcement and Compliance Assurance. Internal enforcement confidential database; non-enforcement sensitive data available to the public through the Freedom of Information Act (FOIA).

FY 2004 Performance Measure: Number of civil investigations

Performance Databases: Integrated Data for Enforcement Analysis (IDEA) integrates data from major enforcement and compliance systems, such as the Permit Compliance System (PCS), Air Facilities Subsystem (AFS), Resource Conservation and Recovery Act Information System (RCRAInfo), and Emergency Response Notification system (ERNS).

Data Source: EPA's Regional offices.

Methods, Assumptions and Suitability: N/A

QA/QC Procedures: All the systems have been developed in accordance with the Office of Information Management's Lifecycle Management Guidance, which includes data validation processes, internal screen audit checks and verification, system and user documents, data quality audit reports, third-party testing reports, and detailed report specifications for showing how data are calculated.

Data Quality Review: Regarding AFS, EPA Inspector General (IG) reports in 1997 and 1998 [See references] highlighted states' problems with identifying and reporting significant violators of the Clean Air Act, impairing EPA's ability to assess non-compliance. EPA issued High Priority Violator Guidance [See references] to improve tracking of sources of violations. As a result of the reports, EPA has enhanced oversight and outreach to regions, states, local areas.

Data Limitations: For all systems, there are concerns about quality and completeness of data and the ability of existing systems to meet data needs. Incompatible database structures/designs and differences in data definitions impede integrated analyses. Additionally, there are incomplete data available on the universe of regulated facilities because not all are inspected/permitted.

Error Estimate: N/A

New & Improved Data or Systems: PCS modernization is underway and will be nearing completion in 2004. EPA is preparing Quality Management Plans (data quality objectives, quality assurance project plans, baseline assessments) for all major systems. A new Integrated Compliance Information System (ICIS) supports core program needs and consolidates and streamlines existing systems. An annual project to develop statistically valid compliance rates will be completed in FY2003.

References: EPA Inspector General reports in 1997 and 1998: 1997 EPA IG Reports: Validation of Air Enforcement Data reported to EPA by Massachusetts (7100305) available: http://www.epa.gov/oigearth/ereading_room/list997/7100305.pdf;
EPA Region 3's Oversight of Maryland's Air Enforcement Data (7100302) available: http://www.epa.gov/oigearth/ereading_room/list997/7100302.pdf;
Region 6's Oversight of Arkansas Air Enforcement Data (7100295) September 26, 1997 available: http://www.epa.gov/oigearth/ereading_room/list997/7100295.pdf;
1998 EPA IG Reports: Region 6's Oversight of New Mexico Air Enforcement Data - March 13, 1998 (8100078) available http://www.epa.gov/oigearth/ereading_room/list398/8100078.pdf;
Idaho's Air Enforcement Program - September 30, 1998 (8100249) available http://www.epa.gov/oigearth/ereading_room/list998/8100249.pdf.] High Priority Violator Guidance: U.S. EPA, Office of Regulatory Enforcement, Issuance of Policy on Timely and Appropriate Enforcement Response to High Priority Violations (HPVs), dated February 22, 1999, available: <http://www.epa.gov/compliance/resources/policies/civil/caa/stationary/issue-ta-rpt.pdf> ICIS: U.S. EPA, Office of Enforcement and Compliance Assurance, ICIS Phase I, implemented June 2002. Internal EPA database; non-enforcement sensitive data available to the public through the Freedom of Information Act (FOIA).

FY 2004 Performance Measure: Conduct EPA-assisted inspections to help build state program capacity.

Performance Database: Output measure; internal regional tracking system.

Data Source: Internal regional tracking system and ICIS.

Methods, Assumptions and Suitability: N/A

QA/QC Procedures: EPA regional and headquarters' managers check information to confirm accuracy.

Data Quality Review: None

Data Limitations : None

Error Estimate: N/A

New & Improved Data or Systems : ICIS has ability to assist regions in tracking inspections. A new measurement tool, the Inspection Conclusion Data Sheet, (ICDS) will be used to analyze the results from inspections conducted under some of EPA's major statutes. EPA will analyze data on communication of problems to industry, compliance assistance delivered by inspectors, and immediate corrections made by industry according to region, nationally and by industry sector.

References: ICIS: U.S. EPA, Office of Enforcement and Compliance Assurance, ICIS Phase I, implemented June 2002. Internal EPA database; non-enforcement sensitive data available to the public through the Freedom of Information Act (FOIA). ICDS: U.S. EPA, Office of Enforcement and Compliance Assurance, Inspection conclusion Data Sheets (ICDS). This information is internal to EPA and not currently accessible through a database on a website.

FY 2004 Performance Measure: Complete system implementation life cycle stage (i.e. data migration and testing) of Phase II of ICIS (i.e. modernization of the Permits Compliance system (PCS) By September 2004.

Performance Database: No database; internal tracking of measure.

Data Source: None

Methods, Assumptions and Suitability:

QA/QC Procedures: Contained within the project design.

Data Quality Review: None

Data Limitations : None

Error Estimate:

New & Improved Data or Systems : None

References: N/A

FY 2004 Performance Measure: EPA will respond to investigative leads that relate to the environment, including conventional, chemical, biological or radiological incidents; Lead Agency and/or Office of Homeland Security requests for investigative, forensics, technical or training support pursuant to PDDs 39 and 63; and participation in all National Security Special Events as requested by the Secret Service under PDD 62.

Performance Databases: The Criminal Docket System (CRIMDOC) is a criminal case management, tracking and reporting system which contains information about criminal cases investigated by U.S. EPA-CID (Criminal Investigation Division) from their inception as opened investigations through case initiation, investigation, prosecution and conclusion. CRIMDOC identifies those cases that are related to homeland security or counter-terrorism.

Data Source: U.S. EPA-CID offices.

Methods, Assumptions and Suitability:

QA/QC Procedures: The system administrator performs regularly scheduled quality assurance/quality control checks of the CRIMDOC database to validate data and evaluate and recommend enhancements to the system.

Data Quality Review: N/A

Data Limitations: N/A

Error Estimate: N/A

New & Improved Data or Systems : A new case management, tracking and reporting system (Case Reporting System) with greater tracking, management, and reporting capabilities, is currently being developed that will replace CRIMDOC. This new system will also contain the relevant information for the Office of Criminal Enforcement, Forensics and Training's (OCEFT) homeland security activities and reporting requirements.

References: CRIMDOC and CRS contain enforcement-sensitive data and are not accessible by the public. Public information and annual statistics regarding the GPRA measures of the criminal enforcement program, including those related to homeland security will be reported annually in the Agency's Annual Performance Report. (www.epa.gov/ocfopage)

Coordination with Other Agencies

The Enforcement and Compliance Assurance program coordinates closely with the Department of Justice (DOJ) on all enforcement matters. In addition, the program coordinates with other agencies on specific environmental issues as described below.

The Civil Enforcement and Compliance Monitoring programs coordinate with the Chemical Safety and Accident Investigation Board, the Occupational Safety and Health Administration, and Agency for Toxic Substances and Disease Registry in preventing and responding to accidental releases and endangerment situations; with the Bureau of Indian Affairs on tribal issues relative to compliance with environmental laws on Tribal Lands, and with the Small Business Administration on the implementation of the Small Business Regulatory Enforcement Fairness Act (SBREFA).

Coordination also occurs with the U.S. Army Corps of Engineers on wetlands. Moreover, due to changes in the Food Security Act, the U.S. Department of Agriculture/Natural Resources Conservation Service (USDA/NRCS) has a major role in the determination of whether areas on agricultural lands meet the definition of wetlands and are therefore regulated under the Clean Water Act. Civil Enforcement coordinates with USDA/NRCS on these issues also. Finally, the program coordinates closely with the Department of Agriculture on the implementation of the Unified National Strategy for Animal Feedlot Operations.

EPA's Enforcement and Compliance Assurance program also coordinates with USDA on food safety issues arising from the misuse of pesticides, and shares joint jurisdiction with Federal Trade Commission (FTC) on pesticide labeling and advertising. Coordination also occurs with Customs on pesticide imports. EPA and the Food and Drug Administration (FDA) share jurisdiction over general-purpose disinfectants used on non-critical surfaces and some dental and medical equipment surfaces (e.g., wheelchairs). Finally, the Agency has entered into a Memorandum of Understanding with the Department of Housing and Urban Development concerning lead poisoning.

The Criminal Enforcement program coordinates with other federal law enforcement agencies (i.e. FBI, Customs, Treasury, U.S. Coast Guard, DOJ) and with state and local law enforcement organizations in the investigation and prosecution of environmental crimes. EPA is also actively working with DOJ to establish task forces that bring together federal, state and local law enforcement organizations to address environmental crimes. In addition, the National Enforcement Training Institute has an Interagency Agreement with the Department of Treasury to provide specialized criminal environmental training to federal, state, local, and tribal law enforcement personnel at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA. NETI also coordinates with four state associations who provide training for state and local officials.

Under Executive Order 12088, EPA is directed to provide technical assistance to other Federal agencies to help ensure their compliance with all environmental laws. The Federal Facility Enforcement Program coordinates with other Federal agencies, states, and local and tribal governments to ensure compliance by federal agencies with all environmental laws.

The Civil Enforcement and Compliance Monitoring programs work closely with the states and tribes. States perform the vast majority of inspections and enforcement actions. Most EPA statutes envision a partnership between EPA and the states under which EPA develops national standards and policies and the states implement the program under authority delegated by EPA. If a state does not seek approval of a program, EPA must implement that program in the state. Historically, the level of state approvals has increased as programs mature and state capacity has expanded, and many of the key environmental programs are approaching approval of nearly all states. EPA will increase its effort to coordinate with states on training and capacity building and on enforcement.

EPA works directly with Canada and Mexico bilaterally and in the trilateral Commission for Environmental Cooperation (CEC). EPA's border activities require close coordination with the U.S. Customs Service, the Fish and Wildlife Service, the Department of Justice, and the States of Arizona, California, New Mexico, and Texas.

Statutory Authorities

Resource Conservation and Recovery Act sections 3007, 3008, 3013, and 7003 (42 U.S.C. 6927, 6928, 6934, 6973)

Comprehensive Environmental Response, Compensation, and Liability Act sections 106, 107, 109, and 122 (42 U.S.C. 9606, 9607, 9609, 9622)

Clean Water Act (CWA) sections 308, 309, and 311 (33 U.S.C. 1318, 1319, 1321)

Safe Drinking Water Act sections 1413, 1414, 1417, 1422, 1423, 1425, 1431, 1432, 1445 (42 U.S.C. 300g-2, 300g-3, 300g-6, 300h-1, 300h-2, 300h-4, 300i, 300i-1, 300j-4)

Clean Air Act sections 113, 114, and 303 (42 U.S.C. 7413, 7414, 7603)

Toxic Substances Control Act (TSCA) sections 11, 16, and 17 and TSCA Titles II and IV (15 U.S.C. 2610, 2615, 2616, 2641-2656, 2681-2692)

Emergency Planning and Community Right-to-Know Act sections 325 and 326 (42 U.S.C. 11045, 11046)

Residential Lead-Based Paint Hazard Reduction Act of 1992, section 1018 under TSCA section 11 (42 U.S.C. 4852d, 2610)

Federal Insecticide, Fungicide, and Rodenticide Act sections 8, 9, 12, 13, and 14 (7 U.S.C. 136f, 136g, 136j, 136k, 136l)

Ocean Dumping Act sections 101, 104B, 105, and 107 (33 U.S.C. 1411, 1414B, 1415, 1417)

North American Agreement on Environmental Cooperation

1983 La Paz Agreement on US/Mexico Border Region

National Environmental Policy Act (NEPA) section 102(f)

Pollution Prosecution Act of 1990 (42 U.S.C. section 4321 note)

Environmental Information Authorities

Enterprise for the Americas Initiative Act (7 U.S.C. 5404)

Environmental Research, Development, and Demonstration Act (ERDDA) of 1981

Federal Advisory Committee Act (FACA) (5 U.S.C. App.)

Federal Food, Drug and Cosmetic Act (FFDCA)

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S. C. 136-136y)

Food Quality Protection Act (FQPA)

Emergency Planning and Community Right-to-Know Act (EPCRA) section 313 (42 U.S.C. 110001-11050)

Government Paperwork Elimination Act (GPEA)

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S. C. 136-136y)

Pollution Prevention Act (PPA) (42 U.S.C. 13101-13109)

Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901-6992k)

Safe Drinking Water Act section 1445 (SDWA) (42 U.S.C. 300f-300j-26)

Toxic Substance Control Act section 14 (TSCA) (15 U.S.C. 2601-2692)
North American Agreement on Environmental Cooperation
Freedom of Information Act (FOIA) (5 U.S.C. 552)
Paperwork Reduction Act Amendment of 1995 (44 U.S.C. 3501-3520)
Small Business Regulatory Enforcement Fairness Act
Unfunded Mandates Reform Act
Congressional Review Act
Regulatory Flexibility Act
Executive Order 12866
Executive Order 13148, “Greening the Government through Leadership in Environmental Management”
Executive Order 12915 - Federal Implementation of the North American Agreement on Environmental Cooperation
Executive Order 12916 - Implementation of the Border Environment Cooperation Commission and the North American Development Bank
Plain Language Executive Order
National Environmental Education Act
Federal Managers Financial Integrity Act (FMFIA)
Government Performance and Results Act (GPRA)
Clinger-Cohen Act
Computer Security Act
Privacy Act
Clean Air Act (CAA) (42 U.S.C. 7601-7671q)
Clean Water Act (CWA) (33 U.S.C. 1251 - 1387)
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601-9675)
Congressional Review Act
CPRKA of 1986
Emergency Planning and Community Right-to-Know Act (EPCRA) section 313 (42 U.S.C. 110001-11050)

Environmental Protection Agency

FY 2004 Annual Performance Plan and Congressional Justification

A Credible Deterrent to Pollution and Greater Compliance with the Law

Objective: Promote Compliance Through Incentives and Assistance.

EPA and its state, tribal, and local partners will promote the regulated community's compliance with environmental requirements through voluntary compliance incentives and assistance programs.

Resource Summary (Dollars in Thousands)

	FY 2002 Actuals	FY 2003 Pres. Bud.	FY 2004 Request	FY 2004 Req. v. FY 2003 Pres Bud
Promote Compliance Through Incentives and Assistance.	\$53,470.0	\$55,872.4	\$58,387.4	\$2,515.0
Environmental Program & Management	\$52,215.6	\$53,043.0	\$55,816.2	\$2,773.2
Hazardous Substance Superfund	\$473.6	\$620.1	\$321.2	(\$298.9)
State and Tribal Assistance Grants	\$780.8	\$2,209.3	\$2,250.0	\$40.7
Total Workyears	417.0	398.1	401.1	3.0

Key Program (Dollars in Thousands)

	FY 2002 Enacted	FY 2003 Pres. Bud.	FY 2004 Request	FY 2004 Req. v. FY 2003 Pres Bud
Capacity Building	\$614.0	\$929.7	\$0.0	(\$929.7)
Compliance Assistance and Centers	\$25,328.7	\$24,728.7	\$26,771.6	\$2,042.9
Compliance Incentives	\$9,810.7	\$9,397.3	\$10,307.9	\$910.6
Facilities Infrastructure and Operations	\$5,336.7	\$5,724.1	\$5,382.8	(\$341.3)
Legal Services	\$296.0	\$321.0	\$334.1	\$13.1
Management Services and Stewardship	\$860.4	\$1,003.9	\$659.9	(\$344.0)

	FY 2002 Enacted	FY 2003 Pres. Bud.	FY 2004 Request	FY 2004 Req. v. FY 2003 Pres Bud
NEPA Implementation	\$11,280.6	\$11,548.4	\$12,296.3	\$747.9
Regional Management	\$32.1	\$10.0	\$384.8	\$374.8
Sector Grants	\$2,209.3	\$2,209.3	\$2,250.0	\$40.7

FY 2004 Request

The enforcement and compliance assurance program uses voluntary compliance incentives and compliance assistance to increase compliance with regulatory requirements and reduce adverse public health and environmental problems. By providing compliance incentives to the regulated community, the Agency motivates and enhances the capacity of the regulated community to fully comply with the law and to voluntarily and promptly disclose and correct violations before they come to the attention of the government. Compliance assistance helps the regulated community understand and comply with environmental requirements and enables other assistance providers to enhance their efforts.

The Agency's compliance assistance efforts are directed at the regulated community as well as the network of other assistance providers. By offering clear and consistent descriptions of regulatory requirements and information on how to comply, EPA assures that the regulated community understands its obligations. Compliance assistance can also help regulated industries find cost-effective ways to comply with environmental requirements through the use of pollution prevention and innovative technologies. By developing tools and guidance materials, and making them broadly accessible, EPA enables states and other assistance providers to provide direct assistance to their constituencies. EPA will also provide access to new analytical or interpretive tools so that the public can more easily and accurately use and interpret environmental regulation and information.

In FY 2004, the Agency will continue to carry out its responsibilities under the National Environmental Policy Act (NEPA), which requires Federal agencies consider the environmental consequences of their activities. EPA prepares NEPA environmental reviews for its proposed actions, and under §309 of the Clean Air Act and NEPA, EPA reviews major actions taken by other federal agencies to ensure that adverse environmental effects are identified and either eliminated or mitigated.

Compliance Incentives

The program will continue to implement EPA's Audit/Self-Policing Policy, Small Business Compliance Policy, and Small Communities Policy as core elements of the enforcement and compliance assurance program. EPA developed its Audit/Self-Policing Policy in 1995 to encourage corporate audits and subsequent correction of self-discovered violations, and to provide a uniform enforcement response toward disclosures of violations. Under the Audit Policy, violations are discovered through voluntary environmental audits or a compliance

management system, and are promptly disclosed and expeditiously corrected. EPA will reduce gravity-based penalties by 75% for violations that are voluntarily discovered and promptly disclosed and corrected, even if not found through a formal audit or compliance management system.

EPA is currently working on many efforts to encourage corporate self-disclosures, including efforts in the telecommunications, petroleum, and iron and steel industries. Through FY 2002, approximately 2,000 entities have disclosed violations at nearly 7,000 facilities. EPA has settled with approximately 1,050 entities at almost 5,000 facilities. The Agency will continue to expand use of the Audit Policy through aggressive outreach to particular industries. EPA is interested in encouraging disclosures at multiple facilities owned by the same regulated entity because such disclosures allow entities to review their operations holistically and benefit the environment.

The EPA Small Business Compliance Policy is intended to promote environmental compliance among small businesses by providing them with special incentives such as penalty reductions to use compliance assistance and other voluntary means to identify, disclose, and correct violations. This policy meets EPA's obligations under the Small Business Regulatory Enforcement Fairness Act to provide a penalty reduction program for small entities. EPA has worked with stakeholders to modify the policy to encourage greater participation and continues to seek further ways to encourage small businesses to seek compliance assistance and utilize the policy. As part of its 2004 marketing and outreach activities for this approach, EPA will work with small business compliance assistance providers to develop tools useful to small businesses in understanding applicable environmental requirements and help businesses take advantage of the flexibility offered by the policy. The Agency will promote and implement its revised Small Communities Policy, which encourages states to provide flexibility to small communities seeking assistance in addressing environmental problems. EPA will provide incentives for states to adopt the policy and for communities to utilize the policy.

In FY 2004, the compliance incentives program will continue to promote the use of environmental management systems (EMS), including ISO 14001. Specifically, the ISO 14001 standard requires that a community or organization put in place and implement a series of practices and procedures that, when taken together, result in an EMS. EMSs offer companies and other regulated entities an innovative approach to managing their environmental impacts by integrating environmental concerns into business decisions and practices. EPA will continue to work with a variety of domestic and international stakeholders, including the North American Commission for Environmental Cooperation, other federal agencies, state and local governments, industry, and non-governmental organizations to promote the use of EMSs and to explore ways in which regulators can encourage the use of EMSs to enhance environmental performance.

The Enforcement and Compliance Assurance program will also continue to work on implementing the two-tiered National Environmental Performance Track program. The first tier, the National Environmental Achievement Track (NEAT), is a program designed to motivate and reward companies and other regulated entities that are top environmental performers, and to recognize facilities that have consistently met their legal requirements, implemented EMSs, and

made tangible improvement to their environmental performance. Entry criteria include showing established implementation of an EMS, presenting a record of continued compliance, certifying current compliance, demonstrating specific environmental achievements and committing to future improvements, and committing to public outreach and annual performance reporting (including summaries of audit findings). Incentives for participation include Agency recognition, lowered priority for routine inspection, access to Audit Policy penalty mitigation, and recognition of good faith participation in the program in any discretionary penalty assessment. The enforcement and compliance program's low inspection priority incentive was the first flexibility offered as an incentive to NEAT participants.

In addition, the Enforcement and Compliance Assurance program will continue to participate in Project XL (eXcellence in Leadership) projects, projects under the EPA/state regulatory innovation agreement, and other reinvention partnerships. The enforcement program will focus on ensuring these projects are legally enforceable where necessary, and provide accountability and transparency for participants (including Federal and non-Federal facilities). The program will also assist in verifying and evaluating project results.

The Enforcement and Compliance Assurance program is funding the enhancement and transfer of the innovative Massachusetts Environmental Results Program (ERP). ERP consists of a set of three linked tools including compliance assistance, inspections, and performance measurement, tied to an annual certification of compliance signed by a senior company official. ERP has improved performance for small business sectors and resulted in savings for these businesses, allowing states and EPA to focus resources on higher priority environmental problems. In FY 2004, the Enforcement and Compliance Assurance program is dedicating funding and other resources towards expanding this effort. The program will also continue to provide technical and legal assistance to states developing an ERP, as well as fostering the sharing of information and materials developed between states.

The enforcement and compliance program will also work to enhance market incentives for responsible environmental performance. Disclosure of environmental information promotes responsible behavior and ensures that markets value environmental performance. The United States securities regulatory system relies on registrants' full disclosure of various kinds of information, including the registrant's environmental liabilities, to current and potential shareholders as the primary means of ensuring informed investments and the proper functioning of the market. EPA's Enforcement and Compliance Assurance program notifies parties to EPA-initiated administrative enforcement actions of their potential duty to disclose the proceeding to the Securities and Exchange Commission (SEC). In FY 2004, EPA will continue to promote the full and fair disclosure of environmental information to the public in accordance with the SEC's requirements, and to facilitate the public's use of this information to positively influence environmental performance.

Compliance Assistance

The Compliance Assistance program provides information and technical assistance to the regulated community to increase its understanding of all statutory and regulatory environmental requirements, thereby gaining measurable improvements in compliance and reducing risk to

human health and the environment. The program also provides tools and assistance to other compliance assistance providers enabling them to more effectively help the regulated community comply with environmental requirements. To support improving compliance in specific industrial, commercial and government sectors with certain regulatory requirements, the program will continue to develop and implement integrated compliance assurance strategies using a framework for addressing environmental problems to develop baseline compliance information, use the right tool mix of tools to address the particular problem, then measure and evaluate the effectiveness of our efforts. EPA will also continue to develop compliance assistance tools and provide these to the regulated community. Compliance tools may range from plain-language guides, comprehensive sector-based documents (such as the Sector Notebooks that include information on industry-specific manufacturing processes and pollution issues), environmental audit protocol manuals, fact sheets, checklists, newsletters, our web-based clearinghouse, or interactive, virtual, sector-based compliance assistance centers.

In FY 2004, the Agency will pursue major roles in compliance assistance by continuing to strategically tailor EPA's role in direct delivery of compliance assistance and to focus on targeted initiatives for particular sectors or environmental problems. First, the Agency will continue to build the network of compliance assistance providers by strengthening the partnerships among providers and distributing and marketing tools to assistance providers that work more directly with the regulated community. These activities include: convening a compliance assistance exchange forum composed of public and private sector representatives to share information on best practices, priority setting, outcome measurement and new compliance assistance materials; coordinating an inter-agency roundtable of Federal compliance assistance programs; and maintaining and enhancing a clearinghouse of compliance assistance materials available from federal, state and local governments and trade associations. New materials will be added to the clearinghouse within 30 days of receipt. Second, EPA will continue to work with stakeholders to identify compliance assistance needs and priorities. Third, EPA will strengthen the infrastructure of the compliance assistance program within the Agency and improve planning with states and other stakeholders to ensure needs and priorities identified by stakeholders are met. EPA will compile Agency and State activities in the Compliance Assistance Activity Plan, which will serve as a catalog of upcoming available tools and materials. Finally, EPA will strategically target direct delivery of compliance assistance where particular sectors or environmental problems warrant national attention. Through public outreach and communication efforts, including press releases and newsletters, EPA will publicize its compliance assistance efforts and help the regulated community anticipate and prevent violations of federal environmental laws that could otherwise lead to enforcement actions. This catalog will guide the Agency's compliance assistance activities.

The Sector Facility Indexing Project (SFIP) will continue in FY 2004. SFIP allows the public to monitor the records of nearby facilities, provides the regulated community with a means of comparing performance against competitors, and assists government agencies in making cross-media comparisons. EPA is committed to increasing use of the SFIP by raising public awareness of the project, ensuring customer satisfaction with the information provided, and sustaining the utility of the SFIP as a compliance and analytical tool. SFIP will be coordinated with other projects to make data available to the public.

EPA will continue to support the ten mature Compliance Assistance Centers and the development of content for the three newest Centers for auto salvaging, construction and the US - Mexican Border. EPA will also begin to work with partners to develop three new Centers. Possible candidates include a tribal center, centers for schools, and the plastics industry. The Centers are a key component of EPA's efforts to help small and medium-sized businesses and governments better understand and comply with Federal environmental requirements. The Centers provide small businesses in selected industry sectors and governments one-stop shopping for regulatory and technical assistance, pollution prevention activities, and other information particularly suited to the individual sectors. Operated in partnership with industry associations, environmental groups, universities and other government agencies, the Centers are accessible through Internet web sites as well as toll-free telephone assistance lines. The Agency will continue to develop, implement, and improve the Compliance Assistance Center Platform (Platform), the base from which to launch new sector-specific, topical, or geographic Internet-based Compliance Assistance Centers. The Platform provides a suite of comprehensive web-based tools necessary to create new, full-featured Centers. In addition, the Platform will ensure efficient integration of technology and content and reduce the financial barriers to creating new Centers. Under a cooperative agreement with EPA, the National Center for Manufacturing Sciences (NCMS) will operate the Platform and collaborate with industry, states, tribes, and compliance assistance providers to establish Centers that help the regulated community better understand and more efficiently comply with environmental requirements.

Center program enhancements include the following:

- Support to new sectors, geographical areas, or environmental topics. Additional funding will enable the initiation of three new Centers.
- Improve and expand state-specific information in the new and existing Centers. Of particular interest is the inclusion of state regulatory requirements to the existing Center virtual plant or facility tours. Development of an on-line template for use by states to include state regulatory information to existing Center resources is an option.
- Augment the Environmental Management, Auditing and Pollution Prevention Tool (EMAPPT) with state data. This web-based tool provides federal and state regulatory requirements, pollution prevention opportunities and information on establishing environmental management systems for over 150 facility processes.
- Pilot Center on-site visits to advance assistance and measurement capabilities.
- Support Expert System Development.
- Enhance the Compliance Assistance Platform.
- Integrate the Centers and Clearinghouse with the "Business Compliance Assistance One-Stop" (One-Stop) initiative. Visitors to the One-Stop Website will be directed to applicable compliance information through a customized "userprofiler." Center content will be integrated into this effort to ensure relevant sector-specific information is

provided to the “One-Stop” users. The “One-Stop” initiative is one of the President’s 24 e-government initiatives.

- Develop and expand access to Environmental Management System (EMS) information through the Centers.
- Expand content sharing capabilities among Center partners, states, and other providers.
- Improve Center recognition through the EPA search engine.
- Conduct annual survey of Centers’ users.

The Agency will also develop and distribute multimedia and sector-based materials, limited targeted on-site assistance, and services such as hotlines and training sessions to the regulated community to improve industry's regulatory and technical knowledge. EPA will promote adoption of innovative technologies, including waste minimization. In FY 2004, EPA plans to reach 500,000 entities through the compliance assistance program. The Agency will also continue to work with the Compliance Assistance Advisory Committee to help ensure broad stakeholder input in identifying new approaches and directions for the national compliance assistance program. The Enforcement and Compliance Assurance program will take action to better incorporate compliance assistance into the rule making, planning, and priority setting processes, and work with the program offices and States to coordinate compliance assistance efforts.

EPA has tested methodologies designed to measure change resulting from targeted compliance assistance. The result is an improved ability to measure the effectiveness of various strategies, better understanding of environmental obligations on the part of the regulated community, and more facilities’ support for efforts to improve facility management practices to address compliance concerns and reduce pollution. For example, EPA will use surveys to measure the outcomes resulting from use of the Compliance Assistance Centers and the Clearinghouse as well as our workshops and the Compliance Assistance Providers Forum. EPA will more strategically focus its measurement efforts and provide tools and training to facilitate measurement of the outcomes of our compliance assistance activities. These results will be incorporated into reporting to the Integrated Compliance Information System (ICIS). We will continue to partner with states and other assistance providers to improve approaches to measuring compliance and environmental results.

EPA has maintained a sector based, multi-media grants assistance program to states and tribes over the past several years to both build and foster innovations in compliance. The Agency focused this multi-media grants program in three areas: 1) Data Quality/Data Modernization; 2) Public Access to Enforcement and Compliance Assurance Data; and 3) Compliance Assistance Outcome Measurement. Each of these three funding priorities was selected to enhance State and Tribal capability and capacity in emerging areas. Through September 30, 2002, EPA competitively awarded funds through grants or cooperative agreements, totaling \$2,200,000. EPA intends to continue supporting the development of performance measurement within State and Tribal governments. The projected outcomes of

these grants will be the enhanced capability of states and tribes to assess the effectiveness of their efforts through improved compliance rates; reductions in pollutants released to the environment and citizens served.

The Federal facility enforcement program will continue to provide technical guidance to other Federal agencies concerning their compliance with executive orders, pollution prevention requirements, and applicable environmental laws at Federal facilities. EPA will maintain and expand the Federal Facility Compliance Assistance Center in order to deliver compliance assistance to Federal agencies concerning regulatory requirements. EPA will develop and deliver compliance assistance for new major EPA regulations and Executive Orders in selected program areas. EPA will work with other Federal agencies on implementing the Federal Code of Environmental Management Principles (CEMP) through agency- or bureau-wide environmental management system assessments and environmental management reviews at specific federal facilities. EPA will also support pollution prevention opportunity assessments and similar evaluations at Federal facilities.

National Environmental Policy Act (NEPA) Implementation

EPA's Enforcement and Compliance Assurance program reviews environmental impacts of proposed major federal actions as required by NEPA, §309 of the Clean Air Act, the Antarctic Science, Tourism, and Conservation Act (ASTCA), and the Executive Order on environmental justice; and develops policy and technical guidance on issues related to NEPA, the Endangered Species Act, the National Historic Preservation Act and relevant Executive Orders. The program emphasizes cooperation with other Federal agencies to ensure compliance with applicable environmental laws and better integration of pollution prevention and ecological risk assessment into their programs, while targeting high impact federal program areas, such as water resources and transportation/energy related projects. In FY 2004, the Agency will continue to work with other federal agencies to streamline and improve their NEPA process in such key areas as approvals of highways and airport expansions, disposition of mercury and chemical weapons stockpiles, hydro-power/nuclear power plant relicensing and other energy-related projects, flood control and port development projects, and management of national forests and public lands. In FY 2004, EPA will review all major proposed federal actions under NEPA and achieve successful mitigation for at least 70 percent of the adverse environmental impacts resulting from those actions in order to preserve air and water quality, wetlands, aquatic and terrestrial habitats, and endangered species; protect Environmental Justice communities; and prevent degradation of other environmental values. The program also manages the Agency's official filing activity for all federal Environmental Impact Statements (EIS) in accordance with a Memorandum of Understanding with the Council on Environmental Quality.

The NEPA Implementation program also guides EPA's own compliance with NEPA and other applicable statutes, and related environmental justice requirements. These efforts include EPA-issued new source National Pollutant Discharge Elimination System (NPDES) permits where a state/tribe has not assumed the NPDES program, for offshore oil and gas sources, for Clean Water Act (CWA) wastewater treatment plant grants, and for special appropriation grants for wastewater, water supply and solid waste collection facilities. In FY 2004, EPA will ensure 100 percent of the NEPA obligations of the water treatment facility grants and water discharge

permits are met and that 90 percent of the projects result in no significant adverse environmental impact.

FY 2004 Change from FY2003 Request

EPM

- (+\$2,042,900, +4.9 FTE) This increase includes an investment of \$1 million which will enable the initiation of three new Compliance Assistance Centers, improve and expand state-specific Centers information, conduct an annual survey of the Centers (rather than bi-annual) and integrate the Centers with the “Business Compliance Assistance One-Stop” (One-Stop) initiative. Remaining increase includes funding for payroll, cost of living, and enrichment for existing FTE and FTE shifted from capacity building for program support.
- (+\$374,800, +3.9 FTE) This change represents the distribution of resources for Regional Information Management across all Regions.
- (-\$489,700, -0.8 FTE) Resources, dollars and FTE, associated with rent are allocated in proportion to Agency-wide FTE located in each goal, objective. Resources, dollars and FTE, associated with utilities, security and human resource operations are allocated in proportion to Headquarters FTE located in each goal, objective. Changes reflect shifts in FTE between goals and objectives. Resources, dollars and FTE, associated with contracts and grants are allocated in proportion to Headquarters’ contracts and grants resources located in each goal, objective. Changes in these activities reflect shifts in resources between goals and objectives. *(Total changes -> rent: +\$1,417,000, utilities: +\$2,374,800, Security: +\$3,425,000 and 75 FTE, Human Resources: +\$870,400 and +5.4 FTE, Contracts: +\$642,400 and -18.5 FTE, Grants: +\$3,015,500 and +19.7 FTE)*

There are additional increases for payroll, cost of living, and enrichment for new and existing FTE.

GOAL: A CREDIBLE DETERRENT TO POLLUTION AND GREATER COMPLIANCE WITH THE LAW

OBJECTIVE: PROMOTE COMPLIANCE THROUGH INCENTIVES AND ASSISTANCE.

Annual Performance Goals and Measures

Compliance Incentives

In 2004	Increase opportunities through new targeted sector initiatives for industries to voluntarily self-disclose and correct violations on a corporate-wide basis.
In 2003	Increase opportunities through new targeted sector initiatives for industries to voluntarily self-disclose and correct violations on a corporate-wide basis.
In 2002	The number of facilities that participated in voluntary self-audit programs, disclosed and corrected violations greatly exceeded the target.

Performance Measures:	FY 2002 Actuals	FY 2003 Pres. Bud.	FY 2004 Request	
Facilities voluntarily self-disclose and correct violations with reduced or no penalty as a result of EPA self-disclosure policies.	1467	500	500	Facilities

Baseline: EPA developed its Audit/Self-Policing Policy in 1995 to encourage corporate audits and subsequent correction of self-discovered violations. That Policy as well as the Small Business Compliance Policy were modified in FY00. The Agency is working to expand the use of the Audit Policy through aggressive outreach to specific sectors. In FY01 the performance measure was modified to reach settlements with 500 facilities to voluntarily self-disclose and correct violations. This same measure has been carried continued.

Regulated Communities

In 2004 Increase the regulated community's compliance with environmental requirements through their expanded use of compliance assistance. The Agency will continue to support small business compliance assistance centers and develop compliance assistance tools such as sector notebooks and compliance guides.

In 2003 Increase the regulated community's compliance with environmental requirements through their expanded use of compliance assistance. The Agency will continue to support small business compliance assistance centers and develop compliance assistance tools such as sector notebooks and compliance guides.

Performance Measures:	FY 2002 Actuals	FY 2003 Pres. Bud.	FY 2004 Request	
Number of facilities, states, technical assistance providers or other entities reached through targeted compliance assistance (core optional)		475,000	500,000	Entities

Baseline: EPA provides clear and consistent descriptions of regulatory requirements to assure that the community can understand its obligations. EPA supports initiatives targeted toward compliance in specific industrial and commercial sectors or with certain regulatory requirements. Compliance assistance tools range from plain -language guides, fact sheets, checklists and newsletters. New distribution methods include the on-line Clearinghouse. In FY03, EPA is planning to reach 475,000 facilities, states, or technical assistance providers through targeted compliance assistance efforts.

Verification and Validation of Performance Measures

FY 2004 Performance Measure: Facilities voluntarily self-disclose and correct violations with reduced or no penalty as a result of EPA self-disclosure policies.

Performance Database: EPA’s Headquarters manages information on the self-disclosing policies in ICIS (Phase I).

Data Source: EPA’s Headquarters and regional offices enter the information. The data for ICIS is generated through the use of the Case Conclusion Data Sheet (CCDS), which is prepared by Agency staff after the conclusion of each criminal and civil (judicial and administrative) enforcement action. The CCDS was implemented by EPA in 1996 and captures the relevant information on the results and environmental benefits of the concluded enforcement cases. ICIS stores information on the self-disclosing policies.

Methods, Assumptions and Suitability: N/A

QA/QC Procedures: Procedures are in place for both the CCDS and for ICIS entry. There are separate CCDS Calculation and Completion Checklists [See references] to be filled out at the time the CCDS is completed.

Data Quality Review: Information contained in the CCDS and ICIS are reviewed by Regional and Headquarters staff for completeness and accuracy.

Data Limitations: None

Error Estimate: N/A

New & Improved Data or Systems: ICIS now stores information on self-disclosing policies. These policies have been tracked since FY 2000.

References: Case Conclusion Data Sheets: Case Conclusion Data Sheet, Training Booklet, issued November 2000: www.epa.gov/compliance/resources/publications/planning/caseconc.pdf; Quick Guide for Case Conclusion Data Sheet, issued November 2000. ICIS: U.S. EPA, Office of Enforcement and Compliance Assurance, ICIS Phase I, implemented June 2002. Internal EPA database; non-enforcement sensitive data available to the public through the Freedom of Information Act (FOIA).

FY 2004 Performance Measure: Number of facilities, states, technical assistance providers or other entities reached through targeted compliance assistance.

Performance Database: EPA's Headquarters manages data on the number of entities reached through targeted compliance assistance in the Reporting Compliance Assistance Tracking System (RCATS).

Data source: EPA's Headquarters and regional offices enter information in RCATS upon completion and delivery of media and sector-specific compliance assistance including workshops, training, on-site visits and distribution of compliance assistance tools.

A new measurement tool, the Inspection Conclusion Data Sheet, (ICDS) will be used to analyze the results from inspections conducted under some of EPA's major statutes. EPA will analyze data on communication of problems to industry, compliance assistance delivered by inspectors, and immediate corrections made by industry according to region, nationally and by industry sector.

Methods, Assumptions and Suitability: N/A

QA/QC: Automated data checks and data entry guidelines [See references are in place for RCATS.

Data Quality Review: Information contained in the RCATS are reviewed by EPA regional and Headquarters' staff for completeness and accuracy.

Data Limitations: These are very simple data. However, due to the cyclical nature of reporting, there will be a tendency for information to lag in currency until the end of the fiscal year. Additionally, because this information is recorded in summary fashion, rather than by

specific facility, verification of individual data that make up the summaries is not systematically possible.

Error Estimate: Not available.

New & Improved Data or Systems: EPA plans to incorporate RCATS into ICIS in the future.

References: RCATS: U.S. EPA Office of Enforcement and Compliance Assurance. Internal EPA database. Guidance: RCATs User Guide of March 19, 2001.

Coordination with Other Agencies

EPA's Enforcement and Compliance Assurance Agricultural Compliance Assistance Center will continue to coordinate with the U.S. Department of Agriculture (USDA). The Center has two Interagency Agreements with USDA to award funds to Land Grant Universities to develop compliance and pollution prevention materials.

The Agency works, in addition, with US Customs to ensure safe import and export of hazardous and toxic materials. The compliance assistance program is also working with a number of federal agencies, including Occupational Health and Safety Administration (OSHA), Small Business Administration (SBA), Internal Revenue Service (IRS) and others to establish a "Federal Compliance Assistance Roundtable" to collaborate on compliance assistance approaches and coordinate efforts to more effectively reach and provide assistance to the regulated community.

EPA works closely with the states as they provide an increasing amount of compliance incentives and assistance. The Compliance Assistance Centers have been coordinating with the states to assist them in their outreach efforts to industry, to facilitate their delivery of sector-specific regulatory information, to serve as the delivery mechanism for their pollution prevention and compliance assistance material, and to build their capacity to meet the environmental needs of the businesses in their states and localities.

The Enforcement and Compliance Assurance program works with states prior to and following enactment of state audit privilege and immunity legislation to identify and express the Agency's policy and legal concerns. EPA has adopted a pragmatic, problem-solving approach to addressing legal adequacy in specific states that have enacted audit privilege and immunity laws. EPA and the states use a process to identify legal impediments to federal program authorization resulting from the state's law. The impediments can then be addressed through tailored statutory amendments, or a state Attorney General opinion interpreting the law consistent with federal requirements, or both. EPA has completed this process in 22 states. By the end of FY 2004, EPA anticipates including three additional states in this process.

The Enforcement program also works with the Securities and Exchange Commission (SEC) and the Department of Justice (DOJ) on activities to encourage increased disclosure of corporate environmental performance information by public companies. The SEC and DOJ have reviewed EPA research on the level of compliance with SEC environmental disclosure

regulations. They also commented on an EPA notice to be distributed in administrative enforcement actions, which informs publicly traded companies of their duty to disclose environmental legal proceedings pursuant to SEC regulations.

The Agency is required to review environmental impact statements (EIS) and other major actions impacting the environment and public health proposed by all federal agencies, and make recommendations to the proposing federal agency on how to remedy/mitigate those impacts. Although EPA is required under § 309 of the Clean Air Act (CAA) to review and comment on proposed federal actions, neither the National Environmental Policy Act nor § 309 CAA require a federal agency to modify its proposal to accommodate EPA's concerns. EPA does have authority under these statutes to refer major disagreements with other federal agencies to the Council on Environmental Quality (CEQ). Accordingly, many of the beneficial environmental changes or mitigation that EPA recommends must be negotiated with the other federal agency. The majority of the actions EPA reviews are proposed by the Forest Service, Department of Transportation (including Federal Highway Administration and Federal Aviation Administration), Army Corps of Engineers, Department of the Interior (including Bureau of Land Management, Minerals Management Service and National Park Service), Department of Energy (including Federal Regulatory Commission), and Department of Defense.

EPA's National Environmental Justice Program holds regular meetings with agencies named in Executive Order 12898 to review the environmental justice activities underway; to develop appropriate training tools; and to discuss participation in the National Environmental Justice Advisory Council (NEJAC).

Statutory Authorities

Resource Conservation and Recovery Act sections 3007, 3008, 3013, and 7003 (42 U.S.C. 6927, 6928, 6934, 6973)

Comprehensive Environmental Response, Compensation, and Liability Act sections 106, 107, 109, and 122 (42 U.S.C. 9606, 9607, 9609, 9622)

Clean Water Act (CWA) sections 308, 309, and 311 (33 U.S.C. 1318, 1319, 1321)

Safe Drinking Water Act section 1413, 1414, 1417, 1422, 1423, 1425, 1431, 1432, 1445 (42 U.S.C. 300g-2, 300g-3, 300g-6, 300h-1, 300h-2, 300h-4, 300i, 300i-1, 300j-4)

Clean Air Act section 113, 114, 303, and 309 (42 U.S.C. 7413, 7414, 7603, 7609)

Toxic Substances Control Act (TSCA) sections 11, 16, and 17 and TSCA Titles II and IV (15 U.S.C. 2610, 2615, 2616, 2641-2656, 2681-2692)

Residential Lead-Based Paint Hazard Reduction Act of 1992 section 1018 under TSCA section 11 (42 U.S.C. 4852d, 2610)

Emergency Planning and Community Right-to-Know Act section 325 and 326 (42 U.S.C. 11045, 11046)

Federal Insecticide, Fungicide, and Rodenticide Act sections 8, 9, 12, 13, and 14 (7 U.S.C. 136f, 136g, 136j, 136k, 136l)

Ocean Dumping Act sections 101, 104B, 105, and 107 (33 U.S.C. 1411, 1414B, 1415, 1417)

National Environmental Policy Act (NEPA)

Antarctic Science, Tourism, and Conservation Act (ASTCA)

Endangered Species Act (ESA)

Statutory Authorities for Environmental Justice

National Environmental Education Act

Federal Managers Financial Integrity Act (FMFIA)

Government Performance and Results Act (GPRA)

Clinger-Cohen Act

Computer Security Act

Privacy Act

Freedom of Information Act (FOIA)

Clean Air Act (CAA) (42 U.S.C. 7601-7671q)

Clean Water Act (CWA) (33 U.S.C. 1251 - 1387)

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601-9675)

Emergency Planning and Community Right-to-Know Act (EPCRA) section 313 (42 U.S.C. 110001-11050)

Federal Advisory Committee Act (FACA) (5 U.S.C. App.)

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (7 U.S. C. 136-136y)

Pollution Prevent Act (PPA) (42 U.S.C. 13101-13109)

Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6901-6992k)

Safe Drinking Water Act (SDWA) section 1445 (42 U.S.C. 300f-300j-26)

Toxic Substance Control Act (TSCA) section 14 (15 U.S.C. 2601-2692)

North American Agreement on Environmental Cooperation

Freedom of Information Act (FOIA) 5 U.S.C. 552)

Paperwork Reduction Act Amendment of 1995 (44 U.S.C. 3501-3520)

Small Business Regulatory Enforcement Fairness Act (SBREFA)

Unfunded Mandates Reform Act

Congressional Review Act

Regulatory Flexibility Act

Executive Order 12866

Plain Language Executive Order Emergency Planning and Community Right-to-Know Act

Pollution Prevention Act

Federal Fungicide, Insecticide and Rodenticide Act

Federal Food, Drug and Cosmetic Act

Safe Drinking Water Act
Federal Managers Financial Integrity Act
Government Performance and Results Act
Paperwork Reduction Act
Freedom of Information Act
Computer Security Act
Privacy Act
Electronic Freedom of Information Act
Government Paperwork Elimination Act