



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

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

December 20, 2022

MEMORANDUM

SUBJECT: Updated Policy for EPA's Enforcement and Compliance Initiatives

FROM: Lawrence E. Starfield
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Date: 2022.12.20
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TO: Regional Administrators
Enforcement and Compliance Assurance Division Directors and Deputies
Regional Counsels and Deputies

For over 25 years, the U.S. Environmental Protection Agency has established national initiatives to focus its enforcement and compliance resources on the most serious environmental problems facing the United States. EPA has developed and implemented these national initiatives to bring meaningful public health and environmental protection to communities across the country and to ensure that all people living in the United States can breathe clean air, drink safe water, and live free from harmful pollution. EPA's national initiatives for enforcement and compliance assurance have reduced harmful air pollution from coal-fired power plants and refineries, reduced raw sewage entering our nation's waterways, and increased the number of hazardous waste facilities that have adequate financial assurance.

Today's memorandum updates the policy on EPA's national enforcement and compliance initiatives. The policy reemphasizes the role of federal enforcement in ensuring that those who violate our environmental laws or contribute to serious environmental problems are held accountable, even as we continue to strive to promote greater compliance with our environmental laws. This policy supersedes and replaces the August 21, 2018 policy on national compliance initiatives (entitled *Transition from National Enforcement Initiatives to National Compliance Initiatives*).

Nomenclature

EPA initiatives have gone by a variety of names over the past 25 years, including National Priorities, National Enforcement Initiatives, and most recently, National Compliance Initiatives. The primary objective of these initiatives is to focus resources and attention on serious violations, hold polluters accountable, promote greater compliance, and reduce pollution. Historically, EPA has used a variety of enforcement and compliance assurance tools to achieve those objectives. While criminal enforcement and civil enforcement (judicial and administrative) remain the key tools to address serious noncompliance, hold polluters accountable, and create general deterrence, EPA also uses informal

enforcement and compliance assurance tools to advance the national initiatives. To reflect this comprehensive approach, the national initiatives will now be known as National Enforcement and Compliance Initiatives (NECIs).

Selection Criteria

As EPA considers possible NECIs for the FY 2024-2027 cycle, the Agency seeks to apply clear and consistent criteria to guide that selection process. Three criteria will be used to evaluate the existing and any proposed new initiatives for the FY 2024-2027 cycle. Based on these criteria, the [existing initiatives](#) may be continued as is, modified, or returned to the standard (“core”) enforcement program at the end of FY 2023. Initiatives returned to the core enforcement program remain significant areas for enforcement and compliance assurance efforts, even though they are no longer national initiatives.

1. Need to Address Serious and Widespread Environmental Violations and Problems

In evaluating the initiatives proposed for inclusion as NECIs, EPA will first consider the severity and seriousness of the violations or problems to be addressed. Accordingly, EPA should aim to address noncompliance that has a significant adverse impact on human health and the environment, particularly in overburdened and vulnerable communities.

In addition to considering the severity of impact and potential environmental harm, the NECIs should also seek to address violations or problems that are known to be widespread and prevalent nationwide. While significant violations or problems may not be present in every EPA Region or area of the country, they may be so common that a national focus is necessary to protect public health and the environment, hold polluters accountable, and ensure a level playing field for law-abiding companies.

2. Federal Enforcement Can Make a Difference

In evaluating the initiatives proposed for inclusion as NECIs, EPA considers whether the violations contribute to serious human health and environmental harm, particularly in overburdened and vulnerable communities. EPA also considers whether federal enforcement is needed to address a potential imminent and substantial endangerment to human health or the environment. Finally, EPA considers whether federal authorities, resources, and/or expertise are important to hold polluters accountable and promote a level playing field.

In addition, NECIs could include program areas where a national enforcement presence is necessary to ensure national consistency or where the noncompliance or problem is not easily addressed by state enforcement alone.¹ NECIs facilitate national consistency by ensuring noncompliance and significant environmental problems across the country are addressed in a similar way. By focusing and prioritizing enforcement resources toward a concerted, national effort, EPA can make a difference by taking action to protect public health and the environment in communities across the country.

3. Alignment with the Agency’s Strategic Plan

The NECIs provide an opportunity to advance agency strategic goals by focusing enforcement resources on those areas that have a strong nexus with the goals set forth in the [FY 2022 – 2026 EPA Strategic](#)

¹ EPA has authorized most states, some territories, and some federally recognized Indian tribes (tribes) to implement environmental programs. EPA directly implements programs in the absence of an authorized state, tribal, or territorial program. For purposes of this memo, the term “state” refers collectively to states, territories, and tribes.

[Plan](#). By prioritizing and concentrating our enforcement efforts and resources in alignment with the Agency's Strategic Plan, the enforcement program can make a considerable contribution toward the Agency's broader environmental and public health goals.

Two overarching goals apply to all program areas: *Goal 1: Tackle the Climate Crisis* and *Goal 2: Take Decisive Action to Advance Environmental Justice*. EPA is considering an individual NECI that would focus on climate change mitigation, in addition to seeking opportunities to enhance climate resiliency in other NECIs, where appropriate. Promoting environmental justice, on the other hand, is a core element of all enforcement and compliance work and should be incorporated in every NECI as we seek to reduce public health impacts and environmental harm in vulnerable and overburdened communities.

The principal Strategic Plan goal to be considered in selecting the NECIs is *Goal 3: Enforce Environmental Laws and Ensure Compliance*. This goal reemphasizes the role of enforcement to protect our communities, hold polluters accountable, and promote a level playing field for law-abiding companies. Proposed NECIs should also be evaluated on whether they support the media-specific goals identified in the Agency Strategic Plan. Enforcement can play a key role in achieving these media-specific goals, e.g., *Goal 4.1 - Improve Air Quality and Reduce Localized Pollution and Health Impacts*.

NECI Stakeholder Input

Prior to making final decisions, EPA will gather and consider input on the proposed NECIs from states, territories, and tribes, as well as from the public, environmental groups, and regulated entities. To provide ample opportunity for stakeholder input, EPA plans to publish the potential NECI options in the Federal Register for comment and consider the feedback in the selection of the final NECIs.

Cycle Duration

EPA plans to continue utilizing the four-year duration for the FY 2024-2027 cycle. The four-year cycle has several advantages, including allowing time for more robust implementation and the opportunity to make significant progress, providing more time for training, and minimizing turnover and resource shifts for regions, states, territories, and tribes.

Conclusion

EPA's enforcement and compliance programs ensure that we meet the promise of our nation's environmental laws. Robust enforcement and compliance efforts protect our communities from public health impacts and environmental harms and enable everyone living in the United States to enjoy the benefits of a healthy environment. Strong enforcement and compliance programs also hold polluters accountable, promote greater compliance with our environmental laws, and ensure that law-abiding companies are not at a competitive disadvantage with those who break the law. These changes in EPA's policy for identifying and selecting enforcement and compliance priorities will help the Agency address our most significant public health and environmental challenges, protect vulnerable and overburdened communities, and promote a sustainable future.

cc: David M. Uhlmann, Senior Advisor to the Administrator
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