UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
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ATLANTA, GEORGIA 30303-8960

SEP 17 2012

Mr. Herschel T. Vinyard, Jr.
Secretary
Florida Department of
Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Dear Secretary Vinyard:

As we approach the beginning of a new fiscal year, I want to take this opportunity to thank you and your staff for the work that we have done collaboratively over this year to ensure compliance with environmental laws and regulations to protect human health and the environment throughout the Southeast. While the past year has presented some challenges, I am proud of what we have been able to accomplish and look forward to working with you in the months ahead to focus attention on priority compliance and enforcement activities.

As we have in the past, Region 4 will focus its federal enforcement resources this coming year on our national and regional priority areas. We will continue our work from previous years in the six National Enforcement Initiative (NEI) areas. To complement the NEIs, Region 4 has developed regional priorities for FY 2013 intended to address environmental issues in the Southeast. A list of the NEIs and regional priorities is enclosed.

For each national and regional priority area, we expect to conduct inspections and utilize statutory investigation tools to better understand the compliance status of the facilities and sources. Because these are national and regional priorities, the EPA expects to take the lead in any enforcement action resulting from these federal inspections and investigations. This approach has proved successful in the past in creating a heightened awareness of environmental regulatory requirements in these areas and has resulted in substantial pollution reduction in our air, water, and land resources. Communication and coordination of activities and information between EPA and our state partners will remain critically important in the implementation of our work in FY 2013. Coordination by the EPA will include prior notification of any inspections and the sharing of critical information, including the basis for enforcement actions, before initiation of the action. Furthermore, where the EPA determines that a primary federal enforcement role is not warranted in a particular case, our staff will continue to assist your agency and support state enforcement efforts, where appropriate.

The EPA and states share responsibility for assuring compliance with environmental laws and regulations. As we work together in the coming year, there may be new situations involving state resource reductions that call for strategic planning to address the most pressing environmental problems. I am committed to exploring work-sharing and other creative approaches to ensure we are providing equal protection to all citizens and a level playing field for businesses that comply with the law. Over the coming weeks, representatives from Region 4's Office of Environmental Accountability (OEA) will

be meeting with your enforcement and compliance assurance staff to discuss in greater detail these national and regional priorities.

I appreciate your cooperation in implementing these national and regional priorities and look forward to our continuing collaboration to improve the environmental and quality of life for all of our citizens. If you have any questions regarding these priorities and initiatives, please contact me or have a member of your staff contact Mary Wilkes, Regional Counsel and Director of OEA, at (404) 562-9556, or Scott Gordon, Associate Director of OEA, at (404) 562-9741.

Sincerely,

Gwendolyn Keyes Fleming

Gwendolyn Keyes Fleming
Regional Administrator

Enclosure

cc: Jeff Littlejohn, Deputy Secretary for Regulatory Programs

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SEP 26 2012

DEP SECRETARY

EPA National Enforcement Initiatives

Keeping Raw Sewage and Contaminated Storm Water Out of our Nation's Waters
EPA will continue its enforcement focus on reducing discharges of raw sewage and contaminated storm water into our nation's rivers, streams and lakes. Older urban areas in particular have aging sewer systems that are not designed to handle heavy rainfall and snowfall, in addition to growing urban populations and industrial discharges. As a result, untreated sewage too frequently overflows from sewers into waterways, or backs up into city streets or basements of homes. Raw sewage contains pathogens that threaten public health, leading to beach closures and public advisories against fishing and swimming. This problem particularly affects older urban areas, where minority and low income communities are often concentrated. In addition, storm water runoff from urban streets and construction sites carries sediment, metal, oil and grease, acid, chemicals, toxic materials and industrial waste into surface waters. Many cities use rivers as the source of their drinking water, and contaminants in the water increase the difficulty and expense of treating the water for drinking water use. The Clean Water Act (CWA) requires municipalities to treat sewage before it is discharged and to control contaminated storm water discharges, but many municipalities are not complying with these requirements. EPA's enforcement efforts in recent years have resulted in agreements by many cities to remedy these problems, but the problem remains in many other cities. This National Enforcement Initiative focuses on reducing discharges from combined sewer overflows ("CSOs"), sanitary sewer overflows ("SSOs") and municipal separate storm sewer systems ("MS4s") in FY 2011-13, by obtaining cities' commitments to implement timely, affordable solutions to these problems, including increased use of green infrastructure and other innovative approaches. In Region 4, the universe of CSO/SSO systems greater than 10 million gallons per day (including 9 that are greater than 100 million gallons per day) is 155 systems. To date, 105 of these systems have been addressed. The universe of MS4s in Region 4 is estimated to be 114. To date approximately 76 of these MS4 permits have been addressed.

Preventing Animal Waste from Contaminating Surface and Ground Waters
Concentrated Animal Feeding Operations (CAFOs) are agricultural operations where animals live in a confined environment. CAFOs can contain large numbers of animals, feed, manure, dead animals and production operations on a small land area. The animals generate a large amount of manure, which typically is held in lagoons or spread on nearby fields. If not properly controlled, manure can overflow from lagoons or run off from the fields into nearby surface waters or seep into ground water, carrying disease-causing pathogens, nutrients, or other contaminants into the water. This contaminates both surface waters and ground waters that may be used as drinking water sources and harms fish and other aquatic species in surface waters. Several studies have found high concentrations of CAFOs in areas with low income and non-white populations. This is typical in many rural areas of the country where livestock facilities are located. Children in these populations may be particularly susceptible to potential adverse health effects through exposure to contaminated surface waters or drinking water from contaminated ground water sources. The CWA and EPA's regulations require CAFOs which discharge to have permits, which impose control requirements on the waste produced by animals on the farm discharging into surface waters. EPA will continue and strengthen its enforcement focus on these facilities. For FY 2011-13, OECA is focusing primarily on existing large and medium CAFOs identified as discharging without a permit. Region 4's universe of CAFOs is close to 1,000. Region 4 has identified three Priority Areas (the Saluda Watershed in South Carolina, the Obion/Southfork Watershed in Tennessee and the Maple Branch Watershed in North Carolina) to focus our efforts in FY 2011 – 2013. To date, over sixty percent of the large CAFOs in the SC and TN Priority Areas have been addressed, and at least 50% of the important CAFOs in the Maple Branch Watershed will be addressed by the end of FY 2013. Additionally, Region 4 will continue to conduct CAFO program reviews with the Georgia Environmental Protection Division during FY 2013.

Cutting Toxic Air Pollution that Affects Communities' Health
In 1990 Congress identified 187 hazardous air pollutants that present significant threats to human health. These pollutants are known or suspected to cause cancer and other serious health effects, such as reproductive or birth defects. This threat may be particularly important for communities with disproportionate exposure to environmental risks and those with greater concentrations of sensitive populations, including urban minority and low-income communities. The Clean Air Act (CAA) and EPA's regulations impose strict emission control requirements (known as "Maximum Available Control Technology" or "MACT") for these pollutants, which are emitted by a wide range of industrial and commercial facilities. For FY 2011-13, EPA is using a National Enforcement Initiative approach to focus on excess emissions caused by facilities' failure to comply with EPA's leak detection and repair requirements and restrictions on flaring, and to address excess emissions. OECA is partnering with EPA's Office of Air and Office of Research and Development on this effort and is giving particular emphasis to problems affecting local communities that are disproportionately impacted by pollution from multiple sources.

Reducing Widespread Air Pollution from the Largest Sources, especially the Acid, Cement, Utility and Glass Sectors
The New Source Review and Prevention of Significant Deterioration requirements of the CAA require certain large industrial facilities to install state-of-the-art air pollution controls when they build new facilities or make "significant modifications" to existing facilities. However, many industries have not complied with these requirements, leading to excessive emissions of air pollutants such as sulfur dioxide, nitrogen oxides and particulate matter. These pollutants can be carried long distances and can have significant adverse effects on human health, including asthma, respiratory diseases and premature death. These effects may be particularly significant for communities with disproportionate exposure to environmental risks and vulnerable populations, including children. In recent years EPA has made considerable progress in reducing this excessive pollution by bringing enforcement actions against large refineries, power plants, cement manufacturing facilities, sulfuric and nitric acid manufacturing facilities and glass manufacturing facilities. In Region 4, we have initiated investigations at 100% of the universe of facilities (66 cement, glass, and acid plants, and 284 utility combustion units) covered by the initiative. More work remains to be done to complete these investigations and take appropriate action to bring these sectors into compliance with the CAA and protect communities burdened with harmful air pollution.

Reducing Pollution from Mining and Mineral Processing Operations
Mining and mineral processing facilities generate more toxic and hazardous waste than any other industrial sector, based on EPA's Toxic Release Inventory. Many of these facilities have impacted surrounding communities and continue to pose high risk to human health and the environment. For example, 95 mining and mineral processing sites are on the Superfund National Priorities List and more sites are being added every year, including operating facilities. Contamination of ground water and potable water has occurred, sometimes requiring alternative drinking water supplies or removal of lead-contaminated soil from residential yards. In other cases, toxic spills into waterways from mining and mineral processing caused massive fish kills and impacted the livelihood of low income communities. Some workers at mining and mineral processing facilities have been exposed to spills and mis-management of toxic and hazardous waste. There is an estimated 175 mineral processing sites nation-wide, which includes approximately 41 facilities in Region 4. To date, inspections have been completed at 28 facilities in Region 4, and many of the sites were found to be in serious non-compliance with hazardous waste and other environmental laws and facility operations were causing significant environmental impact. Region 4 has issued 28 administrative enforcement actions and concluded three

civil judicial cases to compel compliance with hazardous waste management regulations, assess contamination of soil and ground water, and/or halt imminent and substantial endangerments from facility operations. In FY2013, EPA will continue its enforcement initiative by completing inspections at any remaining high risk mineral processing facilities, and addressing noncompliance with the law to reduce risk to surrounding communities and the environment.

Assuring Energy Extraction Sector Compliance with Environmental Laws

As the nation expands its search for new forms and sources of energy, some energy extraction activities, such as new techniques for oil and gas extraction and coal mining, may pose a risk of pollution of air, surface waters and ground waters if not properly controlled. To address these emerging problems, EPA has developed an initiative to assure that energy extraction activities are complying with federal requirements to prevent pollution. This initiative will be undertaken in parts of the country where energy extraction activities are concentrated, and the focus and nature of our enforcement activities will vary with the type of activity and pollution problem presented. In Region 4, our active inspection universe includes 26,260 wells, 188 compressor stations, and 16 gas plants. Over the last two years, our CAA program has focused efforts on inspecting gas plants and compressor stations in Alabama, Mississippi, and Kentucky. Our UIC program has focused attention on injection wells, primarily in Kentucky. Since FY 2011, we have conducted over 80 inspections under this Initiative. In FY 2013 we will continue to target areas of potential noncompliance issues across this sector.

Regional Priorities

State Oversight

- EPA's oversight of state programs remains a key management challenge. While the Government Accountability Office and EPA's Office of Inspector General have reported that EPA has made some progress in this area, declining budgets and fiscal challenges that pressure federal and state agencies and tribal governments to do more with fewer resources means that strong partnerships and accountability are more important than ever. EPA does not abrogate its oversight responsibility when it has delegated implementation and enforcement responsibility. The federal intent is to ensure national minimum level environmental protection standards. Region 4 will fulfill its oversight responsibilities by conducting oversight inspections, monitoring Watch List facilities and having regular dialogue with our State partners. Also, beginning in FY 2013 and continuing through FY 2016, Region 4 will conduct state reviews in each of the Region 4 states following the Round 3 State Review Framework (SRF) process. The Round 3 SRFs will include reviews of state Clean Air Act (CAA), Clean Water Act (CWA) and Resource Conservation and Recovery Act (RCRA) enforcement programs and an integrated oversight review of the CWA-NPDES permitting programs (known as the PQR). It is the Region's intention to conduct two reviews each year on a schedule that will be shared in advance with the states.

Multiregional Air Initiative

- Chesapeake Bay – In May 2009, the President signed an Executive Order to protect and restore the health, heritage, natural resources and social and economic value of the Chesapeake Bay. EPA Region 4 is participating with EPA Regions 2, 3, and 5 in the "Chesapeake Bay Compliance and Enforcement Strategy." The strategy is a multiyear and multistate plan designed to augment and enhance existing work to identify and address violations in the Chesapeake Bay air shed. The goal is to reduce nitrogen air deposition by addressing noncompliance with existing air pollution control requirements. To date, Region 4 has

conducted 28 targeted investigations at sources in North Carolina, Tennessee and Kentucky. Two additional investigations will be conducted in FY 2013 which will conclude our assessment of 100% of the sources in the Chesapeake Bay air shed.

Clean Water Act

- To further the EPA's Administrator's priority for protecting America's waters, EPA Region 4 will focus on addressing water quality impairment from noncompliance in the coal mining sector. Such noncompliance can result in the degradation of water quality of streams and rivers, especially in the Appalachian region. In FY 2013, EPA Region 4 will continue to focus CWA compliance and enforcement activities in support of the Regional Coal Mining Initiative. Region 4 is verifying compliance through reviews of 308 Information Request letters and on-site inspections, and pursuing CWA enforcement through administrative and judicial actions where warranted.

- Shellfish Harvesting Areas – To protect public health and ensure a safe harvest, the coastal waters of the United States are surveyed and classified according to guidelines of the National Shellfish Sanitation Program. Classification status is based on sanitary surveys of water quality and shoreline surveys of pollution sources. The primary basis for harvest restrictions is the concentration of fecal coliform bacteria associated with human sewage and with organic wastes from livestock and wildlife. Other classification factors include proximity to known point and nonpoint sources of pollution, weather (e.g. heavy rainfall that temporarily introduces pollutants), tides, circulation and prevailing winds. As Region 4 implements the MS4 and raw sewage National Enforcement Initiatives, we will continue to explore integrating the use of these efforts in targeting those systems that may have contributed to conditions that have resulted in shellfish harvest-limited areas.

Resource Conservation and Recovery Act (RCRA)

- In FY 2013, EPA Region 4 will conduct compliance monitoring inspections at three sectors that have been identified by a national RCRA targeting workgroup as areas for potential noncompliance. These sectors include: 1) Centralized Wastewater Treatment Systems; 2) Zinc Hazardous Secondary Materials; and 3) Mercury Recycling (with a focus on lamps). These inspections are being coordinated across all EPA regions, and will be the initial screening process to refine potential priorities as part of future RCRA strategic planning.

OSHA Partnership

- EPA Region 4 and OSHA have been working together to better identify noncompliance at facilities across the southeast. The two federal agencies often share similar goals in the area of protecting workers at facilities and by coordinating efforts Region 4 has been able to identify several facilities for enforcement as significant noncompliers. In FY2013, this effort will be expanded to examine additional potential targets from the OSHA national and regional initiatives.

Children's Health

- To support the FY 2013 Children's Health Measure, Region 4 will focus efforts to reduce risks to children through compliance monitoring and enforcement of lead-based paint (LBP) rules. Region 4 will directly implement the TSCA Lead Renovation, Remodeling and Painting rule in Florida, South Carolina, Kentucky and Tennessee while continuing to work with these states to build their capacity to pursue delegation for this program. For those states which are authorized or become authorized for Lead RR&P, the Region will conduct oversight activities. The Region will also continue to conduct compliance monitoring and take appropriate enforcement action where warranted.

FIFRA

- For FY 2013, Region 4 worked collaboratively with state lead agencies to select Retail Marketing as a joint focus area. Whereas enforcement has traditionally been focused on the producer or registrant of a violative product, the Retail Marketing approach includes retailers of noncompliant products, who must also comply with FIFRA. Region 4 will conduct inspections and work with the states to encourage producer establishment and marketplace inspections in support of this focus area.

Compliance Incentives

While EPA is currently investigating options to reduce or limit Agency resources spent on the Audit Policy without undermining the incentives for regulated entities to do internal compliance reviews to find and correct violations, Region 4 will continue to process disclosures under audit agreements from the three sectors that have been the subject of earlier compliance incentive initiatives.

- Colleges & Universities – Region 4 has received voluntary audits and disclosures from 206 Colleges and has made final agency decisions for 54.
- Hospitals – All 13 participating hospital systems, covering 46 hospitals in total, have audited their operations for compliance with federal environmental statutes and submitted their disclosures. The Region will continue to review submissions. .
- Prisons – To date, 14 of the 22 participating federal prisons have submitted their disclosures to the Agency for review under the Audit Policy.

Compliance Assistance

- In FY 2012, the Region piloted a program in Georgia to provide direct compliance assistance to selected small domestic wastewater treatment systems (less than 1 mgd) run by local governments. This compliance assistance effort involved conducting a diagnostic inspection of the facility to determine performance problems, providing an asset management tool such as the EPA Check-up Program for Small Systems (CUPSS) to assist the facility with the development of an asset management program, and provide other tools that will allow the plant manager to track and assess its energy and water consumption across the facility. Based on the experience and understanding gained through this pilot, in FY 2013, Region 4 will be developing a package of information and will work with our State Partners to assist other small wastewater treatment plants in the Region with tools that can help them improve the performance of the plant, implement an asset and financial management program and improve overall facility management.