FY 2020-2021 National Program (NP) Guidance: Early Engagement Questions for RA Discussions with State Commissioners and RTOCs

Consistent with the Interim Guidance, EPA's enforcement priorities remain focused on cleaning up hazardous waste sites and addressing the most significant violations consistent with EPA's statutory authorities. For states and tribes with authorized programs, EPA, states, and tribes share enforcement responsibility, with primary enforcement responsibility residing with the state[1] or tribe. Further, EPA is responsible for addressing violations that occur in Indian country in the absence of an approved program. Even in states or tribes authorized to implement a program, EPA serves a critical role in addressing serious national noncompliance problems, such as those affecting multiple states or tribes, and in serving as a backstop for instances when a state or tribe does not timely or appropriately address serious noncompliance.

EPA's enforcement and compliance assurance program is seeking specific feedback in the following areas:

Shared Goals and Priorities:

1. **In the FY 2018-2022 EPA Strategic Plan, OECA has two strategic measures, (1) reduce the average time from violation identification to correction and (2) increase the environmental compliance rate. The Strategic Plan provides a list of strategic objectives to support these measures. What assistance do states and tribes need from EPA to accomplish these objectives?**

2. **Are there any other shared goals/priorities/strategies that EPA should identify in the FY 2020-2021 NP Guidance and how can we best achieve them together?**

Measures of Success:

3. **OECA will use the strategic objectives and measure as well as our annual budget measures (pgs. 617 and 620-622 in FY 2019 Congressional Justification) to assess our progress and evaluate whether we have achieved our shared goals. Do states and tribes have suggestions for how we should measure our effectiveness or define success?**

Background: EPA's FY 2018-2022 Strategic Plan includes enforcement-related strategic measures to increase environmental law compliance rate and reduce the average time from violation to correction. To accomplish these goals, EPA recognizes that (1) among EPA and states, joint governance and shared accountability are key principles and, (2) increased compliance requires a broad range of compliance assurance tools to be available for use.

Assistance and Flexibilities:

4. **What financial, administrative, and/or programmatic flexibilities or other assistance are needed to carry out our shared goals/strategies?**

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[1] See e.g., ECOS Resolution 98-9, U.S. EPA Enforcement in Delegated States (revised September 28, 2016), describing the EPA and state roles in enforcement in authorized states: "WHEREAS, U.S. EPA and the States have bilaterally developed policy agreements which reflect those roles and which recognize the primary responsibility for enforcement action resides with the States, with U.S. EPA taking enforcement action principally where the State requests assistance, is unwilling or unable to take timely and appropriate enforcement actions, or in actions of national interest, or in actions involving multiple state jurisdictions."

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