U.S. EPA Region 8
Office of Enforcement, Compliance and Environmental Justice
FY 2018 Compliance Assurance Strategic Plan

EXECUTIVE SUMMARY

Congress has charged the EPA with the mission of protecting human health and the environment. EPA's compliance assistance and enforcement program furthers the Agency's mission by promoting compliance with the nation's environmental laws. Region 8's Office of Enforcement, Compliance and Environmental Justice (ECEJ) partners with states and tribes to identify the most pressing hazards, set compliance and enforcement priorities, and assure compliance in keeping with EPA's statutory authority.

Region 8's FY 2018 Compliance Assurance Strategic Plan builds on EPA-state and EPA-tribal partnerships to promote and protect a strong and healthy environment. This Plan presents the priorities that will guide the Region's integrated compliance and enforcement efforts. The Region may refine its priorities to reflect shared environmental goals and optimize limited resources with additional input from state and tribal partners. This preliminary Plan is subject to change once the FY 2018 budget and staffing plans are finalized, and the Administrator announces compliance assurance priorities.

Regional Environmental Challenges Requiring Compliance Assurance Focus

- **Drinking Water**. Ensuring that 715,285 people served by 935 public water systems in Wyoming are provided with safe drinking water that meets health based standards, and ensuring that 134,378 people served by 141 Tribal systems are provided with safe drinking water.
- **Superfund**. Restoring contaminated sites to productive use, and promoting human health protection and economic vitality in western rural and urban communities, including former and active mines, landfills, military bases, and industrial plants.
- **Air Quality in Non-Attainment Areas**. Improving air quality in ozone non-attainment areas and preventing significant deterioration in ozone attainment areas, with a focus on hazardous air pollutants (HAPs) and volatile organic compounds (VOCs).
- **Tribal**. Ensuring basic protection of human health and the environment on 26 reservations covering 22.8 million acres of land and representing over 207,000 enrolled members.
- **Other Human Health Challenges**. Addressing unanticipated human health emergencies.

Region 8 Compliance Assurance Work. The Plan describes two categories of critical EPA work:

✓ ***Statutory Core Work***, which includes: 1) programs that Congress has not delegated to states; 2) programs that Congress has delegated to states, but a particular state has not sought or obtained primacy; 3) programs in Indian country for which EPA is the sole governmental entity responsible for implementation; and 4) areas where hazards would remain unaddressed in the absence of an EPA response.

✓ ***Inherently Federal Role***, which covers: 1) multi-state actions; 2) actions against federal or state-owned or operated facilities, 3) actions coordinated with a state; and 4) national enforcement initiative cases.

In FY 2016, 89% of Region 8's work involved direct implementation. Both statutory core work and work reflective of an inherently federal role foster regulatory certainty through the fair and consistent enforcement of the nation's environmental laws. This helps to ensure a level playing field among similarly situated members of the regulated community no matter where they operate in Region 8 states or in Indian country.

INTRODUCTION

The Region's Plan provides an executive level regional compliance assurance strategy. ECEJ's goal is to use compliance assistance and enforcement tools to: 1) promote and protect a strong and healthy environment; and 2) address hazards that would otherwise remain unaddressed. The Plan highlights EPA-state partnerships and the Region's compliance assurance priorities. It is organized around two categories of critical EPA compliance assurance work – Statutory Core Work and Inherently Federal Role – and is reflective of an integrated compliance assurance approach utilizing both compliance assistance and enforcement.

REGIONAL INVESTMENTS, LEVEL OF EFFORT AND KEY TRENDS

In FY 2018, Region 8 will focus its limited compliance assurance resources on statutory core work and direct implementation responsibilities. This includes close EPA-state collaboration and coordination, and direct compliance assistance to regulated entities. The Region expects to expand its direct compliance assistance activities to regulated entities as an integral part of its FY 2018 compliance assurance program. The Region plans to maintain its existing level of effort with respect to key programs for which it has direct implementation responsibility, including work pursuant to the Oil Pollution Act (non-delegable), Clean Water Act section 404 (non-delegable), and the Safe Drinking Water Act-Underground Injection Control. Additionally, as Region 8 completes its work in FY 2017 with oil and gas facility operators on Tribal lands in the Bakken play (Fort Berthold Reservation), the Region plans to shift its attention in FY 2018 to investigate hazardous air pollutants (HAPs) and volatile organic compounds (VOCs) emissions from potentially under-designed oil and gas facilities on Tribal lands in the Uintah Basin (Uintah and Ouray Reservation).

COMPLIANCE ASSURANCE PRIORITIES

Statutory Core Work. The Region's FY 2018 compliance assurance priorities will focus on direct implementation and is considered statutory core work. This includes (1) Protecting Human Health through Ensuring Drinking Water Compliance; (2) Restoring Our Communities through Superfund Clean-up Activities; (3) Improving Air Quality in Ozone Air Non-Attainment and Preventing Significant Deterioration in Ozone Attainment Areas; and (4) Ensuring Protection of Human Health and the Environment in Indian Country.

- **Protecting Human Health through Ensuring Drinking Water Compliance.** ECEJ's drinking water program protects drinking water quality by ensuring that public water system operators in Wyoming and Indian country return to compliance as quickly as possible once non-compliance is determined. The Safe Drinking Water Act provides for state or tribal program authorization; all Region 8 states except the State of Wyoming have primacy. Region 8 is responsible for directly implementing the program for Wyoming. In carrying out its direct implementation responsibilities, the Region works closely with the Wyoming Department of Environmental Quality and Agriculture Department, the State Epidemiologist, and County Sanitarian Departments. The Region anticipates maintaining the same level of effort in FY 2018 as in FY 2017. EPA's work is especially important in light of the prevalence of degraded drinking water system infrastructure in many rural communities and on many reservations.

- **Restoring Our Communities through Superfund Clean-up Activities.** ECEJ's Superfund program helps to restore our communities by finding and pursuing the parties responsible for contamination to clean up or pay for the cleanup of Superfund sites. Congress has not delegated the Superfund Program to the states. The Regional program actively supports the work of the Region's Superfund cleanup program by ensuring that potentially responsible parties (PRPs) perform or fund cleanups, thereby reducing the financial burdens on federal taxpayers and communities. The program's statutory core work includes directly implementing enforcement activities to support the Region's Superfund program at all stages of the cleanup process. The Regional program will continue to focus on activities that maximize PRPs' commitments to clean up sites or pay for the cleanup of sites. Actively engaging PRPs in the cleanup of sites (or reimbursing EPA for its response costs) ultimately reduces direct human exposure to hazardous pollutants and contaminants,

provides for long-term human health protections, and helps make contaminated properties available for reuse and redevelopment.

- **Improving Air Quality in Ozone Non-Attainment Areas and Preventing Significant Deterioration in Ozone Attainment Areas**. ECEJ's air program focuses on 1) improving air quality in ozone non-attainment areas (Denver-Julesburg Basin in Colorado), and 2) preventing significant deterioration in ozone attainment areas (Bakken formation in North Dakota and Montana; Uinta Basin in Utah). These efforts are intended to address high rates of noncompliance with fugitive emission requirements in the natural gas plant sector. The Region will continue to focus on compliance with federal NSPS OOOO and OOOOa regulations, investigating a pattern of non-compliance previously observed in the DJ Basin and the Bakken and documented in EPA's September 2015 Compliance Alert. In carrying out this work, the Region will focus on electronic compliance data reviews to target facility noncompliance. The Region also will standardize and streamline oversight and enforcement processes regarding LDAR, including: targeting, inspections, compliance data reviews, information requests/responses with industry, case development, and case resolution. The Region will maintain the same level of effort on the Tanks initiative, with OECA support, addressing responses to information requests and determining compliance status with emissions reporting and control requirements. This work furthers two national enforcement initiative (NEIs): 1) Land-Based Natural Gas Extraction and Production, and 2) Air Toxics.

- **Ensuring Basic Protection of Human Health and the Environment in Indian Country**. ECEJ's enforcement and compliance programs exercise a leadership role nationally in protecting human health and the environment in Indian country. EPA is responsible for implementing federal environmental statutes in Indian country. In the absence of a federally approved tribal program, EPA retains program implementation authority. Currently, EPA maintains responsibility for the implementation of the vast majority of federal environmental statutes in Indian country. In FY 2018, the Region will increase our efforts to enforce environmental statutes and regulations in Indian country, provide compliance assistance to tribes in order to advance environmental protection, build tribal capacity, and strengthen partnerships with tribes. The Region's emphasis areas for Indian country work will continue to be in drinking water compliance, addressing air ozone non-attainment, and waste management.

  In addition to the drinking water compliance and air quality work described above, ECEJ's RCRA program is responsible for cleaning up environmental contamination associated with solid and hazardous waste treatment, storage, and disposal in Indian country. EPA works to protect human health and the environment by identifying releases that pose a risk, characterizing the extent of releases, selecting and implementing the appropriate remedy, and providing long-term oversight for final facility-wide remedies. The Region will continue to invest in inspections and compliance assistance with a focus on addressing solid waste facilities and landfills that pose a threat of imminent and substantial endangerment to human health or the environment within Indian country. The Region will also provide compliance assistance to help build sustainable tribal waste management programs. Currently, there are 403 open dumps, 42 waste transfer stations, and approximately seven operating landfills located within Indian country in Region 8, many of which require federal attention.

Inherently Federal Role. At this time, Region 8 is continuing to support various national enforcement initiatives (NEIs). In implementing each NEI, the Region will give appropriate consideration to the February 28, 2017 Executive Order to review the Waters of the United States Rule and the March 28, 2017 Executive Order on Promoting Energy Independence and Economic Growth. The Region also understands there may be some adjustments made to the NEIs, and the Region may thus make adjustments in their level of efforts after such direction is provided.

- **Resource Conservation and Recovery Act (RCRA) Air Emissions**. Region 8 is implementing a phased approach over three years, which began in FY 2017. This NEI has been expanded to include addressing air

emissions from large product storage tanks and hazardous waste generator and treatment, storage and disposal facilities. The Region will focus on identifying and addressing violations of leak detection and repair requirements for product storage tanks, hazardous waste tanks, surface impoundments, and containers, as well as from related hazardous waste treatment equipment. During this 3 years, we expect to cover the identified universe within the Region and will focus on minimizing regulatory overlap.

- **Municipal Wet Weather Keeping Raw Sewage and Contaminated Stormwater Out of the Nation's Waters**. Region 8 has assessed all nine Phase 1 Municipal Separate Storm Sewer Program (MS4s). By FY 2018, the Region will have issued one administrative enforcement action for one of these facilities. The eight other MS4s have been addressed through civil judicial referrals or permit improvements. In FY 2018, the Region will address raw sewage discharges and MS4s issues for facilities where EPA has direct oversight.

- **Industrial Dischargers**. Region 8 will focus on direct discharges from food manufacturing, mining, chemical manufacturing, and primary metals sectors, with the option of considering industrial users' discharges to publicly owned treatment works (POTWs) where pollutants are passing through or industrial stormwater compliance. The Region will work to inspect and address the direct dischargers contributing the largest pollutant impact. All of these facilities have a permit to discharge wastewater, but they are violating their limits. The Region will also continue to inspect and address as appropriate industrial users in these sectors and associated POTWs where violations at regional POTWs can be traced to contributing industrial users. Region 8 will partner with states where the facility falls under the state's delegated authority to determine who will inspect and follow-up with enforcement if necessary.

- **Chemical Accident Risk Reduction (CARR)**. Region 8 will continue to serve as the regional representative on the SIT Steering Committee for this new NEI. The Region will focus at least 50% of its FY 2018 CAA 112(r) ACS commitments on the five NEI target sectors: petroleum refining, ammonia refrigeration, gas processing, chemical manufacturing, and fertilizer distribution. These sectors have historically high accident rates and/or toxic chemicals located near human populations. Also, Region 8 has signed an MOU with the North Dakota Department of Agriculture which outlines the EPA-state partnership on fertilizer distribution inspections as part of the NEI.

STATE COLLABORATION AND COORDINATION

In recognition of cooperative federalism and the critical role that states play in enforcing many Federal environmental laws, Region 8 will take concrete steps to strengthen EPA-state partnerships to achieve shared environmental goals, maximize workshare opportunities, while avoiding duplication. These steps include but are not limited to: 1) an annual, in-person meeting with the Director of each state Department of Environmental Quality at the Senior Executive Service level; and 2) quarterly/monthly telephonic meetings with each state Department of Environmental Quality and Department of Agriculture (FIFRA/Pesticides) at the Program Director or State Coordinator levels, as mutually agreed by EPA and its state partner. The Region plans to discuss program authorization, EPA-state responsibilities, resource and targeting issues, as well as state requests for EPA case-specific assistance or training. Region 8 will strive to assist states on case-specific requests. The Region will conduct state oversight as appropriate, including documenting the results of program reviews that have occurred during the prior performance year in an end-of-year (EOY) report, State Review Framework (SRF) report, or, for the PWSS enforcement program, a Uniform Enforcement Oversight System (UEOS) report.

PARTNERING WITH STATES: USE OF CUTTING EDGE TOOLS AND E-ENTERPRISE

Region 8 will continue to use an e-enterprise joint governance approach as the Region works with states to improve data management. The Region will expand coordination and collaboration with states with respect to data quality, data exchange, e-reporting, and appropriate use of data. It will continue to be the Region's goal to ensure that states have the resources and flexibility to implement innovations and utilize new tools. The Region

will also support state initiatives and work collaboratively on joint initiatives, the identification of priority issues, and the sharing of best practices.

COMPLIANCE ASSISTANCE

Region 8 will deliver direct compliance assistance to regulated entities as a central part of the Region's FY 2018 compliance assurance program. Direct compliance assistance includes but is not limited to facility visits/inspections, facility re-visits/follow-up inspections, ongoing facility-specific work, responses to inquiries, workshops/trainings, presentations/meetings, and reasonable steps letters for bona fide prospective purchasers of contaminated sites. Individual programs within ECEJ will routinely provide direct compliance assistance to regulated entities as part of the aforementioned activities. Additionally, the Region will utilize a division-wide compliance assistance coordinator to facilitate the delivery of direct compliance assistance to regulated entities.

ENVIRONMENTAL JUSTICE

Region 8 will continue the Region's compliance and enforcement activities in overburdened communities and build stronger EPA-state partnerships to improve on-the-ground results. The Region will engage in joint planning and targeting with states and identify state-specific priorities to leverage limited resources in overburdened communities. Region 8 will consider environmental justice concerns as a factor, where appropriate, in carrying out EPA targeting, compliance and enforcement work using EJSCREEN and other tools (*e.g.*, C-FERST and Tribal FERST) and data as appropriate to review for potential impacts in overburdened communities, including in Indian country. In coordination with the EJ program and other programs in Region 8 that lead community-based work, the Region will identify 2-4 of the most overburdened communities in Region 8 for cross-program targeting and enforcement and track enforcement results in these communities.

EPA CROSS-AGENCY WORK SHARING

Region 8 expects to be an active participant in cross-agency work sharing in FY 2018. **Contributions**: The Region will provide regional leadership and technical expertise on the CAA 112(r) program. **Needs**: 1) **PCBs, Asbestos NESHAP, and AHERA** – Region 8 will initiate partnerships with other regions and/or OECA to ensure coverage for priority cases; 2) **UIC** – Region 8 will need assistance from other regions and/or OECA to enhance regional expertise; 3) **RCRA** – Region 8 will continue to rely on OECA resources and contractor sampling support for complex RCRA inspections (*e.g.*, chemical processing plants); 4) **CAA 112(r) and EPCRA** – As in FY 2017, Region 8 will need OECA contractor assistance for CAA 112(r) "high risk" inspections to meet ACS commitments; 5) **Air** – Region 8 will need continued assistance from OECA on the Tank Initiative to develop cases that rely on IR camera readings and on the PSD/NSR investigations of the Trona facilities operating in Wyoming; and 6) **NPDES** – Region 8 will need contractor assistance either to conduct sampling at industrial dischargers or to provide contract lab assistance to analyze Region 8 samples.

FY 2018 FTE UTILIZATION

Region 8 Program	FTE
Regulatory Enforcement – Technical	56.71
Regulatory Enforcement – Legal	12.6
Superfund Enforcement – Technical	42.31
Superfund Enforcement – Legal	8.75
Criminal Enforcement – Legal	2.10
NEPA	16.45
EJ	1.4
Administration / Program Support	10.34
Other	.2
Total Regional OECA FTE Utilization	150.86