ENFORCEMENT ACTIVITY/ANNUAL RESULTS

BACKGROUND:

- In November and December 2018, a group called "Environmental Data and Governance Initiative" (EDGI) released a factually inaccurate reports on EPA enforcement data for FY 2018. EDGI data continues to be cited by some members of Congress (although no longer by the media).
- EPA released its official, verified, annual enforcement results on February 8, 2019. Those results show that the declines in case initiations and conclusions that began around 2010 or 2011 continued in FY 2018. However, the declines were not nearly as severe as reported by EDGI.
- The OECA AA in the Obama administration explained each year that, while the number of cases was declining, OECA has focused on priority environmental risks and non-compliance problems. That remains true today.

KEY POINTS:

- In fiscal year 2019, we are continuing our focus on expediting site cleanup, deterring noncompliance, and returning facilities to compliance with the law, while respecting the cooperative federalism structure of our nation's environmental laws.
- The goal of EPA's enforcement and compliance assurance program is compliance with our federal environmental laws. Enforcement is an important tool to achieve compliance, but it is not the only tool. We are developing measures to track both informal actions and "state assists" that result in a return to compliance. We also have reinvigorated our self-audit program.
- Injunctive relief and penalties go up and down depending on big cases.
    - For example, in January of this year, EPA settled a very large Clean Air Act penalty case – Fiat Chrysler Automobiles – with penalties of $305 million. The penalties for that one case are higher than the total amount of penalties collected in 8 of the past 11 years.
    - In March, we settled a very large Safe Drinking Water Act injunctive relief case – Hillview Reservoir in New York City – with injunctive relief totaling nearly $3 billion.

TALKING POINTS:

- EPA's enforcement program is concerned with outcomes, not outputs. We don't set quotas for enforcement cases.
- While states do most of the work in authorized programs, EPA also has authority and tools to help assure compliance with federal environmental laws. Where EPA does take the lead, we strive to make sure the cases result in meaningful environmental outcomes.
- While we are continuing to report output-based measures, we also are in the process of developing additional measures that will better explain our enforcement and compliance assurance work, such as informal actions.
- We developed a new measure to encourage and track EPA "assists" to state-lead actions on enforcement/compliance.
- Additionally, we will continue to report participation in our self-audit programs – that measure was dropped by the prior administration. In FY 2018, 1,561 facilities returned to compliance after participating in an EPA self-audit program.

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KEY FY 2018 ENFORCEMENT PROGRAM RESULTS:

In FY 2018, EPA enforcement actions this past year resulted in:

- Commitments to treat, minimize, or properly dispose of an estimated 541 million pounds of waste.
- Commitments to reduce, treat, or eliminate 268 million pounds of pollution (air, toxics, and water).
- Prevention of the illegal importation of approximately 2,200 vehicles and engines that do not comply with EPA emissions standards.
- Reduction of exposure to lead through 140 federal enforcement actions against renovation contractors, landlords, property managers, realtors, and others.
- Investment of nearly $4 billion in actions and equipment that achieve compliance with the law and control pollution.
- A total of 73 years of incarceration for individual criminal defendants.
- Cleanups and redevelopment at over 150 sites through use of Superfund enforcement tools.
- Self-disclosure and a certified return to compliance for 1,561 facilities participating in EPA's self-audit programs.

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