U.S. EPA REGION 2

CIVIL ENFORCEMENT UPDATE

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ENFORCEMENT & COMPLIANCE POLICIES

- Rule of law
- Robust enforcement program
- Timely enforce environmental laws to increase compliance rates
- Use the entire enforcement and compliance toolbox to bring about compliance in an efficient and timely manner
  - Formal enforcement actions can help deter violations. Penalties can help maintain a level playing field by preventing violators from gaining an economic benefit
  - Other actions to be considered in appropriate situations include compliance assistance, informal actions and work-sharing with states
Cooperative Federalism

- In states with *authorized programs*, EPA and the state share enforcement responsibility, with primary enforcement responsibility residing with the state.
- EPA has primary enforcement responsibility in the non-authorized ("direct implementation") programs.
- EPA-ECOS workgroup.
Cooperative Federalism – 1/22/18 guidance (cont’d)

- Joint EPA-State work planning
- State primacy in authorized programs; but exceptions can apply, including:
  - Where program audits indicate need for EPA to fill a gap
  - Emergency situations or significant risk
  - Significant noncompliance not timely or appropriately addressed
  - Actions requiring specialized EPA equipment or expertise
  - Federal and state-owned/operated facilities
  - Widespread noncompliance problems; companies with facilities in multiple states; cross-boundary impacts
  - Responses to state requests for assistance; work-sharing arrangements
  - Criminal enforcement
NATIONAL ENFORCEMENT INITIATIVES

- Reducing air pollution from the largest sources
- Cutting hazardous air pollutants
- Ensuring energy extraction activities comply with environmental laws
- Reducing risks of accidental releases at facilities
- Reducing hazardous air emissions from hazardous waste facilities
- Keeping raw sewage & contaminated stormwater out of waters
- Preventing animal waste from contaminating surface and groundwater
- Keeping industrial pollutants out of waterways
RECENT DOJ GUIDANCE

- **Enforcement Principles and Priorities** (March 12, 2018)
- **Settlement Payments to Third Parties in ENRD Cases** (Jan. 9, 2018)
  - The prohibition on payments to third parties does not apply to:
    - An otherwise lawful payment that directly remedies the harm that is sought to be redressed in the civil or criminal action; or
    - A Supplemental Environmental Project that’s consistent with EPA’s SEP Policy.