

# U.S. EPA REGION 2

## CIVIL ENFORCEMENT UPDATE

Paul Simon, U.S. EPA  
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# ENFORCEMENT & COMPLIANCE POLICIES

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- 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

# ENFORCEMENT & COMPLIANCE POLICIES

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- 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
  - *Interim OECA Guidance on Enhancing Regional-State Planning and Communication on Compliance Assurance Work in Authorized States* (Jan. 22, 2018)

# ENFORCEMENT & COMPLIANCE POLICIES

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- *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

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- Reducing air pollution from the largest sources
- Cutting hazardous air pollutants
- Ensuring energy extraction activities comply w/ environ. laws
- Reducing risks of accidental releases at facilities
- Reducing hazardous air emissions from haz. waste facilities
- Keeping raw sewage & contam'd stormwater out of waters
- Preventing animal waste from contaminating surface and g-w
- Keeping industrial pollutants out of waterways

# RECENT DOJ GUIDANCE

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- *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.