



# ***Holding 'Uncle Sam' Accountable***

## **EPA's Federal Facility Compliance and Enforcement Program**

**An Introductory Briefing**

Albuquerque, NM

September 22, 2010

# Federal Facilities “Footprint”

- **One of EPA’s Largest Sectors**
  - Some **30,000+ federal installations** spread across 650 million acres – **approximately 29% of America’s territory.**
  - Regulated federal entities range from large **military installations** and **energy research laboratories** to **schools, national parks, and neighborhood post offices.**

# What's Needed

- **A dedicated, expert enforcement office.**
- **National laws that apply to federal facilities with appropriate enforcement authority and sufficient resources to administer that authority.**
- **Priorities** to focus limited resources.
- **Political will** to hold federal agencies accountable.

# Dedicated Office

- **EPA Federal Facility Enforcement Office (FFEO)**

staff is

- **Small, but Expert**
- **Very experienced, highly dedicated to the mission.**
- **Collaborative and, when necessary, formidable** when dealing with other federal agencies.



- *We feel that federal agencies should be subject to the same environmental compliance standards and oversight as the private sector.*

# National Laws

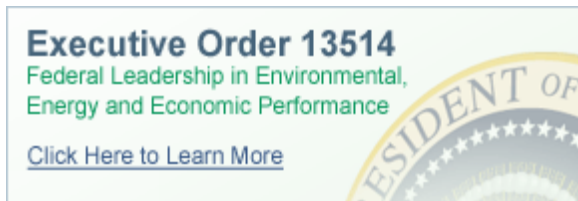
- **FFEO applies the full range of statutory authorities and has access to a variety of compliance and enforcement tools to:**
  - **Promote environmental stewardship and voluntary compliance** by federal agencies, whenever possible.
  - **Take enforcement action**, whenever necessary.

# National Laws

- **All federal environmental laws apply to federal facilities.**
  - **Some, nearly identically.**
    - Clean Air Act, Safe Drinking Water Act, Resource Conservation and Recovery Act (waste)
  - **Others, with limitations.**
    - Clean Water Act: no penalty authority.
    - Superfund: need Justice Department concurrence for order.
  - **However, under the *Unitary Executive Theory*, EPA cannot take other federal agencies into court.**

# National Laws

- Federal **Executive Orders** issued by the President direct federal facilities to comply with environmental law and to go “beyond compliance” for added environmental improvement.
  - President Obama’s Executive Order 13514 on federal environmental sustainability.



President Obama signs EO  
13514 in October 2009.



**Taking  
Action on  
Climate  
Change**



**Improving Air Quality**



**Protecting  
America's  
Waters**



# Priorities



**Building Strong State and Tribal Partnerships**

**Working for Environmental Justice**



**Assuring the Safety of Chemicals**

**Cleaning up Our Communities**



# Challenges

- **Sustaining and improving federal facility environmental compliance.**
- **Overcoming some federal organizational resistance and maintaining EPA's enforcement integrity.**
- **Adapting to a lack of judicial recourse in some areas.**
- **Ensuring fairness and consistency**
- **Leading the way in addressing difficult science issues.**
- **Reconciling environmental improvement with other Federal government missions and reforms.**
- **Assuring knowledge and technical expertise**

# Federal Facilities in Indian country

- EPA, through its Regional offices and through OECA, work to ensure federal facilities in Indian country, including schools, comply with environmental laws.
- The process for inspections and enforcement on tribal lands **does not differ drastically** from the “regular” process at private sites or federal facilities.

# Inspections and Enforcement in Indian country

- EPA recognizes that Tribes are sovereign, domestic dependent nations.
- Primary Enforcement Authority
  - EPA directly implements and enforces *most* federal environmental laws in Indian country.
  - Tribes maintain inherent authority to regulate activities within the exterior boundaries of their reservations.

# Consultation

- EPA views consultation as a process of meaningful communication and coordination between EPA and tribal officials prior to EPA taking actions or implementing decisions.
- EPA's *Draft Policy*
  - Consultation when EPA's actions and decisions may affect tribal interests.
  - EPA will consult on a government-to-government basis with tribal governments
- Many actions may be appropriate for consultation

# How Consultation Occurs

- **No single formula.**
- Should consider all aspects of the action under consideration.
- Used for both Rulemaking as well as Operational matters

# EPA's Four Phases of Consultation

1. Identification

2. Notification

3. Input

4. Follow-up

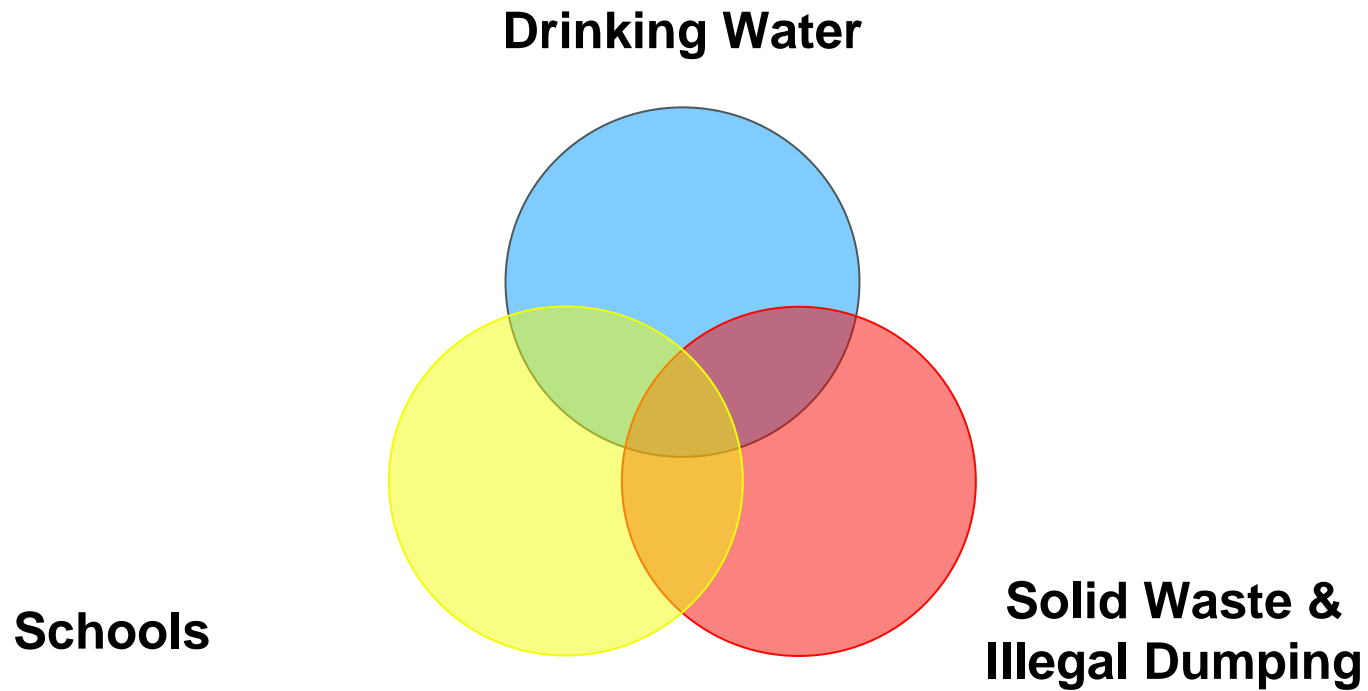
# National Indian Country Enforcement and Compliance Assurance Priority



# Background

- Overarching goal is improve compliance to protect the health and environment of Native Americans and Native Alaskans
- Consistent with this Administration's engagement of tribes and its' focus on Indian country issues
- Established in FY 2005 with the support of tribes

# Three Focus Areas to Address Overlapping Issues



# Types of EPA Activities

- Fiscal Year 2005-2007
  - Emphasized compliance assistance
  - Emphasized building tribal capacity
- Fiscal Year 2008-2010
  - Continued compliance assistance
  - Continued building tribal capacity
  - Added inspections
  - Added enforcement

# Fiscal Year 2011 and Beyond

- Fully integrated Indian country activities into “core” enforcement and compliance assurance program
  - Air, water, waste, pesticides, and toxics
- Continued engagement on drinking water issues
- Energy Extraction



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