

**Testimony of Cynthia Giles, Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency
Before the
Senate Committee on Environment and Public Works
Subcommittee on Superfund, Waste Management and Regulatory Oversight**

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Mr. Chairman, Ranking Member Markey, distinguished Members of the Subcommittee, I am Cynthia Giles, Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance. Thank you for the opportunity to testify about how the EPA meets the challenge of ensuring consistent implementation and enforcement of federal environmental laws and regulations. I will be focusing my remarks on how EPA's compliance and enforcement program helps to ensure the public health benefits envisioned by federal environmental laws, and will describe how we provide for consistency in the agency's enforcement and compliance program, flexibility to ensure fairness – including for small business, and a level playing field for the regulated community as a whole. I will also discuss some innovations we are using to increase compliance and reduce pollution in ways that make sense and are cost effective.

The Mission of Enforcement and Compliance at the EPA

EPA's enforcement and compliance program's mission is to protect both human health and the natural environment across the varied national landscape by ensuring compliance with environmental laws of the United States. The EPA has responsibility for implementing 28 different environmental programs contained in 11 different environmental statutes. Most of these laws are built around important ideas of federalism, where states and the federal government each have important and complementary roles in ensuring the public health and environmental

benefits the laws were designed to achieve. EPA's enforcement program includes both civil and criminal enforcement of the federal environmental laws as well.

The EPA is proud of the environmental progress in the United States over the last several decades, due in large part to the combined efforts of tribal, state and federal governments to ensure compliance with federal laws. We don't just set standards to protect public health and the environment, we work hard to ensure that we actually achieve them. During the more than seven years that I have been in this job, one thing I have learned is that the EPA and states share a strong commitment to a clean environment for our citizens. And we also all know that a strong compliance and enforcement program is necessary both to achieve those health protections and to ensure that the companies that play by the rules are not put at an unfair competitive disadvantage.

Consistency and Flexibility in Enforcement

EPA's compliance and enforcement program – both civil and criminal – is implemented across the country by our headquarters office in Washington, D.C. as well as our ten regional offices. The regional offices support the national program while tailoring their expertise and work to address specific regional issues. They also coordinate with their state, local and tribal counterparts to ensure that EPA's work complements state and tribal environmental priorities.

The Enforcement and Compliance Assurance program employs statute-specific policies and guidance to address compliance monitoring, enforcement responses to violations, responsible party cleanups, and penalty assessment, all of which were created to provide consistency across the regions and headquarters. While we recognize that consistency is important, we know that we must also be sensitive to the unique or differing circumstances of

individual situations. We know that states and the regulated community want the same things: consistency and fairness, as well as flexibility to adapt to the realities on the ground.

Compliance Assistance and Support for Small Businesses

The EPA recognizes the role and position of small businesses in the nation's economy, and the unique challenges they face. To that end, the agency has developed innovative compliance assistance tools to help the regulated community understand and comply with environmental requirements – particularly small businesses. First, the EPA prepares Small Entity Compliance Guides when a rule may have a significant economic impact on small entities, pursuant to the Small Business Regulatory Enforcement Fairness Act (SBREFA). These Compliance Guides explain in plain English the actions that a small entity must take to comply with the rule. Second, the EPA works with outside organizations to operate 15 web-based Compliance Assistance Centers that received over 2.5 million visitors in FY 2015. The EPA also maintains a number of topic specific hotlines for responding to requests for information.

EPA's enforcement policies and practices are also designed to accommodate small businesses. In recognition of our enforcement and compliance efforts, the Small Business Administration has given the EPA an "A" rating every year since 2005.

Overview of the Enforcement Process

EPA's enforcement and compliance program is focused on pollution problems that impact American communities. In both civil and criminal enforcement, our objective is to address the most serious water, air and chemical hazards.

For the civil compliance program, EPA's regional offices, together with their state, local and tribal partners, monitor compliance through inspections of facilities and other activities to

gather compliance-related information. Where significant violations are found, and federal enforcement is appropriate, the EPA will work with the regulated entity to remedy the violation and resolve the matter. The vast majority of all cases brought by the EPA are resolved on consent, through a mutually agreeable settlement. Most cases, approximately 90 percent, are handled administratively, while larger, more complex matters are usually handled as civil judicial cases, in conjunction with the U.S. Department of Justice (DOJ). Civil judicial cases are often brought jointly by both the EPA and states and we routinely share information with states and discuss division of work. EPA's objective in all cases is to secure compliance with the law in order to protect the environment, to safeguard communities from exposure to unhealthy pollutants, and to ensure a result that is fair – to the defendant, to the defendant's competitors, and to the public impacted by the violations.

The EPA also works with states, tribes and local governments to implement an effective cleanup enforcement program. The EPA engages responsible parties to perform investigations and cleanups of Superfund sites instead of using taxpayer funds to clean them up. Encouraging responsible parties to enter into cooperative cleanup settlements has reduced the need for litigation, cleaned up thousands of communities, and saved the American taxpayer billions of dollars in cleanup expenses. EPA's enforcement program has also facilitated the cleanup and sustainable reuse of contaminated properties throughout the country using tools and policies developed to promote land revitalization.

The agency also undertakes criminal investigations and works with DOJ to prosecute the most egregious violators of our nation's environmental protection statutes. EPA maintains a strong working relationship with DOJ and U.S. attorneys for these matters. We also work closely

with our law enforcement partners at the state and local levels, with states often taking the lead on prosecuting environmental crimes that endanger public health and damage the environment.

Next Generation Compliance

The EPA is currently undertaking an effort to modernize its enforcement program using the Next Generation (Next Gen) Compliance initiative. Next Gen is based on the principle that today's environmental challenges require a modern approach to compliance with new information tools and approaches while strengthening vigorous enforcement as the backbone of environmental protection. Better pollution monitoring and reporting helps to identify problems before they become really serious--helping save time and money for regulated entities while also saving money for taxpayer funded regulators at the tribal, state, and federal levels. The National Pollutant Discharge and Elimination System (NPDES) e-reporting rule that was finalized earlier this year is an example of how technology can help realize these improved outcomes. Filing water pollution discharge information electronically, rather than creating excess paperwork, saves states time and improves outcomes for industry by eliminating opportunities for data errors, while creating opportunity for greater transparency.

Conclusion

Over the last four decades, the EPA, working with our state, local and tribal partners, has made tremendous progress toward achieving cleaner air, water and land for our nation. A strong enforcement and compliance program has helped to make this possible. We will continue to work with states, tribes and local governments to take advantage of innovations and make smart choices about priorities, ensuring that public health comes first. We know that achieving that goal requires consistency, a level playing field for industry and stakeholders and flexibility that

acknowledges and allows for the diversity in our nation's environmental, economic and demographic conditions.

Thank you for the opportunity to testify. I would be happy to answer any questions.