EPA Region 7  
Legal Update  

AWMA Midwest Section  
Environmental Technical Conference  
February 28, 2017  

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EPA’s National Enforcement Initiatives (NEIs)

• Selected every three years to focus resources on national environmental problems where there is significant non-compliance, and where federal enforcement efforts can make a difference.

• NEIs are in addition to EPA’s core enforcement work, including protecting safe drinking water, reducing air pollution, and protecting safe and healthy land.

• Chosen with input from public and from stakeholders across EPA’s state, local and tribal agency partners.

• Starting October 1, 2016, and continuing for three fiscal years, EPA will retain four of its current NEIs, add two new initiatives, and expand one to include a new area of focus.
NEI – Overview (FY 2017- FY 2019)

• Air
  • Reducing Air Pollution from the Largest Sources
  • Cutting Hazardous Air Pollutants (Expanded initiative for FY17-19)

• Hazardous Chemicals
  • Reducing Risks of Accidental Releases at Industrial and Chemical Facilities (New initiative for FY17-19)

• Water
  • Keeping Raw Sewage and Contaminated Stormwater Out of Our Nation’s Waters
  • Preventing Animal Waste from Contaminating Surface and Ground Water
  • Keeping Industrial Pollutants Out of the Nation’s Waters (New initiative for FY17-19)

• Energy Extraction
  • Ensuring Energy Extraction Activities Comply with Environmental Laws
National Enforcement Initiative: Reducing Air Pollution From the Largest Sources

• Coal-Fired Utilities, Glass, Acid Plants, Cement

• NSR/PSD Program
U.S. v. Ameren Missouri (E.D. Missouri)
U.S. v. Ameren Missouri (E.D. Missouri)

- **Liability ruling**
  - Judge held that 2007 project at RI 1 and 2010 project at RI 2 were each major modifications under the PSD provisions of the Clean Air Act.
  - Judge held that Ameren violated PSD requirements by failing to obtain preconstruction permit and install best available pollution control technology, among other requirements.

- **Next step: determine proper remedy**
National Enforcement Initiative: Cutting Hazardous Air Pollutants

• Excess Emissions (tanks)
• Landfills
• Flares
RCRA Air Emissions

• Expand Air Toxics NEI to also include air emissions from hazardous waste (e.g., RCRA generators and treatment/storage/disposal facilities) – this includes tanks, surface impoundments, containers and treatment equipment.

• EPA-State partnership: EPA providing grant funds to ASTSWMO to assist in training and transferring capacities to applicable states.
National Enforcement Initiative: Reducing Risks of Accidental Releases at Industrial and Chemical Facilities

• Issue: industrial accidents far too common
  • Approximately 150 catastrophic accidents per year among facilities that make, use, or store extremely hazardous substances
  • Results in fatalities, serious injuries, evacuations, and risk of harm to health and environment

• Goal: focus on reducing risks of accidents through innovative accident prevention measures and technologies, and improving response capabilities
NEI: Chemical Accident Risk Reduction

• Facilities regulated through:
  • CAA section 112(r) and Chemical Accident Prevention regulations at 40 CFR Part 68 (Risk Management Program)
  • General Duty Clause
  • EPCRA
CWA National Enforcement Initiatives: 2017-19

• **Existing NEIs That Continue:**
  - Concentrated Animal Feeding Operations
  - Keeping Raw Sewage and Contaminated Stormwater Out of the Nation’s Waters

• **New NEI:**
  - Keeping Industrial Pollutants Out of the Nation’s Waters
CAFOs: Production Areas

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CAFOs: Unpermitted Operations
Keeping Industrial Pollutants Out of the Nation’s Waters: Chemical Manufacturing
Keeping Industrial Pollutants Out of the Nation’s Waters: **Mining**

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Keeping Industrial Pollutants Out of the Nation’s Waters: Food Processing
Keeping Contaminated Stormwater Out of the Nation’s Waters: Municipal Separate Storm Sewer Systems
Keeping Contaminated Stormwater Out of the Nation’s Waters: Municipal Separate Storm Sewer Systems (cont.)
Keeping Raw Sewage Out of the Nation’s Waters: Combined Sewer Overflows
Keeping Raw Sewage Out of the Nation’s Waters: Sanitary Sewer Overflows
National Enforcement Initiative: Ensuring Energy Extraction Activities Comply with Environmental Laws

• EPA is working closely with states to ensure that domestic on-shore natural gas extraction and production is done in a way that protects the environment and complies with applicable laws.

• States and local governments continue to be principal enforcement agencies.
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