



# 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)



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# 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: Land Application



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# CAFOs: Unpermitted Operations



# Keeping Industrial Pollutants Out of the Nation's Waters: **Chemical Manufacturing**



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# 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**



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# Keeping Contaminated Stormwater Out of the Nation's Waters: **Municipal Separate Storm Sewer Systems**



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# Keeping Contaminated Stormwater Out of the Nation's Waters: **Municipal Separate Storm Sewer Systems** (cont.)



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# Keeping Raw Sewage Out of the Nation's Waters: Combined Sewer Overflows



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# Keeping Raw Sewage Out of the Nation's Waters: Sanitary Sewer Overflows



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# 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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