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COUNCIL OF
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Ms. Betsy Smidinger
Acting Director, Office of Compliance
U.S. Environmental Protection Agency
William Jefferson Clinton Federal Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Re: *Comments on Proposed National Enforcement Initiatives
Submitted at www.regulations.gov to Docket ID No. EPA-HQ-
OECA-2015-0628*

Dear Ms. Smidinger:

On behalf of the Environmental Council of the States (ECOS), the national non-profit, non-partisan association of state and territorial environmental agency leaders, we are pleased to submit comments on the Environmental Protection Agency's (EPA) proposed National Enforcement Initiatives (NEIs) for Fiscal Years (FY) 2017-2019, as they appeared in the *Federal Register* on September 15, 2015 (80 *Fed. Reg.* 55,352).

ECOS has a long-standing interest in compliance and enforcement matters. To that end, ECOS holds regular calls of our Compliance Committee, and we were pleased to have you present the NEIs to those members in September 2015. Representatives of the state media associations joined ECOS on this call as well. The states appreciated your interest in briefing them on the proposed NEIs.

ECOS expects some individual states to submit their own comments on the NEIs, and as such, none of our comments are meant to supersede the comments of a particular state. ECOS offers the following five general comments, and one specific comment, for the Agency's consideration:

1. In order for the final NEIs to be effective, EPA must collaborate with states so that the Agency's actions are informed by how states are addressing these NEI sectors within their state borders. The final NEI notice should specifically discuss how EPA plans to work with states in their implementation as co-regulators and through joint governance.
2. EPA's enforcement focus on these sectors must be balanced by an equal emphasis on compliance assistance, as we continue to find that such a balanced approach leads overall to greater compliance rates.
3. States are often in the best position to understand their own environmental priorities, risks, and threats. As such, ECOS strongly encourages EPA's Office of Enforcement and Compliance Assurance to offer flexibility to states in the selection of facilities for inspection. In many cases, these facilities may not be from the sectors identified in the proposed NEIs, but are those facilities in need of attention in a state.

4. To help EPA achieve its goals under the final NEIs, states will need adequate financial, human, and technological resources from EPA. We urge EPA to continue supporting effective inspector training – both on-line and in person – as well as to seek ways to facilitate compliance and enforcement through innovative E-Enterprise for the Environment approaches. Joint development of inspection tools, checklists, dashboards, and related strategies will lead to improved outcomes.
5. EPA must work with states to develop new enforcement metrics so that our collective efforts are not focused simply on the quantity of actions or penalties assessed, but on the environmental results of steps taken, the violations averted, and other tangible outcomes. For many years we have discussed with the Agency the importance of more environmentally oriented benchmarks for action. A real and dedicated effort must be made to advance this conversation – and ECOS members stand ready to be a part of that needed and overdue initiative.

ECOS requests clarification on how the Agency intends the proposed NEI – “Protecting Communities from Exposure to Toxic Air Emissions” – to interface with the ongoing Clean Air Act Advisory Committee air toxics work, as well as how it will align with the Next Generation Compliance initiative.

We thank you for the opportunity to provide our thoughts and input. Please contact me at adunn@ecos.org or at 202/266-4929 for additional information.

Sincerely yours,



Alexandra Dapolito Dunn
Executive Director and General Counsel

Cc: ECOS Officers, Executive Committee, and Membership