

**Testimony of Susan Parker Bodine
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U.S. Environmental Protection Agency
Before the House Committee on Energy and Commerce
Subcommittee on Oversight and Investigations
February 26, 2019**

Madam Chair, Ranking Member Guthrie, distinguished Members of the Subcommittee, I am Susan Bodine, Assistant Administrator of EPA's Office of Enforcement and Compliance Assurance. Thank you for the opportunity to testify on how EPA works with states, tribes, communities, and regulated entities to ensure compliance with our environmental laws.

Compliance with those laws is what allows our country to make further environmental progress and maintain the great progress we have already achieved.

EPA has many tools to achieve this outcome. These range from helping regulated entities understand their compliance obligations, helping facilities return to compliance through informal actions, building state capacity and supporting state actions to enforce the law, bringing federal civil administrative or judicial enforcement actions, all the way to putting people in jail for knowing and egregious violations that endanger public health or the environment.

As I am sure you are aware, the vast majority of enforcement and compliance assurance activities are carried out by states and tribes pursuant to EPA authorization or delegation. However, EPA retains its authority to ensure compliance with federal environmental laws and the agency will use that authority appropriately where states or tribes may lack the capability or

will to act, particularly where there is an unaddressed public health or significant environmental threat.

Under the Trump Administration, EPA's enforcement program is focused on achieving compliance with environmental laws using all tools available to achieve compliance. Our goal is to eliminate inefficient duplication with state programs, and to direct federal resources to help achieve the Agency's Strategic Plan Goals. These Strategic Plan Goals are focused on achieving the Agency's core mission of improving air quality, providing for clean and safe water, revitalizing land and preventing contamination, and ensuring the safety of chemicals in the marketplace.

EPA's enforcement and compliance assurance staff not only carry out formal enforcement actions that show up in our Enforcement and Compliance History Online (ECHO) database, but also do so much more, including informal actions and "state assists" that result in a return to compliance.

We look for opportunities to maximize the impact of our cases so that a single settlement returns multiple facilities into compliance. For example, in July 2017, EPA reached an agreement with Harcros Chemicals to settle claims that Harcros violated provisions of the Clean Air Act aimed at preventing accidental releases of chemicals. Under the agreement, Harcros will audit 28 of its facilities to identify and correct any potential violations of its Risk Management Program by adequately assessing hazards, undertaking measures to prevent accidents, and preparing to effectively address such accidents when they do occur. In this way, one settlement will address 28 facilities and will protect communities in 18 states.

We are adopting policies to achieve results as quickly and efficiently as possible. For example,

- We are reinvigorating our self-audit program.
- We are using comfort letters and bona fide prospective purchaser agreements under Superfund to encourage the redevelopment of contaminated sites.
- We are working on changes to our online reporting system to automatically notify Clean Water Act permit holders if they miss a report or have an exceedance.
- We have issued new guidance to encourage inspectors to flag potential problems during inspections so that they can be corrected as soon as possible.
- We have established a goal of completing most of our inspection reports and sharing them with the facility more rapidly – within 70 days of the date of inspection – again so that facilities can be made aware of potential compliance problems more quickly and address them.
- We are using data analytics to target our inspections, allowing more efficient use of our inspection resources.
- We are expanding the use of Expedited Settlement Agreements to correct less complex categories of noncompliance quickly, using a template agreement, freeing up our enforcement resources to focus on more significant noncompliance.

These efficiencies allow us to focus on cases that will have a major environmental or human health impact, support the integrity of our environmental regulatory programs, create a deterrent effect, or promote cleanups. Major accomplishments in FY 2018 include:

- Reducing ozone forming VOC emissions by more than 700 tons per year from MarkWest pipeline facilities in Pennsylvania and Ohio, by using a new technology that the company will

also make available to other pipeline companies at no cost to further reduce emissions.

(settlement reached April 2018).

- o Securing an agreement with Amazon to protect the public from the hazards posed by unregistered and misbranded pesticide products. After finding that Amazon was selling unregistered pesticides, EPA stopped the sale of those illegal pesticides, ordered the payment of more than \$1M, and secured Amazon's commitment to closely monitor and remove illegal pesticides from its website. In addition, Amazon will develop an online training course on pesticide regulations and policies. Successful completion of the training will be mandatory for all entities planning to sell pesticides on Amazon.com. (settlement reached Feb. 2018).

- o Securing the assistance of Joanna and Chip Gaines from the TV show "Fixer Upper" to spread the word during an episode of their program about how to comply with EPA's Lead Renovation, Repair and Painting Rule, as part of a broader settlement of claims that they failed to use lead safe practices when renovating homes on their television show. (settlement reached June 2018).

- o Requiring NGL Crude Logistics to retire renewable fuel credits and pay a penalty to resolve allegations that they separated and sold Renewable Identification Numbers (RINs) from millions of gallons of biodiesel and then reprocessed the same biodiesel to illegally create and sell another 36 million RINs – undermining the integrity of the RFS program (settlement reached Sept 2018).

- o Securing a guilty plea from the operators of U.S. Technology Corporation for illegally transporting nine million pounds of hazardous waste from Mississippi to an unpermitted facility in Missouri (plea June 2018).

- o Securing the cleanup of over 4,000 residential properties in St. Francois County, Missouri, at the Big River Mine Tailings Superfund Site, by Doe Run Resources. (settlement reached Apr. 2018).
- o Reinvigorating our criminal enforcement program, increasing rather than decreasing the number of new cases opened for the first time since 2011.

We also have had significant case resolutions in this first quarter of FY 2019.

- o On January 10, 2019, EPA and the State of California announced a settlement with Fiat Chrysler Automobiles to address allegations that they violated the Clean Air Act by cheating emissions tests and failing to disclose unlawful “defeat devices.” Fiat Chrysler agreed to pay a civil penalty of \$305 million and implement a recall program to repair more than 100,000 noncompliant diesel vehicles sold or leased in the United States.
- o On November 1, 2018, the EPA, Oklahoma, Pennsylvania, and West Virginia settled with MPLX LP and 11 of its subsidiaries to address equipment and storage tank leaks at 20 natural gas processing plants across the U.S., reducing VOC emissions by more than 1,500 tons per year.
- o On October 31, 2018, EPA and Louisiana resolved a case against a racehorse training center for discharging horse manure, urine, and biological materials from its facility into the Vermillion River.
- o On October 29, 2018, we settled a case against Aux Sable Liquid Products to strengthen air pollution controls and reduce air pollution at its natural gas processing facility, located southwest of Chicago. The facility is located within the Chicago Non-Attainment Area for

ground-level ozone, which includes the greater Chicago area and the northwest Indiana counties of Lake and Porter.

- o On October 24, 2018, we reached a nationwide settlement with Chevron USA that requires process safety improvements at all of its domestic refineries to prevent accidental chemical releases.

Looking forward, we are currently taking public comment on where we should focus EPA's enforcement and compliance resources through the National Compliance Initiatives in FY2020-2023. In a February 8, 2019, Federal Register notice (EPA-HQ-OECA-2018-0843), we suggested two new National Compliance Initiatives: drinking water and reducing children's exposure to lead.

These are just a few of the many ways that EPA's amazing enforcement and compliance assurance staff are helping protect our air, water, and land. All the accomplishments I have just described are due to their hard work, often over the course of several years.

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

ATTACHMENT 1

KEY OECA PROGRAM CHANGES:

1. **Moved to a model of shared governance with states.**
 - Issued an [*Interim Guidance on Enhancing Regional-State Planning*](#) to set consistent expectations for joint planning, work sharing, and enhanced communication.
 - Developed a new measure to encourage and track EPA “assists” to state-lead actions on enforcement/compliance.
2. **Carried out a [*Transition from National Enforcement Initiatives to National Compliance Initiatives*](#)**
 - Aligned priorities with the Agency strategic plan and to focus on environmental problems, not specific industry sectors.
 - Federal Register notice seeking public input on new National Compliance Initiatives was published on February 8, 2019 and may be found [here](#).
3. **Are notifying facilities of inspection results in a more timely fashion to increase certainty and speed of correction of violations.**
 - Issued [*Interim Policy on Inspection Report Timeliness and Standardization*](#), which directs inspectors to flag compliance concerns with the facility at the time of inspection.
 - Under a new measure, EPA will prepare most inspection reports and provide them to facilities within 70 days of an inspection.
4. **Reemphasized the use of self-audits and self-disclosure to achieve compliance.**
 - Shared draft [*New Owner Clean Air Act Audit Program for Oil and Natural Gas Exploration and Production Facilities*](#) with stakeholders for input.
 - Region 8 signed a memorandum of agreement with Wyoming Department of Environmental Quality to encourage use of Wyoming self-audit law. Press Release: <https://www.epa.gov/wy/epa-self-audit-agreement-state-wyoming>
5. **Identified best practices for enforcement-related information requests.**
 - On November 21, 2018, EPA issued [*Best Practices for Compliance and Enforcement-Related Information Requests*](#), recommending best practices in lieu of a headquarters review of information requests. The best practices include:
 - Not requesting information EPA already has on hand.
 - Tailoring the request to what information that may reasonably be needed.
 - Making sure the tone is appropriate, particularly for small entities.
 - Making sure the request and process for responding is clear.
 - Providing a reasonable amount of time to respond.
6. **Realigning the Regions to support National Programs.**
 - EPA is creating an Enforcement Division in each Region that will better integrate regional enforcement resources and make it easier for OECA to work with the Regions on enforcement and compliance assurance actions.

ATTACHMENT 2

KEY FY 2018 ENFORCEMENT PROGRAM RESULTS:

In FY 2018, EPA enforcement actions this past year resulted in:

- Commitments to treat, minimize, or properly dispose of over an estimated 540 million pounds of waste.
- Commitments to reduce, treat, or eliminate 268 million pounds of pollution (air, toxics, and water).
- Prevention of the illegal importation of approximately 2,200 vehicles and engines that do not comply with EPA emissions standards.
- Reduction of exposure to lead through 140 federal enforcement actions against renovation contractors, landlords, property managers, realtors, and others.
- Investment of nearly \$4 billion in actions and equipment that achieve compliance with the law and control pollution.
- A total of 73 years of incarceration for individual criminal defendants.
- Cleanups and redevelopment at over 150 sites through use of Superfund enforcement tools.
- Self-disclosure and a certified return to compliance for 1,561 facilities participating in EPA's self-audit programs.

More information on EPA's Annual Enforcement Results for FY 2018 may be found [here](#).