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Report to Congressional Requesters

December 2020

ENVIRONMENTAL PROTECTION

Action Needed to Ensure EPA's Enforcement and Compliance Activities Support Its Strategic Goals

GAO-21-82

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GAO Highlights

Highlights of GAO-21-82, a report to congressional requesters

Why GAO Did This Study

In partnership with states, EPA oversees about 1.2 million regulated entities' (e.g., industrial facilities and local governments) compliance with federal environmental laws and regulations, including those governing air, water, and hazardous waste. OECA conducts much of this oversight through EPA's 10 regional offices and a range of enforcement and compliance activities. OECA selects national initiatives to focus its resources on advancing EPA's strategic plan.

GAO was asked to review EPA's enforcement efforts. This report examines how (1) EPA's enforcement and compliance priorities have changed since 2015 and the extent to which EPA implements them, (2) EPA's coordination with states to enforce and ensure compliance with environmental laws has changed since it shifted priorities, and (3) EPA has assessed whether its activities to enforce and ensure compliance with these laws meet its objectives. GAO reviewed EPA documents and interviewed officials from EPA and 10 states with a high number of enforcement cases.

What GAO Recommends

GAO recommends that EPA (1) communicate final guidance for national initiatives to all states before they go into effect, (2) incorporate lessons learned when coordinating with states on future initiatives, and (3) document assessment of regional enforcement and compliance activities. EPA agreed with GAO's recommendations.

View GAO-21-82. For more information, contact J. Alfredo Gómez at (202) 512-3841 or gomezj@gao.gov.

What GAO Found

Since 2015, the Environmental Protection Agency (EPA) has shifted its priorities from enforcement to compliance to more closely align with EPA's new strategic plan objective to ensure compliance with environmental laws (see table). To align with this strategic change, in 2018, EPA's Office of Enforcement and Compliance Assurance (OECA) transitioned its national initiatives to emphasize compliance (e.g., training) as its overall goal, and that enforcement actions (e.g., judicial actions) are one out of a range of compliance assurance tools to achieve this goal. These national initiatives went into effect in October 2019, but as of September 2020, EPA had not finalized implementation guidance for EPA regional offices and states that communicates how to achieve the initiatives. According to EPA headquarters officials, this is the first time OECA planned to distribute this guidance to states. Communicating final implementation guidance before future national initiatives go into effect would provide EPA better assurance that both regional offices and states have this information in time to help EPA address the most serious environmental issues.

EPA's Strategic Goals and Corresponding Objectives Related to Enforcement and Compliance

	Strategic plan, fiscal years 2014-18	Strategic plan, fiscal years 2018-22
Strategic goal	Protect human health and the environment by enforcing laws and assuring compliance	Greater certainty, compliance, and effectiveness
Strategic objective	Enforce environmental laws to achieve compliance	Compliance with law

Source: Environmental Protection Agency (EPA). I GAO-21-82

EPA's coordination with states on enforcement and compliance has generally remained the same or improved since it shifted priorities to compliance in 2018, according to EPA planning documents and officials from EPA and 10 selected states. During this time, EPA also elevated the importance of state coordination in a strategic goal. To support this goal, EPA issued both a plan to engage with states on the new national initiatives and a July 2019 policy that emphasizes the importance of joint work-planning and effective, two-way communication with states. However, EPA did not provide all states with key information about how to implement the new priorities, as planned. EPA headquarters officials said this was the first time they worked this closely with states to implement national initiatives, and it took longer than anticipated to gather state input. EPA identifies and analyzes its national initiatives every 4 years. By incorporating lessons learned from this first effort, EPA would have better assurance that states—key partners in enforcement and compliance—could coordinate effectively on joint work-planning and support its strategic goals.

EPA could not demonstrate the extent to which it assesses enforcement and compliance at the regional level—where OECA allocates over 70 percent of its enforcement resources—because it does not document outcomes of meetings and videoconferences that are its primary methods for assessing regional-level performance. By documenting assessment of regional enforcement and compliance activities, including progress toward performance goals, OECA could better ensure these activities support EPA's new strategic objectives.

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Abbreviations

ECHO	Enforcement and Compliance History Online
ECOS	Environmental Council of the States
EPA	Environmental Protection Agency
FTE	full-time equivalent
FY	fiscal year
GPRA	Government Performance and Results Act of 1993
GPRAMA	GPRA Modernization Act of 2020
OECA	Office of Enforcement and Compliance Assurance

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

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Congressional Requesters

Enforcing environmental laws and regulations to protect communities and individuals from harmful emissions and chemicals is a central part of the Environmental Protection Agency's (EPA) mission to protect human health and the environment.[1] To accomplish this, EPA, in partnership with states, oversees about 1.2 million regulated entities' compliance with federal environmental laws, including meeting standards for air quality, safe drinking water, and hazardous waste management.[2] In many instances, EPA has delegated authority to, or authorized, states to implement and enforce these laws.[3]

EPA also determines how to promote compliance with its environmental laws and how to deter noncompliance, and the agency has the flexibility to tailor its efforts to encourage voluntary compliance and to inform regulated entities of regulatory requirements. Regulated entities can range in size and resources, from industrial facilities to small businesses and local governments. For example, EPA enforces air emissions limits for major petroleum refining facilities and drinking water standards for public water systems, or has delegated authority to states to do so. Enforcement could involve, for example, penalties assessed against a regulated entity for violating an environmental law, requirements to remedy the violation of environmental law, or both.

[1]EPA enforces a range of environmental laws. This report focuses on the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act. These laws authorize EPA to issue regulations to implement them. Regulations are mandatory requirements for entities subject to the laws. We use the terms "environmental law" and "compliance with law" throughout this report to mean both laws and regulations, as applicable.

[2]We refer to these entities throughout this report as "regulated entities." EPA officials responsible for enforcement and compliance told us that the number 1.2 million is a rough estimate of operating facilities based on publicly available data across multiple programs and databases.

[3]Some environmental laws authorize EPA to treat federally recognized tribes as states and delegate authority, or authorize them, to implement and enforce federal environmental laws. This report focuses on EPA's coordination with states and does not examine EPA's coordination with tribes.

EPA's strategic plan—issued in 2018 and updated in 2019—describes a shift in the agency's approach to its overall enforcement and compliance that includes a new strategic focus on compliance.[4] According to the strategic plan, this new focus includes increasing the agency's use of compliance assistance activities—for example, training and technical assistance—to help regulated entities comply with laws.[5] The plan emphasizes that EPA's national goals include ensuring compliance with the law and developing a more collaborative partnership with authorized states.

We last reported on EPA's enforcement efforts in January 2020.[6] Specifically, we found that EPA requires its regional offices to collect and enter a range of information on enforcement and compliance activities—such as permit, inspection, and violations data—into the agency's national databases, which the agency uses to manage and assess enforcement and compliance programs. However, we found that EPA regional offices did not consistently collect or maintain data on informal enforcement actions, such as the number of warning letters sent to regulated entities, even though EPA elevated the role of such activities in its overall enforcement efforts. Additionally, we found that EPA did not have complete information on its agency-wide enforcement and compliance activities because the agency did not require the collection of data on compliance assistance activities. We also found that EPA did not fully disclose known limitations to the data used in some of its annual results reports. We recommended that EPA issue guidance to regional offices on how to collect data on informal enforcement actions and compliance assistance activities, as well as include known limitations of data and information on the intended use of EPA's data in its annual

[4]Environmental Protection Agency, *Working Together: EPA FY 2018-2022 U.S. EPA Strategic Plan*, EPA-190-R-18-003 (Washington, D.C.: February 2018). EPA updated this plan in September 2019.

[5]Environmental Protection Agency, *EPA FY 2018-2022 U.S. EPA Strategic Plan*. In October 2017, we reported that agencies generally have the flexibility to tailor their enforcement and compliance strategies and found that agency officials decide on the appropriate mix of compliance assistance, together with monitoring and enforcement efforts, to achieve regulatory outcomes. See GAO, *Federal Regulations: Key Considerations for Agency Design and Enforcement Decisions*, GAO-18-22 (Washington, D.C.: Oct. 19, 2017).

[6]GAO, *Environmental Protection: Additional Action Needed to Improve EPA Data on Informal Enforcement and Compliance Assistance Activities*, GAO-20-95 (Washington, D.C.: Jan. 31, 2020).

reports. EPA agreed with our recommendations and stated that the agency had either begun to or plans to implement them.

In March 2020, EPA's Office of Inspector General reported on trends in EPA enforcement data.[7] The report found that, from fiscal year 2006 through 2018, EPA's compliance monitoring activities, enforcement actions, and enforcement results had generally declined. It also found that funding for EPA's enforcement program and the number of enforcement staff had decreased.

You asked us to review EPA's enforcement efforts, and this report is the second in response to your request.[8] This report examines (1) how EPA's enforcement and compliance priorities have changed since 2015 and the extent to which EPA has implemented these priorities, (2) the extent to which EPA's coordination with states to enforce and ensure compliance with environmental laws has changed since it shifted its national priorities, and (3) the extent to which EPA has assessed whether its activities to enforce and ensure compliance with environmental laws are meeting the agency's objectives.

To address all three objectives, we reviewed EPA guidance and policy memorandums and past GAO and EPA Office of Inspector General reports. We reviewed redacted versions of EPA's regional enforcement plans for fiscal years 2016 through 2019 to gather regional-level information about priorities, coordination with states, and assessments.[9] We interviewed EPA officials in headquarters and all 10 of the regional

[7]Environmental Protection Agency, Office of Inspector General, *EPA's Compliance Monitoring Activities, Enforcement Actions, and Enforcement Results Generally Declined from Fiscal Years 2006 Through 2018*, 20-P-0131 (Washington, D.C.: Mar. 31, 2020).

[8]We split our work under this request into separate reports due to substantial delays in receiving information from EPA. We issued our first report in January 2020; see GAO-20-95.

[9]According to an official in EPA's Office of General Counsel, EPA redacted from certain sections of these plans information that it deemed deliberative and law enforcement sensitive. EPA officials from headquarters and nine of its 10 regional offices told us that the agency's annual "Regional Strategic Plans" contained important information to address our objectives. According to EPA officials, EPA regional offices first developed these plans for fiscal year 2016 to provide an overview of strategy by region and a rationale for deployment of enforcement and compliance assurance resources. For the purpose of this work, we refer to these documents as "regional enforcement plans" because they are enforcement-specific and to distinguish them from EPA's agency-wide strategic plan and other strategic planning documents.

offices responsible for managing enforcement and compliance about strategies and processes, how they coordinate with states, and how they conduct assessments of these activities.[10] We interviewed representatives of three environmental advocacy groups and five organizations representing some regulated entities to obtain their perspectives on a range of issues related to enforcement of and compliance with the environmental laws in our scope.

To examine how EPA's enforcement and compliance priorities have changed since 2015 and the extent to which EPA implements these priorities, we reviewed EPA documents and guidance.[11] This report covers fiscal years 2015 through 2019 so we could compare EPA's most recent strategic planning periods (fiscal years 2014 through 2018 and fiscal years 2018 through 2022). We compared EPA documents that describe the agency's current enforcement and compliance priorities, such as guidance and memorandums, with documents that describe the agency's former priorities. We asked EPA officials about how they have implemented enforcement and compliance priorities and compared this against agency guidance, our key considerations for regulatory design and enforcement,[12] and *Standards for Internal Control in the Federal Government* related to components for information and communication.[13]

To examine the extent to which EPA's coordination with states to enforce and ensure compliance with environmental laws has changed since it shifted its national priorities, as discussed earlier, we reviewed relevant EPA documents, including content in the agency's regional enforcement plans related to state coordination. We also reviewed documents used by state officials to coordinate with EPA to carry out enforcement, such as memorandums of understanding and performance partnership

[10]We interviewed headquarters officials from the Office of Enforcement and Compliance Assurance (OECA), Office of General Counsel, and Office of Congressional and Intergovernmental Relations and refer to them collectively as "EPA headquarters officials," unless noted otherwise. We interviewed regional officials from the Enforcement and Compliance Assurance Division and Office of Regional Counsel in all 10 regional offices and refer to them collectively as "EPA regional officials," unless noted otherwise.

[11]Documents and guidance included EPA strategic plans and relevant memorandums. See, for example, Environmental Protection Agency, *EPA FY 2018-2022 U.S. EPA Strategic Plan*.

[12]GAO-18-22.

[13]GAO, *Standards for Internal Control in the Federal Government,* GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

agreements, to gather information about how the state and EPA agreed to work together. We interviewed environmental enforcement and compliance program officials from a nongeneralizable sample of 10 states about changes to EPA enforcement and compliance strategies and processes and EPA's coordination with states. We selected one state from each EPA region based on a number of considerations, including geographic dispersion and the highest number of enforcement actions in each state according to publicly available EPA data for fiscal years 2015 through 2018—the most recent data publicly available at the time of our analysis.[14] We interviewed senior state officials responsible for the enforcement of the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act. To gain additional insight on the perspectives of states, we interviewed representatives from the Environmental Council of States (ECOS), a national association of state and territorial environmental agency officials. We compared how EPA has coordinated with states against agency policy on enhancing effective partnerships and federal standards for internal control related to components for information and communication.[15] We also reviewed selected leading practices for collaboration.[16]

To examine the extent to which EPA has assessed whether its activities to enforce and ensure compliance with environmental laws are meeting the agency's objectives, we reviewed EPA performance reports and assessments, including EPA's annual performance reports for fiscal years

[14]EPA's public access website Enforcement and Compliance History Online (ECHO) stores and integrates data from multiple EPA databases, including the Integrated Compliance Information System, which includes descriptive information about regulated entities, violations, and the outcome of enforcement actions. EPA's ECHO website can be accessed at https://echo.epa.gov/.

[15]GAO-14-704G.

[16]In prior work, we used the terms "collaboration" and "coordination" interchangeably. For the purposes of this report, we use the term coordination because EPA conducts oversight of states' activities to enforce and ensure compliance with environmental laws. We reviewed leading collaboration practices to include all relevant participants, to clarify their roles and responsibilities, to agree on common terminology and definitions, and to document their agreement regarding how they will be collaborating, as we identified in our 2012 report. We reviewed these practices because EPA's policies to enhance coordination in the current strategic planning period did not address the other collaboration practices of outcomes and accountability, leadership, or resources. For our prior work on collaboration, see, for example, GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, GAO-12-1022 (Washington, D.C.: Sept. 27, 2012).

2018 and 2019.[17] To examine the extent to which EPA has assessed enforcement and compliance activities carried out by authorized states, we reviewed documents related to EPA's oversight of state enforcement of federal environmental laws. We compared EPA's efforts for assessing enforcement and compliance activities against the GPRA Modernization Act of 2010 (GPRAMA) requirements for the performance planning process, such as establishing performance goals and providing a description of how these goals are achieved.[18] We also compared EPA's efforts for assessing enforcement and compliance activities against leading practices for performance planning based on GPRAMA.[19] See appendix I for a more detailed discussion of our scope and methodology.

We conducted this performance audit from October 2018 to December 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

EPA's Office of Enforcement and Compliance Assurance (OECA) oversees the agency's environmental enforcement and compliance responsibilities and provides overall direction to EPA's 10 regional offices,

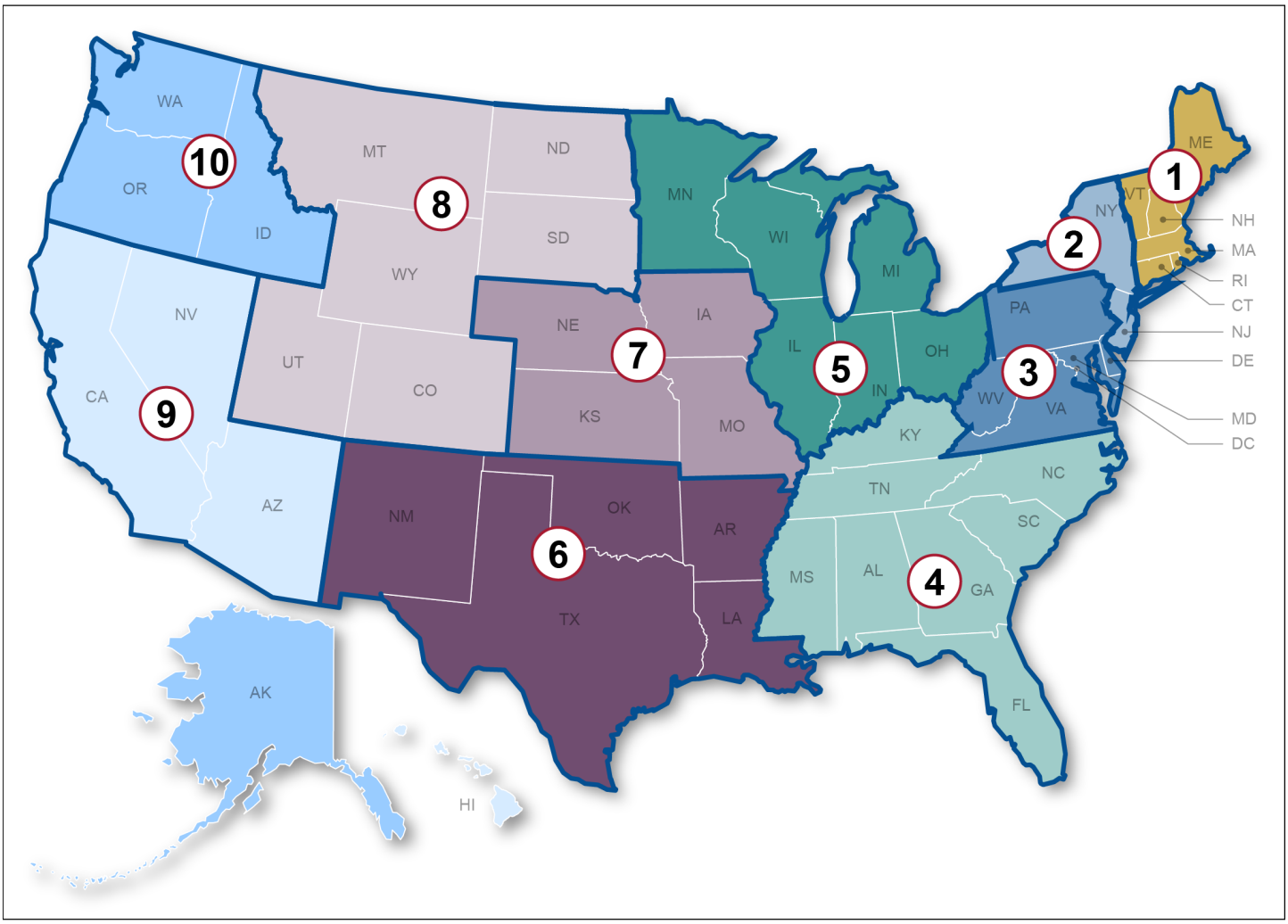
[17]Environmental Protection Agency, *Fiscal Year 2021 Justification of Appropriation Estimates for the Committee on Appropriations, Program Performance and Assessment*, EPA-190-S-20-001 (Washington, D.C.: February 2020).

[18]31 U.S.C. § 1115(b). The GPRA Modernization Act of 2010, Pub. L. No. 111-352, 124 Stat. 3866 (2011), amended the Government Performance and Results Act of 1993 (GPRA), Pub. L. No. 103-62, 107 Stat. 285.

[19]For example, we have previously reported that GPRA and GPRAMA requirements, such as performance goals, that apply at the departmental or agency level can serve as leading practices for planning at lower levels, such as component agencies, offices, programs, and projects within federal agencies. Government Performance and Results Act of 1993, Pub. L. No. 103-62, 107 Stat. 285, *as amended by* the GPRA Modernization Act of 2010, Pub. L. No. 111-352, 124 Stat. 3866 (2011). See, for example, GAO, *Food Safety and Nutrition: FDA Can Build on Existing Efforts to Measure Progress and Implement Key Activities*, GAO-18-174 (Washington, D.C.: Jan. 31, 2018); *Coast Guard: Actions Needed to Enhance Performance Information Transparency and Monitoring*, GAO-18-13 (Washington, D.C: Oct. 27, 2017); and *Environmental Justice: EPA Needs to Take Additional Actions to Help Ensure Effective Implementation*, GAO-12-77 (Washington, D.C.: Oct. 6, 2011).

through which OECA carries out much of these responsibilities.[20] See figure 1 for a map of EPA's 10 regions.

Figure 1: Map of EPA Regions



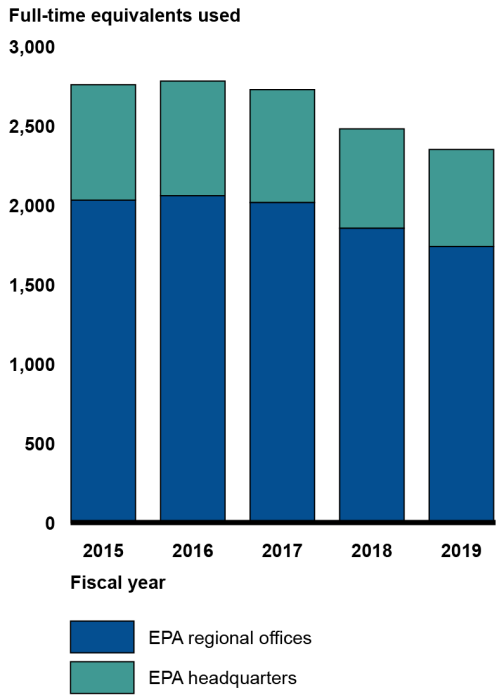
Sources: GAO analysis of Environmental Protection Agency (EPA) information; Map Resources (map). | GAO-21-82

[20]EPA's regional offices are responsible for a majority of administrative and civil judicial cases related to violations of environmental laws. In addition, according to EPA headquarters officials, the EPA criminal program maintains a field presence across the United States to investigate the most serious of environmental crimes.

From fiscal year 2015 through fiscal year 2019, more than 70 percent—approximately 2,000 full-time equivalent (FTE) staff—of OECA's workforce was located in the regional offices.[21] Figure 2 shows OECA's FTE distribution and the proportion of FTEs used by regional offices for each of these years.

[21]In fiscal year 2019, OECA's budget was approximately $505 million, which reflects the April 2018 transfer of the Offices of Federal Activities and Environmental Justice functions from OECA to the Office of the Administrator, including resources in both headquarters and regional offices supporting those functions. According to an EPA budget document, an FTE represents one employee working full-time for a full year, equal to 2,080 hours, or the equivalent number of hours worked by multiple part-time or temporary employees. Environmental Protection Agency, *FY 2021 EPA Budget in Brief*, EPA-190-S-20-002 (Washington, D.C.: February 2020).

Figure 2: Full-Time Equivalents for EPA's Office of Enforcement and Compliance Assurance (OECA), Fiscal Years 2015-2019



Source: Environmental Protection Agency (EPA). | GAO-21-82

Note: According to an EPA budget document, a full-time equivalent (FTE) represents one employee working full-time for a full year, equal to 2,080 hours, or the equivalent number of hours worked by multiple part-time or temporary employees. In April 2018, EPA reorganized the Offices of Federal Activities and Environmental Justice, transferring the headquarters and regional office FTEs supporting these functions from OECA to the Office of the Administrator. The fiscal year 2018 and fiscal year 2019 FTE numbers reflect this reorganization. For the purpose of comparison, the distribution of FTEs for fiscal year 2018 has been adjusted for the reorganization and does not include FTEs that supported functions of the Offices of Federal Activities and Environmental Justice.

EPA regional offices coordinate with authorized states to share responsibilities for enforcing federal environmental laws and conducting enforcement and compliance activities. For states not authorized to enforce federal environmental laws, EPA regional offices are responsible for enforcement in those states. Forty-five states are authorized to enforce certain provisions of all four laws we considered in this review, and the remaining five states are authorized to enforce certain provisions

of three of the four laws (see app. II).[22] In addition, states may engage with EPA through participation in associations such as ECOS, which has worked with OECA to develop best practices for working with authorized states.[23]

Enforcement and Compliance Activities

OECA, EPA regional offices, and authorized states use a range of compliance assistance, compliance monitoring, and enforcement tools available to elicit compliance with federal environmental laws from regulated entities, as shown in table 1.

Table 1: Types of Activities Used by EPA and Authorized States to Enforce and Assure Compliance with Environmental Laws

Type of oversight	Activities and actions
Compliance assistance	Providing one-to-one counseling (by telephone or in person) for representatives of regulated entities, technical assistance, information on websites, fact sheets, guides, and training.
Compliance monitoring	Conducting on-site inspections, evaluations, and investigations (including review of permits, data, and other documentation).
Enforcement actions	Conducting a range of actions, from contacting regulated entities about noncompliance (letters, notices of violation, citations) to developing civil or administrative cases.
Informal actions	Issuing warning letters and notices of violation in some cases or any action prior to issuing a formal notice of violation.
Formal actions	Developing cases for a civil action filed in court and issuing administrative orders.

Source: Environmental Protection Agency (EPA). | GAO-21-82

OECA staff in EPA headquarters and regional offices provide compliance assistance, such as training and technical assistance, to regulated entities; conduct compliance monitoring by inspecting regulated entities, performing offsite compliance monitoring activities and tracking violations; initiate enforcement actions, such as sending notices of violation and developing administrative, civil judicial, and criminal cases against violators; and oversee the enforcement programs of authorized states, where applicable.

[22]See app. II for a list of states that have been authorized, or delegated authority, to implement and enforce certain provisions of the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act.

[23]ECOS-EPA Compliance Assurance Workgroup, *Final Report of the ECOS-EPA Compliance Assurance Workgroup*, Version 1.0 (Washington, D.C.: Aug. 23, 2018).

EPA Strategic Plan and Priorities for Enforcement and Compliance

EPA's strategic plan describes the agency's national strategy to carry out its mission of protecting human health and the environment, including strategic goals that define the agency's key mission areas.[24] To support these strategic goals, EPA established strategic objectives that set performance targets that the agency will work to achieve over the life of the strategic plan.[25] For example, the strategic objective to provide for clean and safe water sets the performance target of reducing the number of noncompliant community water systems.

To meet the goals in EPA's strategic plan, OECA routinely selects enforcement and compliance priorities as national initiatives—formerly called National Enforcement Initiatives and now called National Compliance Initiatives—to focus its enforcement and compliance resources, including staff and funding, on the most serious environmental violations. The national initiatives, according to EPA memorandums, represent specific environmental problems. For example, a past national initiative was to keep raw sewage and contaminated stormwater out of U.S. waterways. Figure 3 shows the relationship between EPA strategic goals, objectives, and national initiatives.

Figure 3: Relationship between EPA Strategic Goals, Strategic Objectives, and National Compliance Initiatives

Source: Environmental Protection Agency (EPA). | GAO-21-82

[24]Environmental Protection Agency, *FY 2018-2022 U.S. EPA Strategic Plan.*

[25]Long-term performance targets are measurable results supported by data quality records that provide details such as the methods of measurement and other important contextual information, such as baselines.

Since 2015, EPA Has Shifted Its Enforcement Priorities to Emphasize Compliance, but It Did Not Finalize Implementation Guidance

Since 2015, EPA has shifted its priorities from enforcement—through its National Enforcement Initiatives—to compliance—through its National Compliance Initiatives—to more closely align with the EPA strategic plan's new objective, which focuses on compliance with environmental laws. The National Compliance Initiatives for fiscal years 2020 through 2023 went into effect in October 2019 but, as of September 2020, EPA had not finalized the guidance for EPA regional offices and state partners that communicates how to implement these initiatives.[26]

Since 2015, EPA Has Shifted Its Priorities from National Enforcement to National Compliance Initiatives to More Closely Align with Its Most Recent Strategic Plan

EPA has shifted its National Compliance Initiatives—which defines its enforcement and compliance priorities—from an emphasis on enforcing environmental laws to compliance with these laws, to more closely align with a related shift it made to its strategic plan since 2015. More specifically, from EPA's former 2014-2018 strategic plan to its current 2018-2022 strategic plan, EPA transitioned from a focus on enforcement to a focus on compliance in its relevant strategic goals, objectives, and performance and strategic measures for ensuring compliance with environmental laws.[27] Table 2 shows the different goals and objectives between strategic plans that relate to enforcement and compliance.

[26]According to EPA headquarters officials, the agency refers to this guidance as a "strategy document" or "the strategies." For the purpose of our report, we will refer to this strategy document as "guidance" to distinguish it from strategic planning documents and because it is intended to guide readers through approaches and considerations for how to achieve the goals of each priority.

[27]Environmental Protection Agency, *FY 2014-2018 EPA Strategic Plan*, EPA-190-R-14-006 (Washington, D.C.: Apr. 10, 2014); and *FY 2018-2022 U.S. EPA Strategic Plan.*

Table 2: Goals and Corresponding Objectives Related to Enforcement and Compliance from EPA's Strategic Plans for Fiscal Years 2014-2018 and 2018-2022

	Fiscal years 2014-2018	Fiscal years 2018-2022
Strategic goal	Protect human health and the environment by enforcing laws and assuring compliance.	Greater certainty, compliance, and effectiveness.
Strategic objective	Enforce environmental laws to achieve compliance.	Compliance with the law.
Description of strategic objective	Pursue vigorous civil and criminal enforcement that targets the most serious water, air, and chemical hazards in communities to achieve compliance. Assure strong, consistent, and effective enforcement of federal environmental laws nationwide. Use Next Generation Compliance[a] strategies and tools to improve compliance and reduce pollution.	Timely enforce environmental laws to increase compliance rates and promote cleanup of contaminated sites through the use of all of EPA's compliance assurance tools, especially enforcement actions to address environmental violations.

Source: GAO analysis of Environmental Protection Agency's (EPA) strategic plans. | GAO-21-82

[a]According to EPA's website, Next Generation Compliance was EPA's former strategic approach to improve compliance by taking advantage of new tools and approaches from both inside and outside EPA to strengthen vigorous enforcement of environmental laws. According to EPA's website, the agency concluded Next Generation Compliance in fiscal year 2017, but many of the Next Generation Compliance tools and approaches continue to be relevant and useful.

EPA's former strategic plan for fiscal years 2014 through 2018 included a strategic goal and objective focused on the role of enforcement to ensure compliance with environmental laws. In particular, the former plan included 14 different strategic measures to help achieve this strategic goal and objective, which are categorized by environmental areas of focus, including improving air quality, protecting America's waters, and ensuring the safety of chemicals. Of the former plan's 14 strategic measures, 12 discussed the role of enforcement as a means for achieving the goals, while the other two measures discussed inspection targets and improving compliance rates. For example, one of the strategic measures stated that by 2018, as a result of concluded enforcement actions, EPA would reduce, treat, or eliminate 1,590 million estimated pounds of air pollutants. Another strategic measure said that by 2018, as a result of concluded enforcement actions, EPA would reduce, treat, or eliminate 1,280 million estimated pounds of water pollutants.

In EPA's current strategic plan for fiscal years 2018 through 2022, the agency includes a strategic goal and objective focused on promoting compliance with environmental laws. In the description of this objective, the plan discusses the importance of using all of EPA's compliance assurance tools, such as one-on-one counseling and training, inspections, and "especially enforcement actions," to increase compliance rates. The plan further discusses the use of civil, criminal, and cleanup

enforcement in its strategies for achieving this strategic objective and targeting the most significant environmental violations.[28] According to OECA officials, the current strategic goal and objective focus on compliance.

EPA also included two long-term performance goals, similar to the strategic measures in the previous strategic plan, which both focus on compliance with the law. The first goal states that by the end of fiscal year 2022, EPA will reduce the average time it takes to bring a regulated entity back into compliance. The second goal states that by the end of fiscal year 2022, EPA will increase the rate of compliance with environmental laws. In an August 2018 memorandum, EPA announced its transition from National Enforcement Initiatives to National Compliance Initiatives to support the performance goal for increased compliance and to emphasize that enforcement actions are one tool out of a larger range of compliance assurance tools to achieve this goal.[29] The announcement stated that other compliance assurance tools, such as compliance assistance, can be used to bring facilities back into compliance.

OECA identifies national initiatives every 4 years to advance EPA's strategic plan and, therefore, any changes in these initiatives reflect changes over time in the agency's strategic goals and objectives. OECA's process for selecting and modifying the national initiatives includes seeking input from outside stakeholders, including states, tribes, and the public.[30] For the fiscal years 2020 through 2023 national initiatives cycle, OECA began soliciting input from state and tribal associations on the proposed National Compliance Initiatives in early September 2018 and published a Federal Register notice in February 2019 to solicit public

[28]Civil enforcement includes civil administrative cases and civil judicial cases. Criminal enforcement is criminal cases. According to EPA's website, cleanup enforcement gets property cleaned up by finding the companies or persons responsible for the contamination and negotiating with, or ordering, them to perform the cleanup or pay for a cleanup performed by another party.

[29]Environmental Protection Agency, Assistant Administrator, *Transition from National Enforcement Initiatives to National Compliance Initiatives,* memorandum to Regional Administrators (Washington, D.C.: Aug. 21, 2018).

[30]Environmental Protection Agency, Assistant Administrator, memorandum to Regional Administrators (Aug. 21, 2018).

comments on the proposed National Compliance Initiatives through March 11, 2019.[31]

For fiscal years 2020 through 2023, OECA identified six National Compliance Initiatives to advance four of the agency's strategic plan objectives.[32] OECA can choose new national initiatives and continue, modify, or return previous initiatives back to the core enforcement program for several reasons.[33] For example, according to EPA's National Compliance Initiatives selection memorandum and EPA's website, EPA chose to

- continue the initiative for "reducing hazardous air emissions from hazardous waste facilities" from the previous national initiatives cycle into the current cycle because the agency found that air emissions violations associated with the improper management of hazardous waste remain widespread;
- modify the initiative for "keeping the industrial pollutants out of the nation's waters" to add a focus on increasing the percentage of National Pollutant Discharge Elimination System permit compliance for all National Pollutant Discharge Elimination System facilities; and
- return the previous initiative for "reducing air pollution from the largest sources" back to the core enforcement program because EPA and state enforcement efforts successfully resulted in reduced emissions and investigations in over 90 percent of facilities in the glass, cement, and acid manufacturing sectors.

Figure 4 shows how EPA's national initiatives have changed over the three most recent national initiative cycles.

[31]The fiscal year 2020 through 2023 National Compliance Initiatives were identified in a June 2019 memorandum and went into effect in October 2019, when fiscal year 2020 began.

[32]The four strategic plan objectives include (1) Improve Air Quality, (2) Provide for Clean and Safe Water, (3) Ensure Safety of Chemicals, and (4) Compliance with the Law. In addition to the six fiscal year 2020 through 2023 National Compliance Initiatives, OECA identified a seventh priority area, in which OECA will focus on contributing to the agency-wide goal of reducing childhood lead exposures and associated health impacts.

[33]According to EPA officials, if an initiative is returned back to the core enforcement program, the initiative no longer gets the heightened management attention and resources of the national initiatives, but the initiative is still part of EPA's enforcement program, and the agency still pursues enforcement actions when needed.

Figure 4: EPA's National Enforcement and Compliance Initiatives, Fiscal Years (FY) 2014 through 2023

Environmental area	National Enforcement Initiatives, FY2014-16	National Enforcement Initiatives, FY2017-19	National Compliance Initiatives, FY2020-23
Air	Cutting toxic air pollution that affects communities' health	Cutting hazardous air pollutants	Creating cleaner air for communities by reducing excess emissions of harmful pollutants from stationary sources[a]
	Reducing widespread air pollution from the largest sources, especially the coal-fired utility, cement, glass, and acid sectors	Reducing air pollution from the largest sources	
			Stopping aftermarket defeat devices for vehicles and engines
Water	Keeping raw sewage and contaminated stormwater out of the nation's waters	Keeping raw sewage and contaminated stormwater out of the nation's waters	
	Preventing animal waste from contaminating surface and ground waters	Preventing animal waste from contaminating surface and ground waters	
		Keeping industrial pollutants out of the nation's waters	Reducing significant noncompliance with National Pollutant Discharge Elimination System permits
			Reducing noncompliance with drinking water standards at Community Water Systems
Hazardous waste	Reducing pollution from mineral processing operations		
Air and water	Assuring energy extraction sector compliance with environmental laws	Ensuring energy extraction activities comply with environmental laws	Creating cleaner air for communities by reducing excess emissions of harmful pollutants from stationary sources[a]
Air and hazardous waste		Reducing toxic air emissions from hazardous waste facilities	Reducing hazardous air emissions from hazardous waste facilities
		Reducing risks of accidental releases at industrial and chemical facilities	Reducing risks of accidental releases at industrial and chemical facilities

Initiative continued from prior cycle

Initiative was modified from prior cycle

Initiative not continued into next cycle and returned to the core enforcement program

Source: GAO review of Environmental Protection Agency (EPA) information. | GAO-21-82

Note: In August 2018, with the announcement of the transition from National Enforcement Initiatives to National Compliance Initiatives, EPA also announced it would extend the national initiatives cycle from 3 years to 4 years to better align with when it issues relevant national guidance.

[a]The "Creating cleaner air for communities by reducing excess emissions of harmful pollutants from stationary sources" national initiative is listed twice in the fiscal year 2020 through 2023 column because, according to EPA officials, this initiative evolved from two different previous initiatives.

In June 2019, OECA announced it had selected the current national initiatives in part based on discussions with EPA regional offices. According to the announcement, regional offices are included in discussions in part because those offices are responsible for allocating resources to achieve national initiatives while balancing their own regions' priorities.[34] EPA headquarters officials we interviewed said regional offices use the annual regional enforcement plans to document their enforcement and compliance regional priorities, which they develop in alignment with the national initiatives. However, EPA provided little or no documentation to support these agency officials' statements.

Based on our review of the regional plan templates, we identified sections of the regional enforcement plans for fiscal years 2016 through 2019—specifically, those about national initiatives investments, level of effort/tradeoffs, and regional priorities—that might be expected to include information relevant to our objective. EPA deemed the information in the national initiatives investment and level of effort/tradeoffs sections and much of the information in the regional priorities sections to be deliberative, law enforcement sensitive, or both. Therefore, an EPA General Counsel official described general examples of the type of material EPA stated is contained in the national initiatives investment section. One of those examples was that a region discussed a shift in priorities from stormwater and sewage discharges from one type of facility to another type of facility, which aligned with EPA's new national initiatives.

EPA Did Not Finalize Guidance to Regional Offices and States That Communicates How to Implement the National Compliance Initiatives

As of September 2020, EPA had not finalized guidance to regions and states for implementing the National Compliance Initiatives, even though the initiatives went into effect on October 1, 2019.[35] In its August 2018 memorandum announcing the transition from National Enforcement to National Compliance Initiatives, EPA stated it would develop guidance with strategies on how to achieve the initiatives.[36] According to the memorandum, this guidance will include approaches using the agency's

[34]Environmental Protection Agency, Assistant Administrator, memorandum to Regional Administrators (June 7, 2019).

[35]According to EPA headquarters officials, some national initiatives, such as the initiative to stop aftermarket defeat devices for vehicles and engines, involve programs that EPA cannot authorize or delegate to states and are handled by EPA.

[36]Environmental Protection Agency, Assistant Administrator, memorandum to Regional Administrators (Aug. 21, 2018).

full range of compliance assurance tools for achieving the goals of each National Compliance Initiative. Compliance assurance tools could range from compliance assistance—such as one-on-one counseling and training—to inspections, and then to enforcement actions.

According to the memorandum, by September 2019, OECA and regional offices planned to develop the guidance and engage with states and tribes on the mix of compliance assurance tools that would be the most effective for the implementation of each National Compliance Initiative.[37] This was consistent with a joint ECOS-EPA Compliance Assurance Workgroup recommendation that EPA invite states to help develop implementation strategies and identify the appropriate mix of tools to support these national initiatives.[38] However, according to EPA headquarters officials, it took longer to coordinate with states and other stakeholders, such as state associations and tribes, for input than anticipated. EPA headquarters officials said they worked with states to develop two-page previews of the final National Compliance Initiatives guidance, which they shared with states in March 2020 to seek their input on the strategies for implementing the initiatives.

According to EPA headquarters officials, some of the National Compliance Initiatives address programs that are only implemented by EPA (e.g., mobile sources of air pollution) or largely implemented by EPA (e.g., chemical accident reduction), and other initiatives address noncompliance in programs that are largely implemented by states (e.g., significant noncompliance with water pollution program permits). As a result, EPA headquarters officials said they coordinated more with states to get their input on implementing initiatives that address programs primarily implemented by states. For example, according to these headquarters officials, EPA coordinated extensively with states in developing strategies to implement the water National Compliance Initiatives, which included outreach and coordination with state public health and environmental agencies, national initiative working groups, the Association of State Drinking Water Administrators, and the Association of Clean Water Administrators, as well as EPA symposia to discuss the

[37]Environmental Protection Agency, Assistant Administrator, memorandum to Regional Administrators (Aug. 21, 2018).

[38]According to this report, ECOS and EPA established the joint Compliance Assurance Workgroup to find ways to improve the state-federal relationship in the context of compliance assurance. ECOS-EPA Compliance Assurance Workgroup, *Final Report of the ECOS-EPA Compliance Assurance Workgroup*, Version 1.0 (Washington, D.C.: Aug. 23, 2018).

national initiatives with states. The officials told us that these outreach activities took more time than anticipated but were critical to ensure successful implementation of these initiatives because EPA relies on states to implement these initiatives and achieve shared goals.

According to EPA headquarters officials, this is the first time that OECA plans to distribute guidance to the states for implementing the national initiatives, as part of EPA's efforts to enhance its partnership with states to ensure compliance with environmental laws. Distributing this guidance to all states in a timely manner would help ensure that states have quality information and the optimal mix of enforcement and compliance tools identified by EPA to achieve each National Compliance Initiative. Federal standards for internal control state that management should communicate quality information externally so that external parties can help the entity achieve its objectives.[39] Also, in our October 2017 report on key considerations for regulatory design and enforcement, we stated that agencies should identify and assess the optimal mix of enforcement and compliance tools to achieve their objectives.[40] For future national initiative cycles, communicating final guidance before the national initiatives go into effect would provide EPA better assurance that both regional agency offices and states—EPA's key partners in implementing enforcement and compliance priorities—have this information in time to help EPA address the most serious environmental issues.

EPA's Coordination with States Has Generally Remained the Same or Improved, but EPA Did Not Provide All States Key Information about Its Shift in Priorities

Aspects of EPA's coordination with states to enforce and ensure compliance with environmental laws—including methods, activities, and plans—have generally remained the same or improved since the agency shifted enforcement priorities in 2018, according to our review of regional enforcement plans and interviews with officials from EPA and 10 selected

[39]GAO-14-704G.

[40]GAO-18-22.

states.[41] During this time, EPA also elevated the importance of coordination with states into a strategic goal and developed a plan for engaging with states on its new priorities.[42] However, EPA did not provide all states with key information about how to implement the new priorities, as anticipated in its plan.

EPA's Coordination with States on Enforcement and Compliance Has Generally Remained the Same or Improved since Shifting Priorities in 2018

EPA's Emphasis on Coordination with States

From the previous strategic planning period (fiscal years 2014 through 2018) to the current strategic planning period (fiscal years 2018 through 2022), EPA has also emphasized coordination through partnership with the states in documents and policies. In particular, in 2018, EPA elevated the importance of coordination with states when it added "More Effective Partnerships" as a strategic goal to its current strategic plan to help the agency carry out shared enforcement responsibilities with regulatory partners, including states.[43]

EPA has also taken other actions to emphasize the importance of coordination. In August 2018, the ECOS-EPA Compliance Assurance Workgroup issued its final report, which included best practices for states

[41]EPA did not deem any of the sections of the regional enforcement plans related to state oversight or coordination to be deliberative or law enforcement sensitive. As discussed earlier, we selected these 10 states based on geographic dispersion—one state from each of EPA's 10 regions—and number of enforcement cases. The results of our interviews with state officials in selected states cannot be generalized to all states.

[42]Environmental Protection Agency, *FY 2018-2022 U.S. EPA Strategic Plan.*

[43]EPA initially issued its strategic plan for fiscal years 2018 through 2022 with the Goal 2 of "Cooperative Federalism: Rebalance the power between Washington and the states to create tangible environmental results for the American people." In September 2019, EPA issued an updated strategic plan with the Goal 2 of "More Effective Partnerships: Provide certainty to states, localities, tribal nations, and the regulated community in carrying out shared responsibilities and communicating results to all Americans." According to the updated strategic plan, EPA revised language in the plan to better reflect the agency's environmental and policy goals, but the updates do not change the agency's strategic objectives or long-term performance goals. Environmental Protection Agency, *FY 2018-2022 U.S. EPA Strategic Plan.*

and EPA regions to consider in improving communication, planning, and coordination of compliance assurance activities.[44] According to the then Acting EPA Administrator, an October 2018 memorandum drew from ECOS efforts to clarify the regulatory partnership between states and EPA and outlined four principles to support the new strategic goal on effective partnerships, including general deference to states and tribes implementing federally delegated programs and clear standards of review and predictable processes.[45] In July 2019, EPA issued a policy on enhancing effective partnerships, which reflected recommendations from the ECOS-EPA workgroup report, explaining that EPA and the states should engage in effective, two-way communication.[46]

EPA's emphasis on effective partnerships has also extended to how it wants regions to coordinate with states. Based on our review of the templates headquarters officials gave to regional officials to develop their enforcement plans, EPA has changed how it wants regional offices to categorize coordination with states in their enforcement plans. Specifically, the template for fiscal years 2016 and 2017 plans categorizes coordination as "State Oversight," and the template for fiscal year 2020 plans (sent to regional offices in 2019) categorizes it as "Joint Planning and Worksharing in Authorized States," which reflects EPA's July 2019 partnership policy.[47]

[44]ECOS-EPA Compliance Assurance Workgroup, *Final Report of the ECOS-EPA Compliance Assurance Workgroup*.

[45]The four principles included in the memorandum are (1) general deference to states and tribes implementing federally delegated programs, (2) effective communication, (3) clear standards of review and predictable processes, and (4) a clear process for elevation of issues. Environmental Protection Agency, Acting Administrator, *Principles and Best Practices for Oversight of Federal Environmental Programs, Implemented by States and Tribes*, memorandum to Assistant Administrators, Regional Administrators, Deputy Assistant Administrators, and Deputy Regional Administrators (Oct. 30, 2018).

[46]Environmental Protection Agency, Assistant Administrator, *Enhancing Effective Partnerships Between the EPA and the States in Civil Enforcement and Compliance Assurance Work*, memorandum to Regional Administrators (July 11, 2019).

[47]Regional enforcement plans are to include a section on how regional offices coordinate with states to enforce and ensure compliance with federal environmental laws, according to the templates that headquarters officials said regions use to develop these plans. Based on our review of the regional plans, 38 regional enforcement plans include a section on how regional offices work with states, and two regional plans for 1 fiscal year did not include such a section.

EPA Regional Offices' Views on Coordination with States

Based on our review of EPA regional enforcement plans for fiscal years 2016 through 2019—specifically the "State Oversight," "State Collaboration and Coordination," and "State Coordination" sections, depending on a plan's fiscal year—the methods for and frequency of the agency's coordination with states have generally remained the same since before 2018, when the agency shifted enforcement priorities to emphasize compliance and elevated the importance of coordination with states in a strategic goal. Coordination between EPA regional offices and states continues to be critical in enforcing and ensuring compliance with environmental laws, according to the regional enforcement plans and senior officials we interviewed from all 10 EPA regions. Furthermore, senior officials from five regions told us they maintain strong partnerships with state officials in their region through regular meetings and phone calls and emails as needed, which they said began before EPA added this strategic goal in 2018.[48]

Activities such as training and technical assistance have been important aspects of EPA's coordination with states since before the agency shifted priorities to emphasize compliance and elevated the importance of coordination with states, particularly during times of limited resources, based on our review of the regional enforcement plans and interviews with senior regional officials. For example:

- In its plans for fiscal years 2017 and 2018, one region emphasized the importance of identifying issues of mutual concern to the region and states because states in the region faced declining resources.
- In a plan for a different region for fiscal year 2019, regional officials described how they would conduct certain joint inspections with officials in one state until the state obtains the appropriate camera and certification needed for such inspections.
- Officials from another region stated in a plan for fiscal years 2016 and 2017 that they would conduct joint inspections with a state and, in its plan for fiscal year 2019, added that they would, upon request and as resources would allow, conduct certain joint inspections to help build state capacity and supplement for shortfalls in state resources and expertise.

[48]Senior officials from the other five regions did not comment on whether their partnerships with state officials in their region were strong since before 2018. Environmental Protection Agency, *FY 2018-2022 U.S. EPA Strategic Plan.*

- Senior officials we interviewed in one region said that one state did not have expertise in the field, due in large part to retirements, and officials from that state asked the region for help with training.

In addition, some aspects of EPA's coordination with states may have improved in certain regions, according to the regional enforcement plans we reviewed and interviews with senior regional officials. For example:

- According to our review of the regional enforcement plans, regions planned to take certain steps to improve coordination with states since EPA shifted priorities. One region did not mention or include examples of how states provided input on coordination in its enforcement plans for fiscal years 2016 and 2017, but in its plans for fiscal years 2018 and 2019, the region explained that it negotiates with states on the types of sources to be investigated and discusses enforcement progress and compliance outcomes. Another region did not describe how it would coordinate with states regarding compliance and enforcement responsibilities in its enforcement plans for fiscal years 2016 and 2017. However, in its plans for fiscal years 2018 and 2019, the region indicated that it will notify states before issuing enforcement documents, provide states advance notice of inspections and give an opportunity for states to participate, and send states all documents it issues to facilities in the state, with the exception of documents that are privileged settlement correspondence.
- Senior officials we interviewed in four regions told us that they believed coordination with states in their region has improved since 2015. For example, in one region, senior officials said that additional support from and involvement by EPA headquarters and senior regional leadership has enhanced planning and communication with senior state leadership.
- According to senior officials in three regions, coordination with states could improve since their regions realigned in 2019 to reflect EPA's headquarters organizational structure. These officials said that previously, regional officials were organized differently across program and enforcement activities, but now that regional enforcement activities and resources are centralized, those activities are carried out in the regions by the Enforcement and Compliance

Assurance Division.[49] Realigned in this way, staff in these regional divisions can more efficiently address enforcement and compliance issues that may occur across programs instead of addressing them on a program-by-program basis as before, according to officials from one region.

Senior officials in one region stated that, since 2015, certain changes in coordination with states have introduced challenges. For example, under EPA's principle of general deference to authorized states, senior regional officials said they have shifted enforcement and compliance resources from state-authorized programs to other areas, such as enforcement in Indian country, where EPA has direct implementation authority and the states do not. However, according to these officials, some authorized states do not have the resources to fully take on responsibilities that the regional office covered before the shift. Senior officials from this regional office said they will still assist state-authorized programs that do not have the resources to carry out enforcement responsibilities.

Selected States' Views on Coordination with EPA

Coordination between EPA regional offices and the states they oversee has also generally remained the same or improved, according to officials we interviewed from 10 geographically diverse states with a high number of enforcement cases.[50] These officials identified aspects of EPA coordination that have been the same since before the agency shifted priorities to emphasize compliance and elevated the importance of coordination with states. For example:

- Officials we interviewed from most of the 10 selected states said they had developed long-standing partnerships with their EPA regional offices since before 2018 and that coordination with EPA has generally remained the same. For example, officials from some of

[49]According to EPA headquarters officials, OECA is the enforcement and compliance division for EPA, and each regional office's Enforcement and Compliance Assurance Division is the enforcement and compliance division for that region. According to EPA's website, the Enforcement and Compliance Assurance Division is responsible for developing and implementing each region's enforcement and compliance assurance program and statutes EPA administers. According to EPA, the regional Enforcement and Compliance Assurance Division directors implement the civil regulatory enforcement program, and Superfund enforcement remains in the Superfund and Emergency Management Divisions.

[50]As discussed earlier, we interviewed officials from one state in each of EPA's 10 regions. This sample is nongeneralizable and, therefore, we cannot speak to any changes that may have occurred in the rest of the country. We use modifiers to quantify the number of selected states as follows: "some" represents two to three states, "several" represents four to five states, and "most" represents six to nine states.

these states said that, while certain points of contact in their regional offices have changed during the two planning periods, these changes did not have a significant impact on how they worked with EPA on enforcement and compliance assurance.

- Officials from several of the 10 selected states said they had been coordinating with regional offices on a range of compliance assurance tools, including inspections and formal enforcement actions, before EPA emphasized compliance in its 2018 strategic changes. In addition, representatives from ECOS told us that changing the national priorities from National Enforcement Initiatives to National Compliance Initiatives—part of a 2018 recommendation the ECOS-EPA Compliance Assurance Workgroup made to EPA—better reflected the range of tools states already used to carry out their delegated authority.
- Officials from some of the 10 selected states said that they had expected coordination to improve with EPA's new emphasis on effective partnerships with states but that coordination has generally remained the same. Officials from one state said that, even with EPA's increased emphasis on coordination, EPA still does not share information on enforcement negotiations involving facilities in their state, which they said means they do not know what enforcement actions, including the scope and scale, EPA is taking in their state.

State officials also told us about some aspects of EPA coordination that have improved during this current planning period. For example:

- Officials from several of the 10 selected states said that coordination with EPA related to planning and conducting inspections had improved due to EPA actions. For example, officials in one state said that their Hazardous Waste Program has seen more communication being led by EPA than before 2018, such as checking in more frequently on whether EPA can assist with any inspections. Officials in another state said that, in March 2018, staff from their regional office started providing them with a list of inspection targets for the upcoming quarters, which state officials said helped them know more about EPA's inspection and enforcement priorities and to discuss targeting strategy with EPA officials. However, these state officials also said that they would like EPA to invite them to site visits or facility tours in their state. The importance of attending inspections with EPA was also shared by officials in another state, who said they consider EPA inspections a helpful training opportunity for newer employees, especially since a significant number of experienced employees had retired over the past 7 years, and they have had difficulty filling these

positions and adequately training staff to carry out enforcement responsibilities. The state officials added that it is more difficult to send employees out to trainings under a constrained budget, and they would like to see more EPA inspectors come to the state and assist state employees. The officials said that EPA is aware of these staffing issues and is trying to help them.

- Officials from several of the 10 selected states mentioned that the expertise and technical assistance EPA provides to states may have changed to align with the new National Compliance Initiatives, which they believe can improve their ability to help support those priorities. For example, officials from one state said that, after EPA decided to continue "Reducing Hazardous Air Emissions from Hazardous Waste Facilities" as a national initiative in 2018, EPA provided the state with expertise and new equipment so they could conduct inspections of hazardous waste facilities.[51] These state officials said their program would not be conducting these inspections and finding violations without the equipment from EPA.

Officials we interviewed from several of the 10 selected states said that they have concerns about some aspects of EPA's coordination. For example, officials we interviewed in one state expressed concern that, even though EPA had been emphasizing a deference to authorized states and had issued best practices for joint enforcement planning, EPA took the lead on an enforcement case and did not close the case in a timely manner. In a September 2019 letter from this state to its EPA regional office, state officials said they probably spent more personnel resources trying to track the status of this case than they would have spent to close the case in a timely and appropriate manner. This example is consistent with concerns stated in a December 2019 letter ECOS sent to EPA about apparent changes to EPA's process for working with states.[52] According to the ECOS letter, several states have encountered challenges related to process, rule development, and regional oversight, even though one of EPA's current strategic goals is to provide certainty in oversight

[51]This national initiative continues the "Reducing Toxic Air Emissions from Hazardous Waste Facilities" national initiative from the fiscal year 2017-2019 cycle.

[52]ECOS sent EPA the December 2019 letter to provide additional context to concerns ECOS stated in another letter it sent to EPA in September 2019. ECOS worked with EPA on a joint Compliance Assurance Workgroup to find ways to improve the state-federal relationship in the context of compliance assurance. This workgroup was co-led by a senior state official and a senior OECA official and included other senior officials from EPA and states.

responsibilities to co-regulators, including states.[53] After discussing these concerns with EPA in a January 2020 meeting, ECOS stated in another letter that it feels confident that it can move forward with EPA on more opportunities to work together.

Officials we interviewed from a few of the 10 selected states told us that it is too early to tell whether the strategic changes EPA made in 2018 will affect how they coordinate with EPA on enforcement and compliance activities. Officials from one state in our review said that EPA's shift to National Compliance Initiatives led EPA to develop a data tool that would give states the ability to analyze data more rapidly—and thus enhance their ability to coordinate enforcement and compliance activities with EPA—but that it is too early to tell if doing so will help them bring facilities back into compliance. Officials from another state said that, due to their state's delegated authority to enforce environmental laws, EPA would rarely take the lead on enforcement actions in their state, and they are unsure if coordination would change due to EPA's strategic shifts. When we interviewed these officials in January 2020, they said they had not yet faced an enforcement case that involved factors that would cause them to involve EPA per the agency's new July 2019 partnership policy.[54]

EPA Did Not Provide All States with Key Information about Its Shift in National Priorities as Planned

EPA did not provide all states with key information about how to implement its new national initiatives, as anticipated in an August 2018 plan for engaging with states on the new priorities.[55] According to this plan, EPA regions were to engage with states on the identification and implementation of the new National Compliance Initiatives before they went into effect on October 1, 2019. This plan reflects one of the recommendations the ECOS-EPA Compliance Assurance Workgroup made to EPA—to "engage earlier and more continuously with states" on the implementation of the National Compliance Initiatives—which reflects principles for improving communication, planning, and coordination between states and EPA regions on compliance assurance activities and

[53]Environmental Protection Agency, *FY 2018-2022 U.S. EPA Strategic Plan.*

[54]Environmental Protection Agency, Assistant Administrator, memorandum to Regional Administrators (July 11, 2019).

[55]Environmental Protection Agency, Assistant Administrator, memorandum to Regional Administrators (Aug. 21, 2018).

which EPA agreed to implement.[56] Subsequently, in July 2019, EPA developed its new policy on enhancing effective partnerships that clarifies that joint work-planning involving EPA and states should include a strategic element, such as discussion of national, regional, and state compliance assurance priorities, which is consistent with a leading collaboration practice we have identified in prior work—that is, to have participating agencies document their agreement regarding how they will collaborate.[57]

However, as of October 2020, even with its new partnership policy and plan to coordinate with states on the new national initiatives, EPA did not provide all states with key information about how to implement these initiatives. For example, according to the plan, from April to September 2019, OECA initially intended to engage with states to develop strategies for implementing the new national initiatives.[58] Instead, EPA headquarters officials said that, in November 2019, OECA provided regional officials previews of the anticipated National Compliance Initiatives implementation guidance for the purpose of discussing them with states before OECA finalized the guidance for regional offices and states, as we discussed earlier.[59] Based on our review, these previews included key information—such as goals, suggested approaches, and performance measures—states would need to know to coordinate more effectively with EPA to achieve the national initiatives. However, senior officials we

[56]In addition, the workgroup helped OECA develop two other recommendations: (1) emphasize compliance assurance tools beyond enforcement and (2) expand the national initiative cycle to 4 years to better align with the agency's National Program Guidance cycle. EPA agreed to implement all three recommendations. ECOS-EPA Compliance Assurance Workgroup, *Final Report of the ECOS-EPA Compliance Assurance Workgroup*.

[57]In addition to this practice, EPA's July 2019 partnership policy also reflects leading collaboration practices to include all relevant participants, clarify their roles and responsibilities, and agree on common terminology and definitions, as we identified in our 2012 report. We selected these practices for our assessment because we determined they were the most relevant to this situation. In prior work, we used the terms "collaboration" and "coordination" interchangeably. For the purposes of this work, we use "coordinate" to reflect the oversight role EPA has with authorized states. Environmental Protection Agency, Assistant Administrator, memorandum to Regional Administrators (July 11, 2019); and GAO-12-1022.

[58]Environmental Protection Agency, Assistant Administrator, memorandum to Regional Administrators (Aug. 21, 2018).

[59]As discussed earlier, EPA headquarters officials said that the level of input sought from states and state associations on the implementation of the national initiatives varied in part based on the extent an initiative addresses state-authorized programs.

interviewed—from some of the 10 selected states and three representatives of the ECOS Executive Committee—in December 2019 through February 2020 said that they were unaware of the previews or that EPA had not shared the previews with them.[60] Senior officials we interviewed from other selected states received a copy of the draft preview documents in December 2019. The EPA regional office for one of these states asked the state to provide comments by late January 2020. In March 2020—about 18 months after EPA announced the new national initiatives—EPA provided regional officials with drafts of the implementation guidance to seek input from states.

According to EPA headquarters officials, this was the first time OECA had worked this closely with states to develop approaches for implementing the National Compliance Initiatives, and it took longer than they initially had anticipated to gather and incorporate input from states on specific implementation strategies. For example, EPA headquarters officials said that this was the first year OECA had prepared preview documents for regional officials to discuss with states and the first time OECA had planned to issue a version of the implementation guidance to share with states. Federal standards for internal control state that management should identify, analyze, and respond to significant changes that could impact the internal control system.[61] EPA plans to identify and analyze the National Compliance Initiatives every 4 years and make changes based on that evaluation, and the next implementation cycle is scheduled to start after fiscal year 2023.[62] By incorporating lessons learned from this initial effort to engage earlier with states into future cycles of national initiatives, EPA would have better assurance that states—the agency's key partners in enforcement and compliance—will be able to coordinate effectively on joint work-planning and support EPA's progress toward achieving its strategic goals.

[60]We spoke with senior officials who manage each of the 10 selected state's implementation of the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act, as applicable, depending on whether the state had been authorized, or delegated authority, to enforce those laws.

[61]GAO-14-704G.

[62]Environmental Protection Agency, Assistant Administrator, memorandum to Regional Administrators (Aug. 21, 2018).

EPA Has Assessed Enforcement and Compliance Activities but Could Not Demonstrate Regional-Level Assessment

Since EPA shifted priorities to emphasize compliance with environmental laws in 2018, the agency has assessed its enforcement and compliance activities through agency-wide annual performance reports—designed to reflect progress toward its strategic objectives—and state-level oversight processes specific to the enforcement of environmental laws.[63] However, EPA could not demonstrate the extent to which it conducts assessments at the regional level—where OECA allocates over 70 percent of its resources to carry out enforcement and compliance activities—in part because it does not document its primary method for assessing regional-level performance.

EPA Has Assessed Enforcement and Compliance Activities through Agency-Wide and State-Level Reviews

The agency has assessed enforcement and compliance activities at agency-wide, regional, and state levels using different methods, according to agency documents and EPA headquarters and regional officials. See table 3 for details about EPA's methods for assessing enforcement and compliance activities.

[63]We examined EPA's state-level oversight processes specific to the enforcement of the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act because these are included in EPA's State Review Framework process. According to headquarters officials, oversight processes specific to primacy agency enforcement of the Safe Drinking Water Act are in early stages of development, so we do not examine them in this report.

Table 3: EPA's Methods for Assessing Enforcement and Compliance Activities at the Agency-Wide, Regional, and State Levels

Level of enforcement and compliance activities	Assessment method	Description
Agency-wide	Annual performance reports	Reports progress against performance targets that support strategic goals and objectives in EPA's Fiscal Year 2018-2022 Strategic Plan, including enforcement and compliance activities.
Regional	Regional enforcement meetings	EPA headquarters and regional officials are to meet to discuss regional enforcement and compliance activities, including a review of performance metrics and progress toward annual goals.
	Regional tracking charts	EPA headquarters and regional officials said they use these internally to assess ongoing regional enforcement and compliance activities against national and regional performance targets, such as those set for National Compliance Initiatives.
	Regional enforcement plans	These annual internal documents are to include sections about regional performance measures and may include assessments of regional activities.
State	State Review Framework	Assess each authorized state's enforcement of certain provisions of the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act on a 5-year cycle, with the goal to improve state performance in minimum performance standards outlined in federal policies and guidance.[a]

Source: Environmental Protection Agency (EPA) | GAO-21-82

[a]The State Review Framework also includes assessment of EPA regional offices' enforcement of these laws in states that are not authorized, or delegated authority, to enforce them.

Assessment of Agency-Wide Enforcement and Compliance Activities

EPA has assessed overall, agency-wide enforcement and compliance activities through annual performance reports, as required by GPRAMA.[64] According to its annual performance report for fiscal year 2019, EPA documented its second year of progress toward the three goals in its current strategic plan for fiscal years 2018-2022, including related enforcement and compliance activities.[65] For example, to assess progress on its first strategic goal of a cleaner, healthier environment, EPA detailed in this report the number of community water systems out of compliance with drinking water regulations, which the agency reported

[64]GPRAMA requires federal agencies to create an agency performance plan (31 U.S.C. § 1115(b)) and issue an annual performance report (31 U.S.C. § 1116). GPRAMA requires the annual performance report to compare actual performance achieved with the performance goals established in the performance plan.

[65]Environmental Protection Agency, *Fiscal Year 2021 Justification of Appropriation Estimates for the Committee on Appropriations.*

had increased from the prior year. In response, according to the report, EPA is providing technical assistance to community water systems to support regions in addressing underlying compliance challenges. To assess progress toward its second strategic goal of more effective partnerships, EPA detailed in this report the number of program areas where EPA launched a new framework designed to standardize its oversight of states across regions and focus federal resources on the most important work, which the agency reported exceeded performance targets.[66] To assess progress on its third strategic goal for greater certainty, compliance, and effectiveness, EPA detailed in the report the amount of pollutants reduced, treated, or eliminated through enforcement actions, which the agency reported exceeded performance targets.

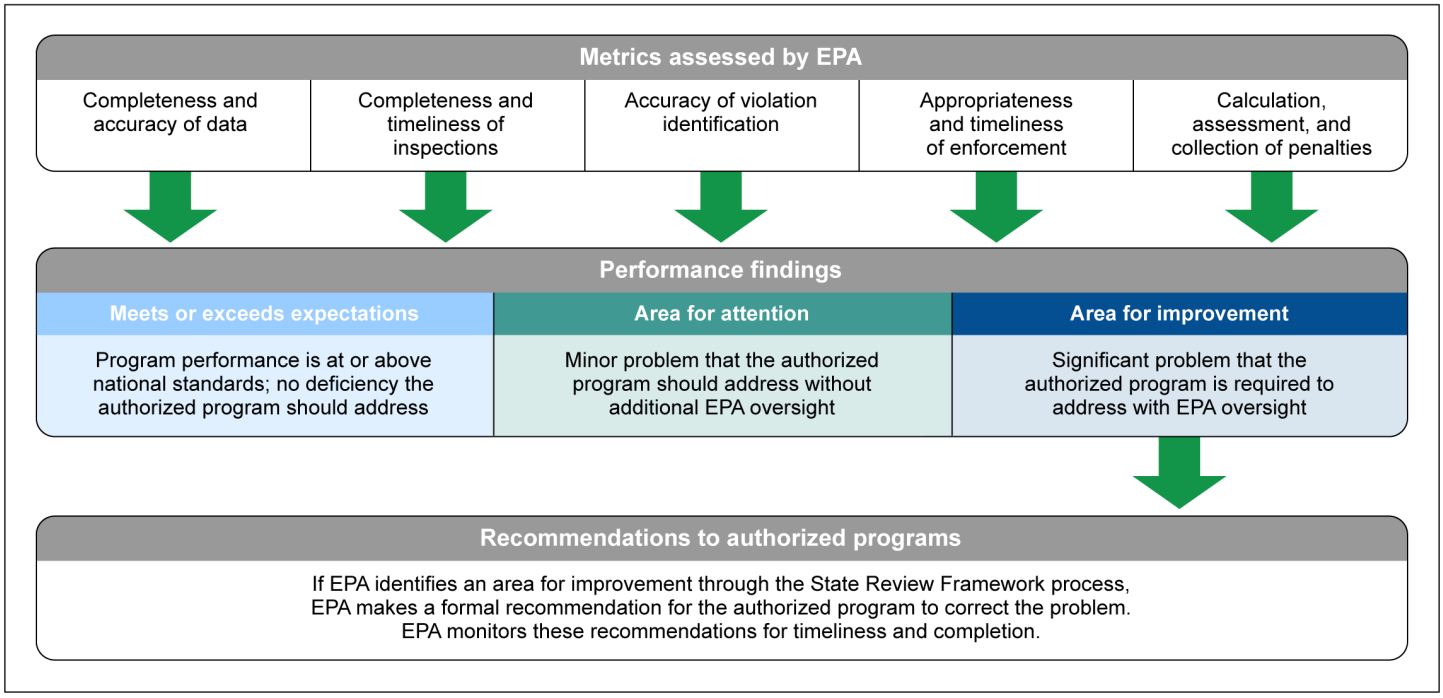
Assessment of State-Level Enforcement and Compliance Activities

EPA has assessed state-level enforcement and compliance activities related to the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act through the State Review Framework.[67] OECA manages the State Review Framework at the agency-wide level, and each regional EPA office implements the framework for the states in its region. Figure 5 shows how EPA uses the State Review Framework process to improve how authorized states enforce and ensure compliance with environmental laws.

[66]According to EPA's fiscal year 2019 *Annual Performance Report*, EPA's new oversight framework is defined as the overarching principles laid out in a 2018 EPA memorandum. According to the performance report, to meet this performance target, the agency's Clean Water Act and Clean Air Act programs piloted this framework and, after seeking feedback from states, EPA implemented the framework in all 10 regional offices. Environmental Protection Agency, *Fiscal Year 2021 Justification of Appropriation Estimates for the Committee on Appropriations.*

[67]EPA headquarters officials told us about a pilot for regional offices to review primacy agency responses to National Primary Drinking Water Rule violations, including Public Notice Rule noncompliance, and that the pilot will begin in the first quarter of fiscal year 2021. According to headquarters officials, if EPA finds the approach effective, the agency will implement a national program for periodic reviews of primacy agencies. Headquarters officials also told us EPA has proposed to test the efficacy of using compliance monitoring inspections and enforcement actions to address noncompliance with Safe Drinking Water Act requirements. According to these officials, if this effort is funded, EPA will test whether compliance assurance activities compel compliance at a greater rate than compliance assistance alone.

Figure 5: EPA's State Review Framework Process



Source: Environmental Protection Agency (EPA). | GAO-21-82

Note: The State Review Framework assesses enforcement of certain provisions of the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act programs by each state or by EPA regional offices if the state has not been authorized or delegated authority to implement a program. A separate State Review Framework report is issued for each program on 5-year cycles. An authorized program refers to states that have been authorized, or delegated authority, to implement the program.

Under the State Review Framework, regional officials are to use a set of metrics to assess each state's performance in managing certain provisions of the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act on 5-year cycles.[68] Based on EPA's assessment of a state's performance in meeting these metrics, EPA assigns ratings to those findings that may include recommendations for

[68]According to EPA guidance, through the State Review Framework process, regional offices assess state enforcement and compliance activities for Title V of the Clean Air Act; the National Pollutant Discharge Elimination System of the Clean Water Act; and Subtitle C under the Resource Conservation and Recovery Act against a standardized set of metrics to make findings on performance in five categories: data, inspections, violations, enforcement, and penalties.

areas of improvement.[69] EPA monitors any formal recommendations across each state's 5-year State Review Framework cycle and may work with states to implement them, according to EPA guidance. For example, after EPA conducted a 2015 State Review Framework assessment of one of the 10 states in our review, it recommended that the state address and resolve outstanding high-priority Clean Air Act violations and develop draft standard operating procedures within 90 days to identify and address future violations.[70] In response, the state set up a system to better identify high-priority violations and agreed to collaborate with the EPA regional office on updating its related processes. Through a State Review Framework assessment conducted in 2015 of a different state in our review, EPA found that the state did not take actions to address four facilities' noncompliance with the Clean Water Act. To address this issue, EPA recommended that the state resolve these violations timely and appropriately in accordance with national guidance and instructed the state to send EPA a list of steps taken to address the issue within 90 days.[71] In response, the state agreed to address violations within the recommended time frames.

Officials we interviewed from some of the 10 selected states said that the State Review Framework helps ensure their states meet EPA standards for enforcement and compliance activities and that framework findings have led to improvements in state processes. For example, officials in one state said that framework findings led them to change procedures to

[69]According to EPA headquarters officials, the agency has a range of tools to assist and encourage states to implement recommendations, including training and technical support; increased oversight; work-sharing; taking EPA action in the state; and, as a last resort, temporary or partial withdrawal of a program. In certain extremely rare circumstances, full program withdrawal may occur until the state once again meets authorization or delegation requirements. Environmental Protection Agency, *National Strategy for Improving Oversight of State Enforcement Performance* (Washington, D.C.: Dec. 12, 2013).

[70]According to EPA's State Review Framework recommendation tracker, the state completed this recommendation by the deadline of June 30, 2018. EPA policy defines high-priority violations for the Clean Air Act as violations most likely to be significant for human health and the environment or for maintenance of strong Clean Air Act programs and provides criteria for identifying high-priority violations. Environmental Protection Agency, *Revision of U.S. Environmental Protection Agency's Enforcement Response Policy for High Priority Violations of the Clean Air Act: Timely and Appropriate Enforcement Response to High Priority Violations – 2014* (Washington, D.C.: Aug. 25, 2014).

[71]According to EPA's State Review Framework recommendation tracker, the state completed this recommendation by the deadline of April 4, 2017.

improve timely identification of noncompliance. Officials in another state said that framework findings helped support their request for more state resources and personnel. However, state officials also raised concerns about the reliability of certain findings. For example, officials from two states said they have disagreed with certain framework findings because they felt EPA's review did not include data from the correct time period. In one instance, according to state officials, several of EPA's findings were inaccurate because the reviewer limited the assessment to an earlier fiscal year. EPA headquarters officials told us that, if not enough data are available for a particular review period, they may decide to include data from prior to the review period.[72]

EPA Could Not Demonstrate the Extent of Regional-Level Assessment of Enforcement and Compliance Activities

While OECA and regional officials described the different ways they assess and measure progress toward EPA's enforcement and compliance objectives at the regional level, they could not demonstrate the extent to which they conduct these assessments. In particular, OECA officials told us they do not document the outcomes of the agency's primary method for assessing regional-level enforcement and compliance activities. These officials told us that they assess enforcement and compliance activities at the regional level primarily through in-person and videoconference meetings held multiple times a year with regional offices, during which they review regional enforcement performance based on metrics such as inspections, case initiations, and case conclusions. Based on our review of meeting agendas, during these regional enforcement meetings, senior officials from headquarters and regions are to discuss assessments of national and regional priorities, enforcement activities, and resource investments. In their written responses to our questions, regional officials stated that, during these meetings, they discuss their progress toward annual goals, evaluate changes to strategies, and review goals and performance activities. However, OECA officials said that they do not document the outcomes of these regional enforcement meetings because they can recall what they discussed during those meetings. As such, they could not provide information on their assessment of the regions' performance toward EPA's strategic goals related to enforcement and compliance. Assessing and measuring progress toward objectives is consistent with performance planning

[72]These officials also said that states have the responsibility to provide correct data for the framework review process and that the review process provides an opportunity for states and regional offices to discuss and verify data.

leading practices for planning at lower levels, such as the EPA regional offices.[73]

Based on our previous work, performance reporting is an important management tool for agencies, and performance planning leading practices indicate that performance reporting updates should contain elements such as an evaluation of current performance plans to performance achieved, actions for unmet goals, and a summary of program evaluation findings.[74] Annual program performance reports are the feedback to managers, policymakers, and the public as to what was actually accomplished for the resources expended.[75] EPA compiles and manages data on enforcement and compliance activities, and representatives we interviewed from environmental groups emphasized that EPA is the only reliable source for information on these activities. EPA shifted its priorities to emphasize compliance in 2018, but because it does not document the outcomes of its primary regional-level assessment efforts, it could not demonstrate whether its regional activities supported its new strategic objectives. Also, as discussed earlier, EPA did not demonstrate that its regional enforcement plans reflected the new objectives. Federal internal control standards call for agencies to develop and maintain documentation of their internal control system, which includes activities to monitor performance.[76] This documentation allows management to retain organizational knowledge and communicate that knowledge to external parties and is evidence that controls are identified, can be communicated to those responsible for their performance, and can be monitored and evaluated by the entity. By documenting the assessment of enforcement and compliance activities at the regional

[73]GPRAMA defines a performance goal as the target level of performance expressed as a tangible, measurable objective against which actual achievement is to be compared, including a goal expressed as a quantitative standard, value, or rate. 31 U.S.C. § 1115(h)(9).

[74]For example, see GAO, *Performance and Accountability: Reported Agency Actions and Plans to Address 2001 Management Challenges and Program Risks,* GAO-03-225 (Washington, D.C.: Oct. 31, 2002). Some of this prior work examined GPRA requirements before the act was amended by GPRAMA. GPRAMA, which significantly updated and enhanced GPRA, requires agencies to develop annual performance plans that establish performance goals to define the level of performance to be achieved. We have previously reported that these requirements can serve as leading practices for planning at lower levels of the agency.

[75]This type of information is ideally available to program managers on a more regular basis throughout the year but, at a minimum, there needs to be an annual compilation and reporting of results. S. Rep. No. 103-58, at 16 (1993).

[76]GAO-14-704G.

level, including progress toward performance that supports the agency's new strategic objectives, OECA would be better positioned to ensure that these activities support progress toward these objectives.

In addition to its primary method of assessing regional-level enforcement and compliance activities—in-person and videoconference meetings—EPA uses tracking charts and other region-specific tools to help measure progress toward agency-wide and regional goals, according to EPA headquarters and regional officials. Officials from all 10 EPA regions told us they use tracking charts to assess ongoing progress against specific performance targets, such as the number of enforcement actions conducted and the rates of noncompliance, to measure their region's progress toward national and regional enforcement and compliance goals. Additionally, regional officials said they may use region-specific tools to track activities. For example, officials in one EPA region told us that they prepare quarterly compliance assistance reports to track their compliance assistance activities, such as correspondence with regulated entities on questions about compliance and actions conducted during inspections to help regulated entities return to compliance. However, as of November 2020, EPA had not provided us copies of tracking charts or a regional compliance assistance report to support the regional officials' statements.

Further, EPA's regional enforcement plans are to include sections about regional performance measures and may include assessments of regional activities, including assessments of resources used to conduct these activities.[77] For example, according to the templates, regional plans for fiscal years 2016 through 2019 are to include a section on Annual Commitment System measures and, according to EPA guidance, these measures align with EPA's national priorities. Additionally, according to the templates EPA uses to develop regional enforcement plans, the regions have an option to include a "Regional Performance Assessments"

[77]OECA officials told us that they consider these plans primarily forward-looking planning documents for the upcoming fiscal year but, according to templates EPA uses to develop these plans, the plans are to include summaries of past enforcement and compliance activities and are intended to provide OECA with a vehicle to assess regional enforcement and compliance efforts toward national and regional priorities. These templates indicate that regional enforcement plans include a narrative on the region's level of effort, work on the current national initiatives, region-specific priorities, noteworthy shifts in the level of effort, and key trends and challenges that could affect resource allocation and enforcement results. The templates also provide instructions for submitting optional regional performance assessments.

section that describes successes, challenges, and other activities not otherwise reported in EPA databases, such as procedural changes.[78] Headquarters and regional officials also told us that EPA allocates enforcement and compliance resources to the regional offices, and regional officials align those resources to best meet regional goals based on discussions and quarterly meetings with OECA. However, the versions of the regional enforcement plans EPA provided us did not demonstrate the extent to which the plans can be used to assess regional enforcement and compliance activities.

Conclusions

Enforcing and ensuring compliance with federal environmental laws is critical to EPA's mission to protect human health and the environment, and states play a key role in overseeing the approximately 1.2 million regulated entities subject to these laws. In its fiscal years 2018 through 2022 strategic plan, EPA shifted its strategic focus from an emphasis on enforcing environmental laws to compliance with these laws. This shift led to the new National Compliance Initiatives that focus OECA's compliance and enforcement resources on the most serious environmental violations that align with the shift to focus on compliance. This is the first time OECA plans to distribute guidance to the states for implementing the national initiatives. However, the national initiatives went into effect on October 1, 2019, and, as of September 2020, EPA had not finalized the implementation guidance to states. Communicating final guidance with key partners before the effective date of future national initiative cycles would provide EPA better assurance that regional offices and states are prepared in time to support EPA's priorities for addressing the most serious environmental issues.

When EPA shifted its priorities to emphasize compliance in 2018, it also elevated the importance of coordination with states on enforcement of and compliance with federal environmental laws. Most notably, EPA added a strategic goal related to effective partnerships to its current strategic plan and issued a July 2019 memorandum that describes EPA's expectations and procedures for enhancing partnerships with the states in enforcement and compliance, emphasizing the importance of two-way communication and joint work-planning. In addition, EPA had a plan to coordinate with states earlier and more continuously on its new National Compliance Initiatives. However, even with EPA's increased emphasis on

[78]In addition, officials from one of the states in our review said that EPA has been working with them to revise inspection goals that better align with available funding because their state lost over $5 million in federal funding over the last 5 years. According to these officials, EPA has been more helpful in trying to address this challenge than 3 years ago.

coordinating with states, the agency did not provide all states with key information on how to implement the new national initiatives, as called for in its plan. Even though it took longer than OECA anticipated to gather and incorporate input from states on its implementation strategies, we view this initial effort to coordinate with states as a positive step, and the 4-year evaluation cycles provide EPA with periodic opportunities to enhance this coordination. By incorporating lessons learned from this initial effort to engage earlier with states into its planning for future national initiatives cycles, EPA would have better assurance that states will be able to coordinate effectively on joint work-planning and support EPA's progress toward achieving its strategic goals.

EPA has assessed enforcement and compliance activities through agency-wide and state-level performance reviews, but the agency could not demonstrate assessment at the regional level. Given that OECA allocates 70 percent of its enforcement and compliance resources to the regions, it is important that EPA assess regional activities. OECA officials stated that they conduct such assessments during enforcement meetings with regional officials—their primary method of assessing regional-level enforcement and compliance activities. However, OECA officials said they do not document the outcomes of these meetings, such as regional-level progress toward performance goals. EPA shifted its priorities to emphasize compliance in 2018, which may have led to changes in performance goals and metrics under new strategic objectives. By documenting the assessment of enforcement and compliance activities at the regional level, OECA would be better positioned to track its performance progress toward meeting the agency's new strategic objectives.

Recommendations for Executive Action

We are making the following three recommendations to EPA:

The Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance should communicate final guidance for future national initiative cycles to all states before the effective date of the national initiatives. (Recommendation 1)

The Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance should incorporate lessons learned from the initial effort to engage earlier and more continuously with states when developing the office's plan for how EPA will work with states on future national initiatives. (Recommendation 2)

The Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance should ensure that officials document the outcomes of EPA's primary method of assessing enforcement and compliance activities at the regional level—in-person and videoconference meetings—including progress toward performance goals that support the agency's strategic objectives. (Recommendation 3)

Agency Comments

We provided a draft of this report to EPA for review and comment. In its written comments, reproduced in appendix III, EPA stated that it agreed with our findings, conclusions, and recommendations. EPA also provided technical comments, which we incorporated into the report, as appropriate.

In response to our recommendation to communicate final guidance for future national initiative cycles to all states before the effective date, EPA stated that OECA would evaluate its processes for developing the guidance and make it a priority to finalize the guidance prior to the start date of future cycles. EPA stated that it would ensure that, as part of the process for developing the guidance, states are timely apprised of the goals and implementation milestones. EPA also said that, for the current cycle, it would share public versions of the final guidance with states in November 2020.

In response to our recommendation to incorporate in future cycles lessons learned from its initial effort to engage earlier and more continuously with states, EPA said that OECA would evaluate its processes for developing its guidance for national initiatives—including its efforts to engage earlier and more continuously with states—and incorporate lessons learned in future cycles.

In response to our recommendation to ensure that officials document the outcomes of the agency's primary method of assessing enforcement and compliance activities at the regional level, EPA said that it acknowledges the importance of documenting the outcome of its in-person or videoconference meetings between senior leadership at OECA and the regions. EPA stated that, going forward, it would ensure the outcomes of these meetings are documented.

We are sending copies of this report to the appropriate congressional committees, the Administrator of EPA, and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-3841 or gomezj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix IV.

J. Alfredo Gómez
Director, Natural Resources
and Environment

List of Requesters

The Honorable Frank Pallone, Jr.
Chairman
Committee on Energy and Commerce
House of Representatives

The Honorable Paul D. Tonko
Chairman
Subcommittee on Environment and Climate Change
Committee on Energy and Commerce
House of Representatives

The Honorable Diana DeGette
Chairman
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
House of Representatives

The Honorable Betty McCollum
Chairman
Subcommittee on Interior, Environment, and Related Agencies
Committee on Appropriations
House of Representatives

Appendix I: Objectives, Scope, and Methodology

In this report, we examine (1) how the Environmental Protection Agency's (EPA) enforcement and compliance priorities have changed since 2015 and the extent to which EPA has implemented these priorities, (2) the extent to which EPA's coordination with states to enforce and ensure compliance with environmental laws has changed since it shifted its national priorities, and (3) the extent to which EPA has assessed whether its activities to enforce and ensure compliance with environmental laws are meeting the agency's objectives. This report covers fiscal years 2015 through 2019 so we could compare EPA's most recent strategic planning periods (fiscal years 2014 through 2018 and fiscal years 2018 through 2022). We focus on the four primary federal environmental laws: Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act.

To address all three objectives, we reviewed relevant EPA guidance and policies, including the August 2018 memorandum on transitioning to new National Compliance Initiatives and the July 2019 policy on enhancing effective partnerships between EPA and states.[1] We also reviewed our relevant prior work and EPA Office of Inspector General reports, including our report on EPA enforcement data and an EPA Office of Inspector General report on EPA enforcement and compliance data trends.[2]

[1]Environmental Protection Agency, *Transition from National Enforcement Initiatives to National Compliance* Initiatives (Washington, D.C.: August 2018); and *Enhancing Effective Partnerships Between the EPA and the States in Civil Enforcement and Compliance Assurance Work* (Washington, D.C.: July 2019).

[2]GAO, *Additional Action Needed to Improve EPA Data on Informal Enforcement and Compliance Assistance Activities*, GAO-20-95 (Washington, D.C.: Jan. 31, 2020). We coordinated with EPA's Office of Inspector General to avoid duplication and overlap with related work on EPA enforcement and compliance data trends. Environmental Protection Agency, *EPA's Compliance Monitoring Activities, Enforcement Actions, and Enforcement Results Generally Declined from Fiscal Years 2006 Through 2018*, #20-P-0131 (Washington, D.C.: Mar. 31, 2020).

We also reviewed versions of EPA's regional enforcement plans for all 10 EPA regions for fiscal years 2016 through 2019 that EPA had redacted.[3] Specifically, we developed a data collection instrument to compile and summarize the information included in the plans related to our objectives:

- To gather information about regional enforcement and compliance priorities, we sought to examine sections of the plans on "Levels of Effort" and "Trade-offs" to collect information on whether regions shifted enforcement resources focus from one industry to another or from one type of violation to another, as well as any reasons for these changes, such as shifts in priorities.
- To gather information on EPA coordination with states, we examined sections of the plans on "State Oversight," "State collaboration and coordination," "State Coordination," and "Joint Planning and Worksharing in Authorized States" to collect information related to states' enforcement and compliance responsibilities, joint-enforcement activities between EPA and states, state assists, regional assessments of state enforcement and compliance activities, and input from states on coordination activities.
- To gather information about the regions' assessment of enforcement and compliance activities, we sought to examine the optional section of the plans on "Regional Performance Assessments" to collect information related to how the region has assessed resources (i.e., full-time equivalents) for its enforcement and compliance activities; how the region has assessed coordination with states; and categories including successes, challenges, and other activities.[4] We also examined the plans more broadly to collect information on measures

[3]An official from EPA's Office of General Counsel said that EPA redacted sections of these plans to protect deliberative and law enforcement sensitive information. EPA officials from headquarters and nine out of 10 of its regional offices told us that the agency's annual "Regional Strategic Plans"—first developed for fiscal year 2016 to provide an overview of strategy by region and rationale for deployment of enforcement and compliance assurance resources—contained important information to address our objectives. For the purpose of this work, we refer to these documents as "regional enforcement plans" because they are enforcement-specific and to distinguish them from EPA's agency-wide strategic plan and other strategic planning documents. To gather region-specific information to address our objectives, we determined that we needed to review selected information from the regional enforcement plans for each region, for every year of our scope, fiscal years 2016 through 2019.

[4]According to an EPA budget document, a full-time equivalent represents one employee working full-time for a full year, equal to 2,080 hours, or the equivalent number of hours worked by multiple part-time or temporary employees. Environmental Protection Agency, *FY2021 EPA Budget in Brief*, EPA-190-S-20-002 (Washington, D.C.: February 2020).

or performance goals related to EPA's strategic goals and objectives or national priorities.

We designed our data collection instrument based on discussions with EPA headquarters and regional officials and our review of blank templates EPA's Office of Enforcement and Compliance Assurance (OECA) provided to regional offices as guidance to develop their regional enforcement plans for fiscal years 2016 through 2019.[5] To complete this data collection instrument, we reviewed the redacted versions of the regional enforcement plans EPA provided for the years in our scope—40 plans in total.[6] After our review of the plans, the EPA Office of General Counsel official orally provided us with general examples of the type of information EPA told us is contained in the national initiatives investment section of the plans.

We also interviewed OECA headquarters staff about enforcement and compliance strategies and processes, coordination with states, and assessments. To collect information about these topics on a regional level, we analyzed written responses from all 10 EPA regional offices to a list of questions we provided them. Specifically, we asked regional officials about

- any changes to EPA enforcement strategies and processes and any related assessments, and how agency-wide changes affected regional activities (including resources for these activities);
- any changes to regional coordination with states on these activities; and
- any assessments of this coordination or related activities.

We received the written responses to our questions in June 2019. We examined the written responses to identify themes across regions about agency-wide strategic changes and coordination with states. We also examined the written responses to identify specific tools and processes used by regional officials to assess enforcement and compliance

[5]These officials included headquarters officials from the Office of Enforcement and Compliance Assurance (OECA) and officials from the Enforcement and Compliance Assurance Division and Office of Regional Counsel from all 10 regional offices.

[6]Regional offices first developed these plans for fiscal year 2016. We reviewed redacted versions of the regional enforcement plans for fiscal years 2016 through 2020, but we did not include the fiscal year 2020 plans in our analysis because they were beyond the scope of this engagement.

activities. Based on this analysis, in July 2019, we requested interviews with officials in all 10 regional offices and emailed them follow-up questions about their prior written responses to our questions. During these interviews, which took place from August to October 2019, we asked regional officials to provide more details about the specific enforcement and compliance activities and assessment tools that they described in their written responses.[7]

We interviewed representatives of three environmental advocacy groups and five organizations representing regulated entities to obtain their perspectives on a range of issues related to enforcement of and compliance with the environmental laws in our scope.[8] We selected these organizations based on their knowledge about changes in EPA enforcement and compliance strategies and EPA's public information about the types of entities it regulates, and used the information to help develop topics for interviews with regional and state officials. We asked environmental advocacy groups about their views on what impacts, if any, changes to EPA enforcement and compliance strategies have had on regulated entities' compliance with environmental laws, coordination between states and EPA, and communication between EPA and regulated entities and the public. We asked organizations representing regulated entities about their members' perspective on changes to EPA enforcement and compliance efforts, as well as successes and challenges that have resulted from these efforts. This was a nonprobability sample of such organizations. Therefore, the representatives' views are not generalizable to all such organizations but provide examples of the views of environmental advocacy groups and regulated entities.

To examine how EPA's enforcement and compliance priorities have changed since 2015 and the extent to which EPA has implemented these priorities, we reviewed EPA documents and guidance. We also compared

[7]These interviews were with the Director of Enforcement and Regional Counsel in each regional office, and attorneys from EPA's Office of General Counsel and Office of Congressional and Intergovernmental Relations were present for the interviews. In some cases, additional regional officials participated in these meetings.

[8]We interviewed representatives from Earthjustice, the Environmental Integrity Project, and Public Employees for Environmental Responsibility. We also interviewed representatives from the following organizations: American Public Power Association, American Water Works Association, Associated General Contractors of America, Independent Petroleum Association of America, and National Association of Clean Water Act Agencies.

EPA documents that describe current agency enforcement and compliance priorities, such as EPA strategic plans and memorandums, with documents that describe former agency priorities to determine how these priorities have been continued, discontinued, or modified between cycles since 2014. Specifically, we reviewed EPA's current strategic plan for fiscal years 2018 through 2022 and compared the strategic goals and objectives related to enforcement and compliance with goals and objectives in the agency's previous strategic plan for fiscal years 2014 through 2018.[9]

To understand EPA's efforts to change its enforcement and compliance priorities and the extent to which EPA implements its priorities—the National Compliance Initiatives—we reviewed guidance for implementing the initiatives and our key considerations for regulatory design and enforcement.[10] We also compared EPA's efforts and guidance with *Standards for Internal Control in the Federal Government* related to communicating quality information.[11] In addition, we interviewed EPA headquarters officials about how EPA implemented these priorities.

To examine the extent to which EPA's coordination with states to enforce and ensure compliance with environmental laws has changed since it shifted its national priorities, we interviewed enforcement and compliance program officials from a nonprobability sample of 10 states—one from each EPA region—about changes to EPA enforcement and compliance

[9]Environmental Protection Agency, *Working Together: EPA FY 2018-2022 U.S. EPA Strategic Plan*, EPA-190-R-18-003 (Washington, D.C.: February 2018). EPA updated this plan in September 2019. Environmental Protection Agency, *Fiscal Year 2014-2018 EPA Strategic Plan*, EPA-190-R-14-006 (Washington, D.C.: April 2014).

[10]These six key considerations include (1) identify regulatory objective(s), (2) identify and document options for achieving regulatory objective(s), (3) assess potential effectiveness of each option, (4) assess the risks associated with each option, (5) assess the enforcement implications of each option, and (6) establish a performance evaluation plan for the chosen option. See GAO, *Federal Regulations: Key Considerations for Agency Design and Enforcement Decisions*, GAO-18-22 (Washington, D.C.: Oct. 19, 2017).

[11]According to federal standards for internal control, management should internally communicate the necessary quality information to achieve the entity's objectives. For example, as part of communication throughout the entity, management communicates quality information down and across reporting lines to enable personnel to perform key roles in achieving objectives, addressing risks, and supporting the internal control system. In these communications, management assigns the internal control responsibilities for key roles. GAO, *Standards for Internal Control in the Federal Government,* GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

strategies and processes and EPA's coordination with states.[12] We selected these states in two stages. In both stages, we interviewed senior state officials responsible for the enforcement of the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act.

During the first stage, we selected five states based on a number of considerations, including geographic dispersion and a high number of enforcement actions in each state according to publicly available EPA data for fiscal years 2015 through 2018.[13] We interviewed senior state officials about their enforcement and compliance strategies and processes and coordination with EPA on enforcing environmental laws. Specifically, during the first stage of interviews, we asked officials about any changes since 2015 to their state's activities designed to enforce and ensure compliance with federal environmental laws and any challenges in meeting the responsibilities of their delegated authority, as well as changes in their state's coordination with EPA on these activities. During the second stage, we selected a state from each EPA region not included in the first stage, again with consideration given to the number of enforcement actions in each state.

Based on information collected during the first stage, we developed semistructured interview questions that we used during the second stage to interview state officials about more specific information on of the effect, if any, of EPA's 2018 strategic shift from enforcement to compliance on coordination with states. These questions asked if states used any enforcement and compliance approaches differently and if coordination with EPA—including efforts related to compliance assistance, formal and informal enforcement actions, types of data collected, and goals and metrics reported—changed starting in 2018 compared with the 2 years

[12]We interviewed officials from 10 states responsible for the enforcement of the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act. We interviewed officials from one state in each EPA region: Connecticut (Region 1), New Jersey (Region 2), Pennsylvania (Region 3), Georgia (Region 4), Illinois (Region 5), Louisiana (Region 6), Missouri (Region 7), Colorado (Region 8), California (Region 9), and Washington (Region 10).

[13]EPA's public access website Enforcement and Compliance History Online (ECHO) stores and integrates data from multiple EPA databases, including the Integrated Compliance Information System, which includes descriptive information about regulated entities, violations, and the outcome of enforcement actions. EPA's ECHO website can be accessed at https://echo.epa.gov/. While EPA continues to improve data quality on ECHO, according to its website, there may be some inconsistencies in data on ECHO across states; however, we determined these data were sufficiently reliable to inform our selection of states with a relatively high number of enforcement actions.

before the strategic change (2015-2017). The questions also asked if any changes to coordination between states and EPA—including planning and conducting inspections, determining responses to violations, using certain enforcement and compliance tools, determining if EPA or the state should lead investigations, and providing technical assistance to states—resulted from EPA policies or actions or affected the state's ability to bring facilities back into compliance with environmental laws.

We also reviewed documents used by EPA and three of these 10 selected states to coordinate enforcement, such as memorandums of understanding and performance partnership agreements, to gather information about how the state and EPA agreed to work together. We compared coordination planning documents and what EPA and state officials told us about how they coordinate enforcement and compliance activities with relevant EPA policy and guidance, including EPA's best practices on joint work-planning from the agency's July 2019 policy on enhancing effective partnerships between EPA and states.[14] We compared how EPA has coordinated with states against agency policy on enhancing effective partnerships. We also reviewed selected leading practices for collaboration. [15] We compared EPA's coordination with states with federal standards for internal control related to communicating quality information.[16] To gain additional insight on the perspectives of states, we interviewed representatives from the Environmental Council of States (ECOS), a national association of state and territorial environmental agency officials.

To examine the extent to which EPA has assessed whether its activities to enforce and ensure compliance with environmental laws are meeting

[14]Environmental Protection Agency, *Enhancing Effective Partnerships Between the EPA and the States in Civil Enforcement and Compliance Assurance Work.*

[15]In prior work, we used the terms "collaboration" and "coordination" interchangeably. For the purposes of this report, we use the term "coordination" because EPA conducts oversight of states' activities to enforce and ensure compliance with environmental laws. We assessed coordination against the leading collaboration practices to include all relevant participants, to clarify their roles and responsibilities, to agree on common terminology and definitions, and to document their agreement regarding how they will be collaborating, as we identified in our 2012 report. We reviewed these practices because EPA's policies to enhance coordination in the current strategic planning period did not address the other collaboration practices of outcomes and accountability, leadership, or resources. For our prior work on collaboration, see, for example, GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, GAO-12-1022 (Washington, D.C.: Sept. 27, 2012).

[16]GAO-14-704G.

the agency's objectives, we interviewed EPA headquarters and regional officials about any assessments of enforcement and compliance activities, including resources for these activities, conducted from fiscal year 2015 through 2019. Specifically, we asked EPA headquarters officials about how they assess enforcement and compliance activities, including regional resources for these activities, and what metrics, if any, they use to track progress toward enforcement and compliance objectives, such as the agency's priority on coordination with states. Additionally, we asked regional officials about how they track progress toward enforcement and compliance goals and if they assess whether any changes to the agency's strategies and processes have helped them meet these goals.

To examine the extent to which EPA has assessed its activities at the agency-wide level, we reviewed EPA performance reports and assessments, including EPA's annual performance reports for fiscal years 2018 and 2019.[17] We compared the goals and metrics in these annual performance reports with EPA's strategic goals and objectives on enforcement and compliance in EPA's current strategic plan for fiscal years 2018 through 2022. We also reviewed EPA's annual performance plans for any assessments of resources for these agency-wide enforcement and compliance activities, including full-time equivalents (FTE).

We reviewed documents related to EPA's oversight of state enforcement of federal environmental laws. Specifically, we reviewed the State Review Framework reports issued during calendar years 2014 through 2019 for the 10 states we interviewed. We compared EPA's efforts for assessing enforcement and compliance activities against the GPRA Modernization Act of 2010 (GPRAMA) requirements for the performance planning process, such as establishing performance goals and providing a description of how these goals are achieved.[18] For example, we

[17]Environmental Protection Agency, *Fiscal Year 2021 Justification of Appropriation Estimates for the Committee on Appropriations, Tab 13: Program Performance and Assessment*, EPA-190-S-20-001 (Washington D.C.: February 2020); and *Fiscal Year 2020 Justification of Appropriation Estimates for the Committee on Appropriations, Tab 14: Program Performance and Assessment*, EPA-190-R-19-002 (Washington, D.C.: March 2019).

[18]31 U.S.C. § 1115(b). GPRA Modernization Act of 2010, Pub. L. No. 111-352, 124 Stat. 3866 (2011) amending the Government Performance and Results Act of 1993, Pub. L. No. 103-62, 107 Stat. 285.

compared the performance goals in EPA's annual performance plans with the agency's goals in its strategic plan and compared our findings against the GPRAMA requirement that performance plans provide a description of how agency performance goals contribute to the general goals and objectives established in the agency's strategic plan. We also compared EPA's efforts for assessing enforcement and compliance activities against leading strategic planning practices we identified in our prior work.[19]

We conducted this performance audit from October 2018 to December 2020 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

[19]For example, we have previously reported that GPRAMA requirements, such as performance goals, that apply at the departmental or agency level can serve as leading practices for planning at lower levels, such as component agencies, offices, programs, and projects within federal agencies. See, for example, GAO, *Food Safety and Nutrition: FDA Can Build on Existing Efforts to Measure Progress and Implement Key Activities*, GAO-18-174 (Washington, D.C.: Jan. 31, 2018); *Coast Guard: Actions Needed to Enhance Performance Information Transparency and Monitoring*, GAO-18-13 (Washington, D.C: Oct. 27, 2017); and *Environmental Justice: EPA Needs to Take Additional Actions to Help Ensure Effective Implementation*, GAO-12-77 (Washington, D.C.: Oct. 6, 2011).

Appendix II: Maps of States with Responsibility for Implementing and Enforcing Federal Environmental Laws

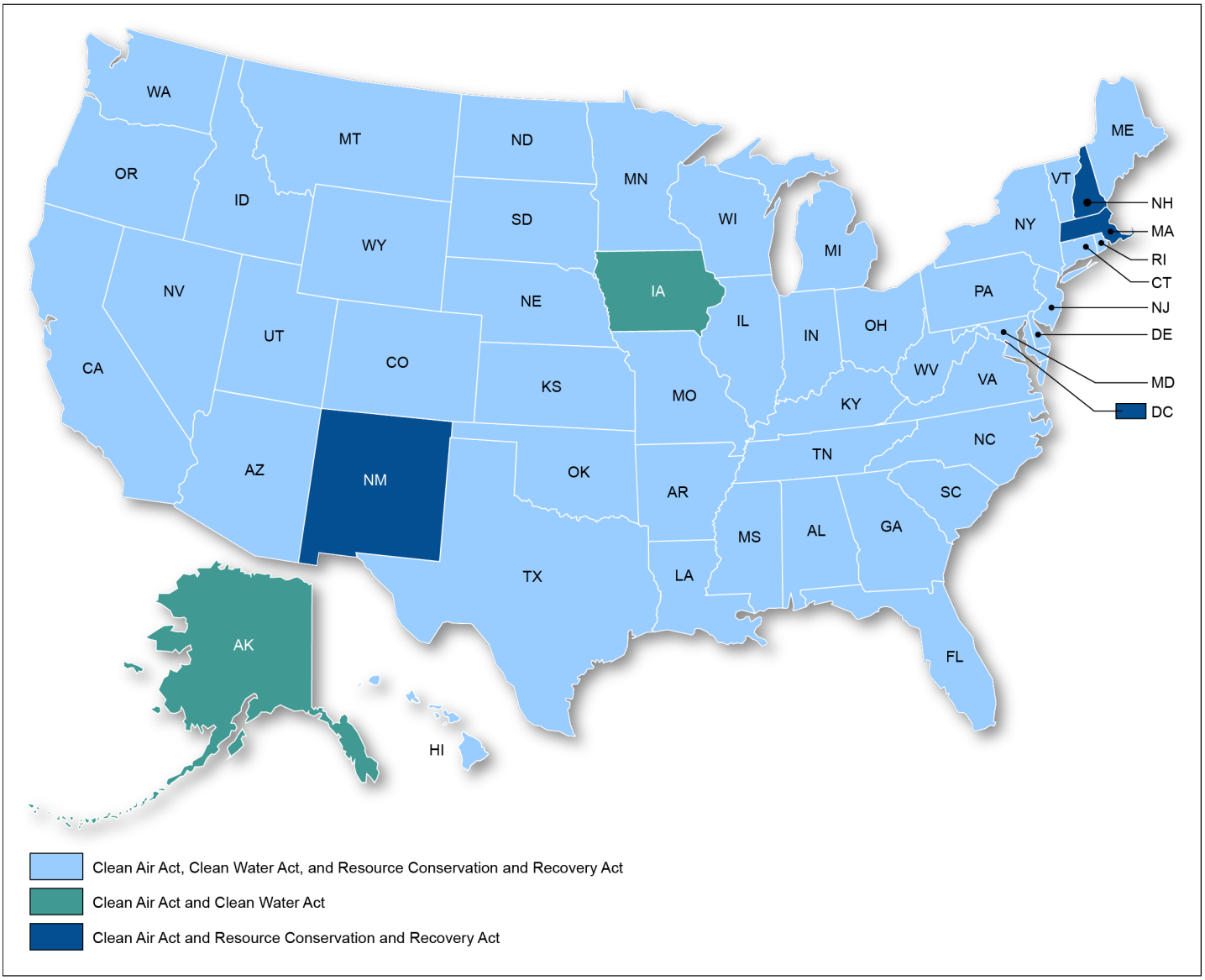
The Environmental Protection Agency (EPA) has authorized, or delegated authority to, certain states to implement and enforce federal environmental laws.[1] See the figures below for maps of states with responsibility for implementing the Clean Water Act, Clean Air Act, Resource Conservation and Recovery Act, and Safe Drinking Water Act.

Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act

Under the Clean Water Act, EPA can delegate authority to states to issue and enforce national pollution discharge elimination permits to point sources who discharge into waters of the United States as well as authority to issue and enforce permits for the discharge of dredged or fill material into the waters of the United States. Under the Clean Air Act, EPA can delegate authority to states to enforce certain air emission standards and to issue permits to stationary sources of air emissions. Under the Resource Conservation and Recovery Act, EPA can authorize states to implement the base Resource Conservation and Recovery Act program, as well as other provisions, such as corrective action and land disposal restrictions. See figure 6 for a map of states that have been authorized or delegated authority to implement and enforce at least one provision of the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act.

[1]Some environmental laws authorize EPA to treat Indian tribes as states and delegate authority, or authorize them, to implement and enforce federal environmental laws. This report focuses on EPA's coordination with states and does not examine EPA's coordination with Indian tribes.

Figure 6: States with Delegated Authority or Authorized to Implement and Enforce the Clean Water Act, Clean Air Act, and Resource Conservation and Recovery Act



Sources: Environmental Protection Agency (EPA); Map Resources (map). | GAO-21-82

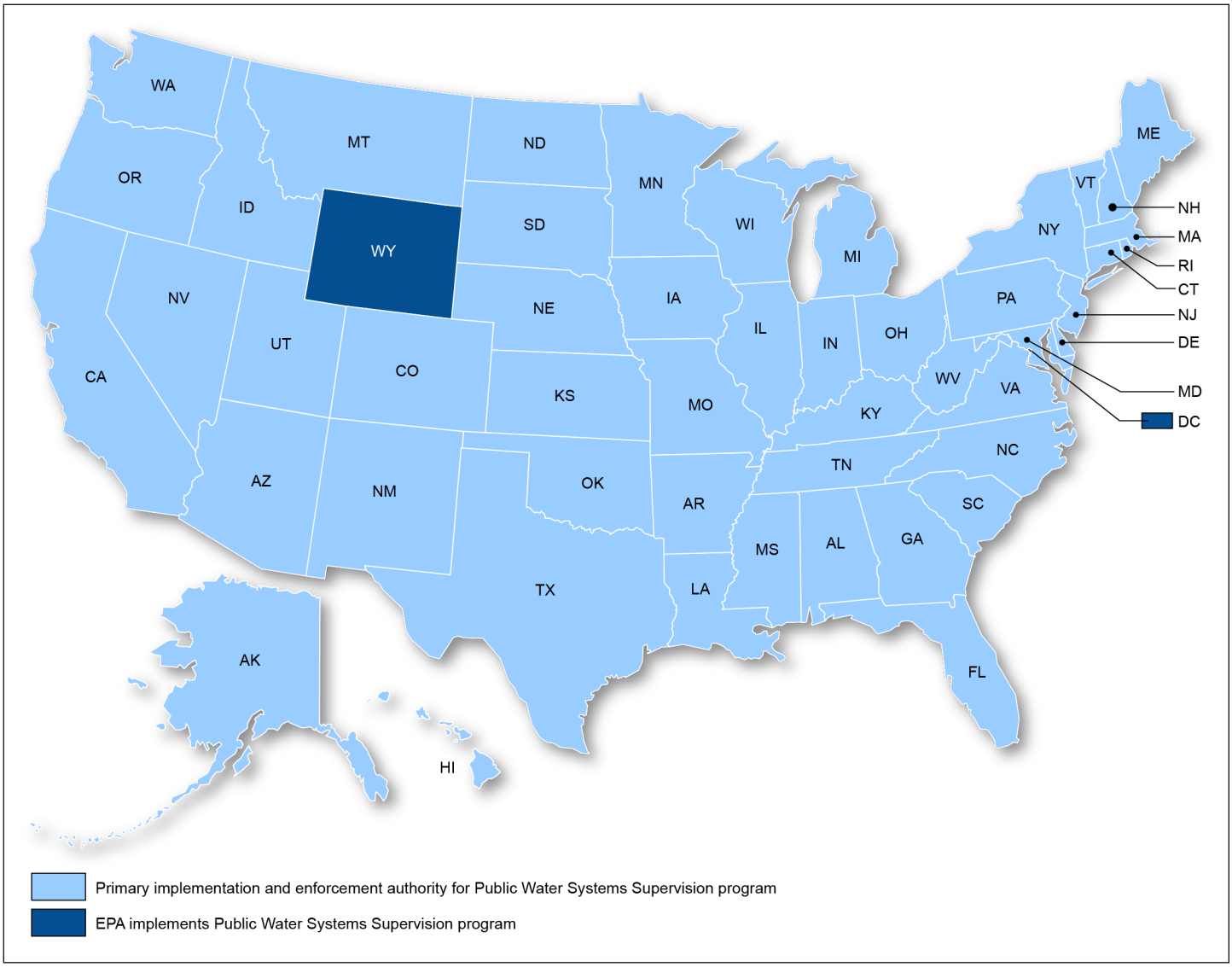
Safe Drinking Water Act

Under the Safe Drinking Water Act, states may be delegated primary implementation and enforcement authority for (1) the Public Water System Supervision program and (2) the Underground Injection Control program.

Public Water Systems Supervision program

The Public Water System Supervision program provides for the adoption and enforcement of regulations for drinking water. See figure 7 for a map of states delegated primary authority for implementing the program.

Figure 7: States with Delegated Primary Implementation and Enforcement Authority for the Public Water Systems Supervision Program under the Safe Drinking Water Act

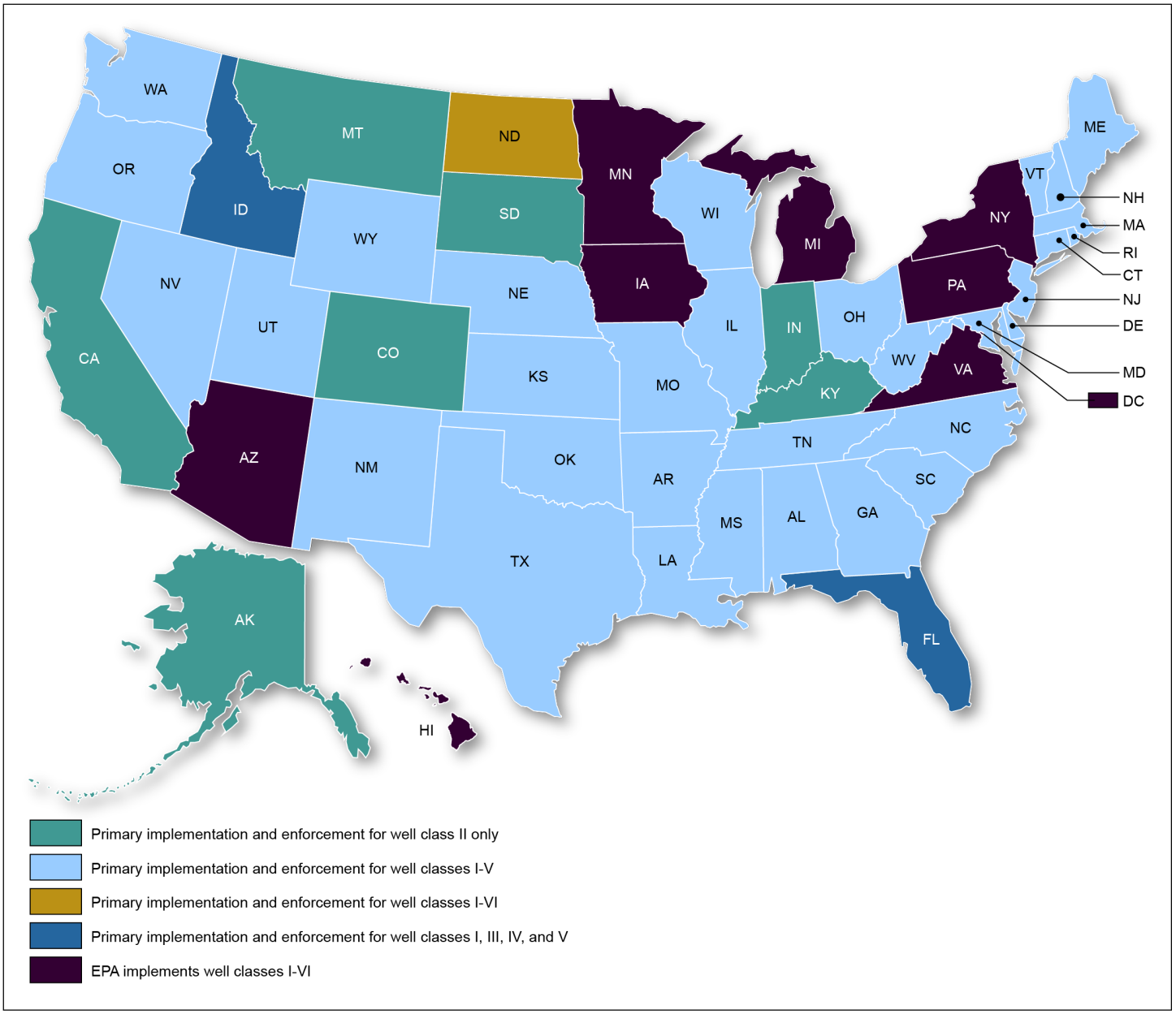


Sources: Environmental Protection Agency (EPA); Map Resources (map). | GAO-21-82

Underground Injection Control program

The Safe Drinking Water Act authorizes EPA to delegate authority to states for implementing and enforcing the Underground Injection Control program, which protects underground sources of drinking water from endangerment. The Underground Injection Control program consists of six classes of injection wells based on the type and depth of the injection activity. States can request and receive primary authority for all well classes or just specific classes. See figure 8 for a map of states with primary authority for implementing and enforcing the program.

Figure 8: States with Delegated Primary Implementation and Enforcement Authority for the Underground Injection Control Program of the Safe Drinking Water Act



Sources: Environmental Protection Agency (EPA); Map Resources (map). | GAO-21-82

Note: The Underground Injection Control program consists of six classes of injection wells based on the type and depth of the injection activity.

Appendix III: Comments from the Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

ASSISTANT ADMINISTRATOR
FOR ENFORCEMENT AND
COMPLIANCE ASSURANCE

Mr. Alfredo Gomez
Director
Natural Resources and Environment
U.S. Government Accountability Office
Washington, D.C. 20548

Dear Mr. Gomez:

On behalf of the U.S. Environmental Protection Agency, thank you for the opportunity to review and comment on the U.S. Government Accountability Office (GAO) draft report, "Action Needed to Ensure EPA's Enforcement and Compliance Activities Support Its Strategic Goals" (GAO-21-82). The purpose of this letter is to provide our response to the recommendations in the draft report and provide technical corrections, where necessary.

The EPA agrees with the GAO's findings, conclusions, and recommendations. GAO correctly asserts that the EPA's new strategic plan stresses environmental compliance. The Office of Enforcement and Compliance Assurance (OECA) transitioned its national enforcement initiatives to national compliance initiatives in recognition of the fact that there are tools beyond traditional enforcement actions that may be useful in achieving compliance. Further, OECA sought increased engagement from states in the designation of the initiatives and in the strategic implementation plans for the initiatives. GAO also correctly notes that the EPA has processes in place to assess both state and regional performance, and the agency can improve on how we document the outcome of its assessment of regional performance.

GAO Recommendations:

Recommendation 1. The Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance should communicate final guidance for future national initiative cycles to all states before the effective date of the national initiatives.

EPA/OECA Response:

OECA agrees with this recommendation. Frameworks of the strategies were shared with states in November 2019. Full or redacted versions of five of the six National Compliance Initiative (NCI) strategies were shared with states in March 2020. Public versions of the final strategies will be shared with states in November 2020.

OECA will evaluate its processes for developing the strategies for the NCIs and make it a priority to finalize the strategies prior to the start date of future NCI cycles. As part of that process, OECA will ensure that states are timely apprised of the goals and implementation milestones.

Recommendation 2. The Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance should incorporate lessons learned from the initial effort to engage earlier and more continuously with states when developing the office's plan for how EPA will work with states on future NCI cycles.

EPA/OECA Response:
OECA agrees with this recommendation. As stated above, OECA will evaluate its processes for developing the strategies for the NCIs, including our efforts to engage earlier and more continuously with states. We will incorporate lessons learned in future NCI cycles.

Recommendation 3. The Assistant Administrator for EPA's Office of Enforcement and Compliance Assurance should ensure that officials document the outcomes of EPA's primary method of assessing enforcement and compliance activities at the regional level – in-person and video conference meetings – including progress towards performance goals that support the agency's strategic objectives.

EPA/OECA Response:
OECA agrees with this recommendation. We acknowledge the importance of documenting the outcome of our in-person or video conference meetings between senior leadership at OECA and the regions. Going forward, we will ensure the outcomes of these meetings are documented.

Technical comments on the report are attached.

Overall, the EPA agrees with all three of GAO's recommendations and will implement them. If you have any questions, please contact Loan Nguyen at Nguyen.Loan@epa.gov or (202) 564-4041.

Sincerely,

SUSAN BODINE

Digitally signed by SUSAN BODINE
Date: 2020.11.18 17:18:14 -05'00'

Susan Parker Bodine

cc: Larry Starfield, Principal Deputy Assistant Administrator, OECA
David Hindin, Director, Office of Compliance, OECA
Rosemarie A. Kelley, Director, Office of Civil Enforcement, OECA
Karin Koslow, Deputy Director, Office of Civil Enforcement, OECA
John Dombrowski, Deputy Director, Office of Compliance, OECA
Loan Nguyen, Office of Administration and Policy, OECA
Kathleen Johnson, Office of Enforcement and Compliance Assurance

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Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

J. Alfredo Gómez at (202) 512-3841 or gomezj@gao.gov

Staff Acknowledgments

In addition to the contact named above, Chad M. Gorman (Assistant Director), Michelle R. Wong (Analyst-in-Charge), Mark Braza, Tim Bober, Travis L. Cady, Courtney Carroux, Tara Congdon, Jazzmin Cooper, Alexandra Edwards, Matthew Hunter, Gwendolyn Kirby, Benjamin Licht, Greg Marchand, Tahra Nichols, Danielle Novak, Caroline Prado, Dan C. Royer, Susan D. Sawtelle, Jeanette Soares, and Sarah Veale made key contributions to this report.