



## Agency Priority Goal Action Plan

# Increase Environmental Law Compliance Rate

### **Goal Leader:**

Larry Starfield, Principal Deputy Assistant Administrator, Office of Enforcement and Compliance Assurance

### **Deputy Goal Leader:**

David Hindin, Director, Office of Compliance

# Overview

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## Goal Statement

- **Increase environmental law compliance rate.** Through September 30, 2019, EPA will increase compliance by reducing the percentage of Clean Water Act (CWA) National Pollutant Discharge Elimination System (NPDES) permittees in significant noncompliance with their permit limits to 21% from a baseline of 24%.

## Challenge

- The rate of Significant Noncompliance (SNC)-level violations at NPDES major and minor permittees is currently about 24%. This figure has remained quite consistent in the 20 - 24% range for many years. Reducing the SNC rate significantly will require a substantial effort by EPA and the 47 NPDES authorized states, including implementation of new approaches for predicting and addressing and deterring SNC.

## Opportunity

- With ongoing implementation of its 2015 NPDES electronic reporting rule, EPA for the first time is beginning to have reliable, comprehensive compliance data for a major environmental program. Using this data, EPA will track the rate of all NPDES violations (at both major and minor permittees) that meet its SNC definition and target resources with the specific goal of reducing the SNC rate. A reduced-rate of SNC-level violations will indicate both an improvement in NPDES permittee CWA compliance status and diminished illegal discharges of pollutants. The focus on achieving a lower SNC rate will promote a reduction in pollutant discharges impacting surface water quality.

# Leadership

Goal Leader:  
Larry Starfield  
Principal Deputy Assistant  
Administrator

Deputy Goal Leader:  
David Hindin, Director  
Office of Compliance

Rosemarie Kelley, Director  
Office of Civil  
Enforcement

David Cozad, Regional  
Counsel  
Regional Representative

## **APG Workgroup**

### **Co-Chairs:**

Daniel Palmer, OC/Planning, Measures, and Oversight Division (PMOD)

Scott Gordon, Region 4

Loren Denton, OCE/Water Enforcement Division (WED)

# Goal Structure & Strategies

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- **Strategy 1:** Initiate APG, including implementation of APG governance and workgroup structures and determination of how best to coordinate and collaborate with state organizations and individual NPDES authorized states.
- **Strategy 2:** In close coordination with states and state organizations (Environmental Council of States (ECOS), Association of Clean Water Administrators (ACWA), etc.), develop a detailed, draft measure implementation plan for reducing the rate of violations at NPDES major and minor permittees meeting EPA's SNC definition, including:
  - Acquire input from varied and knowledgeable federal and state sources on the causes of SNC and approaches to successfully addressing and deterring SNC (e.g., identify best practices).
  - Consider varied approaches for addressing and deterring SNC for different categories of SNC, different NPDES permitted sectors, different states, etc.
  - Consider different compliance assurance tools and new and automated mechanisms for addressing and deterring SNC.
  - Develop predictive tools for identifying and targeting NPDES permittees most likely to generate SNC-level violations.
- **Strategy 3:** In close coordination with states, state organizations, and media associations at a technical level, identify approaches to reduce the rate of SNC-level violations at NPDES majors and minors.

# Goal Structure & Strategies, continued

## APG—Increase Environmental Law Compliance Rate

- **Strategy 4:** Measure effects on SNC rate of implementation of various approaches employed; use this information to improve ongoing efforts at reducing SNC rates.

### **EPA Lean Management Systems (ELMS)**

- EPA will be using the deployment of a new EPA Lean Management System (ELMS) to achieve the results set forth in the Strategic Plan. As part of ELMS, EPA will be conducting multi-day process improvement events to make significant progress in specific priority areas, which include permitting, identified in the Strategic Plan.
- Visual management will then be used to ensure that improvements from the events are achieved and sustained over time. Poster boards with regularly updated performance data will serve as visual management for monitoring progress towards meeting the targets set forth in the Strategic Plan, while additional poster boards will be used to track the flow of the work that needs to be performed to achieve the targets. Managers and staff will have weekly stand-up huddle meetings in front of their visual management boards to discuss the performance and flow of the process.
- In addition, National Programs and Regional Offices will hold monthly business reviews to go over both the strategic measures tracked on scorecards, and the implementation plans that track progress on Strategic Plan and priority area projects identified for EPA under President Trump's Executive Order on a Comprehensive Plan for Reorganizing the Executive Branch. The Administrator will hold quarterly reviews to monitor overall progress on the agency's Strategic Plan and priority area projects.
- ELMS is designed to make sure that EPA is regularly monitoring progress towards meeting the targets set forth in the Strategic Plan, and taking immediate action if expected performance is off track.

# Summary of Progress – FY 2018 Q1

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## **Strategy 1: APG Governance and Metric Development:**

- In Q1 FY 2018, EPA developed and finalized its performance tracking metric, baseline and targets, issued call for workgroup members, identified a regional leader, and completed the NPDES SNC dashboard construction.

**Measure:** Increase compliance in the Clean Water Act National Pollutant Discharge Elimination System by increasing the percentage of permittees not in significant noncompliance with their permit limits

**Baseline:** 76.0% rate for individually-permitted NPDES facilities not in significant noncompliance or Category 1 Noncompliance, based on July 2016-June 2017 data

**Targets:** Maintain 76% through FY 2018; 79% by the end of FY 2019.

**Q1 Performance:** 79% in December 2017 (Oct 2016 – Sept 2017 data)

# Summary of Progress – FY 2018 Q2

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**Q2 Target:** Maintain 76% through FY 2018

**Q2 Performance:** 75% (Jan – Dec 2017 data). The workgroup is investigating a probable cause for the difference in quarterly performance: a data quality effort undertaken in September 2017 that deflated the FY17Q4 SNC rate. For FY 2018 Q1, the rate appears to have returned to a near-baseline level.

## **Strategy 1 Progress: APG Governance and Metric Development**

- NPDES SNC workgroup formed four sub-workgroups:
  - Outreach, Engagement, and Policy – States, State Organizations, Regions, and Public
  - NPDES Data Quality and Reducing DMR Non-Receipt Category 1 Violations
  - Strategies for Deterring Effluent Limitation Category 1 Violations
  - Written Strategy for the NPDES Measure

## **Strategy 2 Progress: State engagement and implementation plan development**

- Workgroup chairs initiated discussions with ACWA to get state personnel engaged on sub-workgroups and on other substantive matters. These discussions with ACWA are continuing.
- Began development of materials for state engagement to promote national consistency in communication with states and EPA Regions.

# Summary of Progress – FY 2018 Q3

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**Q3 Target:** Maintain 76% through FY 2018

**Q3 Performance:** 75% (Apr 2017 – Mar 2018 data). EPA did not anticipate improvements during this quarter. EPA's goal is to maintain the baseline rate throughout FY 2018 while a program is developed to improve the compliance rate; EPA anticipates approaches to reduce noncompliance will be implemented in FY 2019. Also note, stability in the SNC rate between Q2 and Q3 FY 2018 supports EPA's understanding that the September 2017 effort to improve data quality in the ICIS-NPDES data system, related to NPDES report submission violations, resulted in a temporary, artificial improvement in the SNC rate in Q1 of FY 2018.

## **Strategy 1 Progress: APG Governance and Metric Development**

- EPA Chief Operating Officer Henry Darwin and Office of Enforcement and Compliance Assurance Assistant Administrator Susan Bodine held a webinar for senior state officials in June 2018 to formally introduce states to the Goal and encourage state participation in the effort to reduce NPDES significant noncompliance.
- OECA held a second webinar in July 2018 for EPA and state NPDES practitioners.
- EPA developed and distributed a fact sheet to be used by EPA and state managers to assist them in understanding and communicating about EPA's new Strategic Plan priority for increasing compliance rates in general, and for this Clean Water Act NPDES program. The fact sheet also included a structure for sustained state engagement in the SNC rate reduction effort.
- Strategy 1 near completion; anticipate completion in FY 2018 Q4.

# Summary of Progress – FY 2018 Q3 (continued)

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## **Strategy 2 Progress: State engagement and implementation plan development**

- Workgroup chairs continued discussions with ACWA to get state personnel engaged in implementation plan development.
- Sub-workgroups have begun to develop strategies that will be combined to create an overall implementation plan.
- Tasks under this strategy will accelerate once state participation is fully established. States are critical partners in this effort, and their participation in implementation plan development is imperative.

## **Approaches underway to reach target:**

- EPA is identifying states with incomplete data and establishing a structure for tracking data quality issues impacting the NPDES SNC rate.
- A dashboard for tracking and examining SNC rates was demonstrated during the July webinar for NPDES practitioners and made available for state use. As states are beginning to review this information, communication with states about their data in ICIS-NPDES will continue.
- EPA is working with states to resolve data issues that have been identified. As additional states are identified as needing EPA assistance, schedules for EPA communications with them are being developed on a rolling basis.

# Key Milestones – Strategy 1

- **Strategy 1:** Initiate APG, including implementation of APG governance and workgroup structures and determination of how best to coordinate and collaborate with state organizations and individual NPDES authorized states.
- **Recent Accomplishments:** Held webinar for state senior clean water and enforcement officials, distributed fact sheet for EPA and state managers, and asked state co-regulators to join EPA effort to reduce NPDES SNC rate.

Milestone Summary

Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
Identification of APG Metric	Q1 FY 2018	Complete	No change	Office of Compliance	
Calculation of Metric Baseline	Q1 FY 2018	Complete	No change	Office of Compliance	
Determination of Quarterly & Yearly Targets	Q1 FY 2018	Complete	No change	Office of Compliance	
Identification of Workgroup Co-Chairs	Jan.5, 2018	Complete	No change	Office of Compliance	Also identified regional leader
Creation of APG Metric Workgroup	Jan. 5, 2018	Complete	No change	Office of Compliance	
Build dashboard for tracking 4Q SNC rate	Q1 FY 2018	Complete	No change	Office of Compliance	
Workgroup kickoff, initiate discussions	Jan. 2018	Complete	No change	Office of Compliance	
Initiate discussions with ACWA	Q2 FY 2018	Complete	No change	Office of Compliance	
State engagement on NPDES SNC Workgroup	Q3 FY 2018	In progress	Status updated	Office of Compliance	Requested state involvement in Q3, expect full engagement in Q4
Dev. introductory Webinars for State Officials	Q3 FY 2018	Complete	Status updated	Office of Compliance	Executive and practitioner webinars complete
Dev. materials for EPA Communications with States	Q3 FY 2018	Complete	Status updated	Office of Compliance	Fact Sheet distributed in Q3, other materials under development
Identify and invite State workgroup participants	Sept. 30, 2018	In progress	New milestone	Office of Compliance	
EPA presentation at ACWA national mtg.	Aug. 15, 2018	Scheduled	New milestone	Office of Compliance	

# Key Milestones – Strategy 2

- **Strategy 2:** In close coordination with states and state organizations (ECOS , ACWA) , develop a detailed, draft measure implementation plan for reducing the rate of violations at NPDES individual permittees meeting EPA’s SNC definition, including:
  - Acquire input from varied and knowledgeable federal and state sources on the causes of SNC and approaches to successfully addressing and deterring SNC (e.g., identify best practices).
  - Consider varied approaches for addressing and deterring SNC for different categories of SNC, different NPDES permitted sectors, different states, etc.
  - Consider different compliance assurance tools and new and automated mechanisms for addressing and deterring SNC.
  - Develop predictive tools for identifying and targeting NPDES permittees most likely to generate SNC-level violations.

**Milestone Summary**

Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
1 <sup>st</sup> Draft of Implementation Plan	Q1 FY 19	In progress	Modified due date	APG Workgroup	Communications strategy and other communications matters have taken precedence.
2 <sup>nd</sup> Draft of Implementation Plan	Q1 FY 19	Not yet initiated	Modified due date	APG Workgroup	
Final Implementation Plan	Q2 FY 19	Not yet initiated	Modified due date	APG Workgroup	

# Key Milestones – Strategy 3

- **Strategy 3:** In close coordination with states, state organizations, and media associations at a technical level, identify approaches to reduce the rate of SNC-level violations at NPDES majors and minors.

Milestone Summary					
Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
Discuss Lean and Kaizen tools with States during identification of approaches	Q1, FY 19	Not yet initiated	New	APG Workgroup	May need to adjust this milestone date to better align with state discussions
Initiate implementation of approaches	Q1, FY 19	Not yet initiated	Modified due date	APG Workgroup	Milestone updated to align with implementation plan development schedule under Strategy 3

# Key Milestones – Strategy 4

- **Strategy 4:** Measure effects on SNC rate of implementation of various approaches employed; use this information to improve ongoing efforts at reducing SNC rates.

Milestone Summary					
Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
Review data on impacts of Strategy implementation	Q4 FY 2019	Not yet initiated		APG Workgroup	
Discuss Lean and Kaizen tools with States during identification of approaches	Q4 FY 2019	Not yet initiated	New	APG Workgroup	May need to adjust this milestone date to better align with state discussions
Revise strategy based on findings of review	Q1 FY 2020	Not yet initiated		APG Workgroup	
Implement revisions to strategy	Q1 FY 2020	Not yet initiated		APG Workgroup	

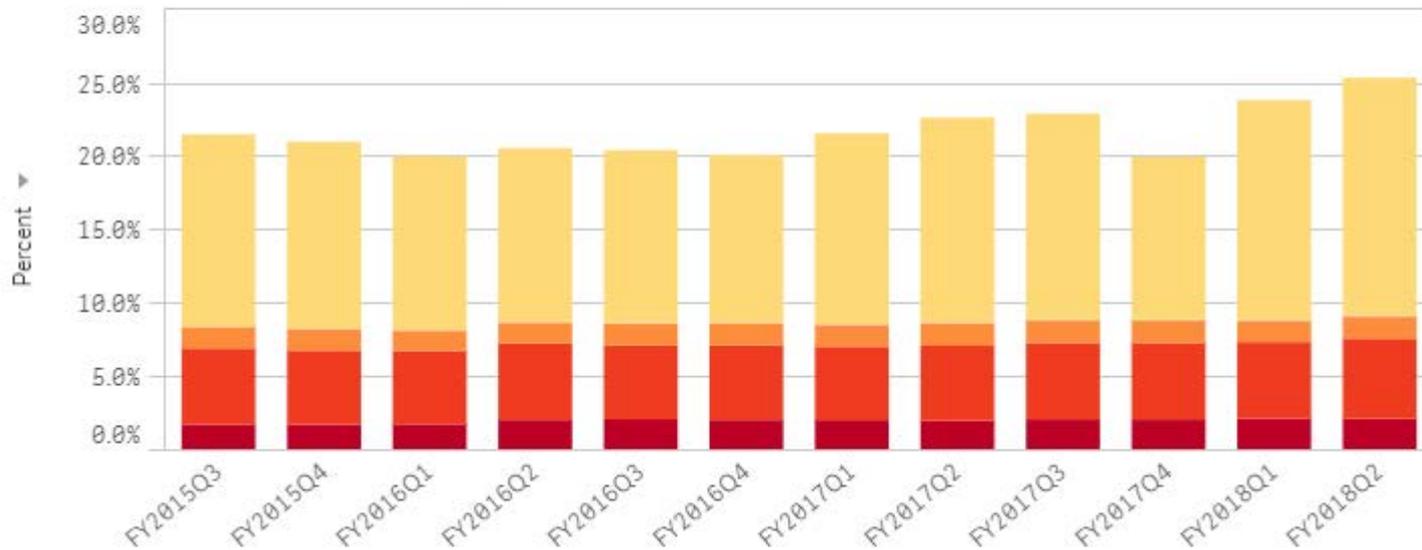
# Key Indicators

- **Baseline (July 1, 2016 - June 30, 2017):** 24% SNC rate for NPDES majors and minors.
  - **Current facility universe:** Approx. 52,000 facilities
- **FY 2018 Target:** Maintain 24% baseline SNC rate (i.e., 76% not in SNC)
- **APG EOY FY 2019 Target:** 21% SNC rate (3% reduction from baseline) for NPDES individually-permitted facilities.\*

## Rolling SNC/Category 1 Rates

### Rolling SNC/Category 1 Rate

Combined Major and Non-Major Facilities in Region: and State:



\*SNC/Category 1 noncompliance rates are calculated quarterly, with a one-quarter lag; rolling rates for this measure include permittees in SNC any time during the most recent four quarters of available data

# Key Indicators (continued)

## Rolling SNC/Category 1 Rates

For each quarter, each facility's status is defined as being the highest non-compliance code (using the hierarchy below) in that quarter or any of the three previous quarters.

Code	Color	Status	Level	Description
S		Noncompliant	SNC/Cat. 1	For Unachieved Schedule Milestone Violation
E		Noncompliant	SNC/Cat. 1	For Monthly (e.g., 30-Day Average/Daily Average) Effluent Violation
X		Noncompliant	SNC/Cat. 1	For Non-Monthly (e.g., 7-Day Average/Daily Maximum) Effluent Violation
T		Noncompliant	SNC/Cat. 1	Permit Schedule Violation
D		Noncompliant	SNC/Cat. 1	For DMR Non-Receipt Violation
N		Noncompliant	RNC	For All Non-SNC/Cat. 1 Violation
V		Noncompliant	N/A	Non-RNC Violations in the Quarter
P		Resolved Pending	N/A	Final Resolution Pending Compliance with Formal Enforcement Action Final Order
R		Resolved	N/A	Final Resolution of Violation
C		Compliant	N/A	Not Automatically Generated, Used for Manual Overrides
Blank		Null in ICIS-NPDES "No Viol" in ECHO	N/A	Not Considered in Violation (including RNC or SNC/Cat. 1)
U		Unknown	N/A	Unknown Compliance Status

# Data Accuracy and Reliability

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## **Name of relevant information system:**

- Integrated Compliance Information System (ICIS)-NPDES data system

## **Entities that report data to the system:**

- NPDES permittees electronically report their self-monitoring data to EPA and/or to NPDES-authorized states. This data is housed in EPA's ICIS-NPDES data system. Authorized states either use the ICIS-NPDES data system or upload to ICIS-NPDES the electronically reported permittee effluent data they receive, as well as state NPDES permit, inspection, and enforcement data. EPA enters its permit, inspection, and enforcement data into the ICIS-NPDES database.

## **Frequency of reporting primary data:**

- NPDES compliance data generally is reported by the permittee on a monthly basis. ICIS-NPDES uses this data to calculate an SNC rate on a quarterly basis. Therefore, data for this measure is available quarterly.
  - Noncompliance data reported for NPDES facilities is used by EPA to produce quarterly and annual public reports as required by 40 CFR 123.45. ICIS-NPDES automatically screens the noncompliance data to identify the subset of SNC-level violations. SNC-level violations are specific types or levels of violation, which are classified based on duration, severity, and type.
  - Each quarter's data is available approximately 10 weeks following the end of a quarter. Quarterly reporting for this metric began in January of FY 2018 (reporting the annual SNC rate based on the four quarters that ended Sept. 30, 2017).

# Data Accuracy and Reliability (continued)

## Description of data quality assurance processes:

- OECA has an annual data verification process for the collection and reporting of NPDES information. The goal of this process is to give states the opportunity to verify that compliance and enforcement data regarding individual regulated facilities is accurate, is reliably flowing into national databases, and that this information displays correctly in the Enforcement and Compliance History Online (ECHO) website.
  - The Data Verification Process is referenced in Environmental Council of the States (ECOS) Resolution No. 11-2, Respectful Use of Data, as a model for ensuring high-quality data and is the result of the ongoing, collaborative partnership between EPA and ECOS to improve quality assurance efforts for compliance and enforcement information.
- A Data Quality Record has been developed for the strategic measure associated with this Agency Priority Goal: <https://www.epa.gov/sites/production/files/2018-05/documents/dqr-3-1-environmental-law-compliance.pdf>
- For more information on the data verification process: <https://echo.epa.gov/oversight/state-review-framework>
- For more information on SNC determinations: <https://echo.epa.gov/help/reports/dfr-data-dictionary#SNCHPV>

# Additional Information

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## **Contributing Programs**

### **Organizations and Roles:**

- OECA – Leadership, coordination with state organizations, workgroup leadership, strategy and technical expertise.
- EPA Regions – Leadership, coordination with individual states, workgroup leadership, strategy and technical expertise.
- EPA Office of Water (OW), Office of Wastewater Management (OWM)
- ECOS, ACWA - Leadership, strategy and technical expertise.

### **Program Activities:**

- NPDES Compliance and Enforcement Program – lead and contribute to workgroup, lead implementation of activities to achieve APG.

### **Regulations:**

- 40 CFR Section 123.45 – Defines required NPDES noncompliance reporting by NPDES-regulated facilities and regulatory authorities, as well as public reports required to be produced by EPA.
- 40 CFR Section 127 – NPDES Electronic Reporting.

### **Policy and Guidance:**

- EPA NPDES “Enforcement Management System (EMS)” guidance and NPDES SNC Policy – Defines NPDES SNC criteria and program management expectations.

## **Stakeholder / Congressional Consultations**

States are primary stakeholders. EPA held webinars for senior state officials and NPDES state practitioners in June and July 2018. More discussions are planned with state environmental and media associations in the fall.