

# Partnering with States and Tribes

2018 Full SFIREG Meeting

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Office of Pesticide Programs

U.S. Environmental Protection Agency

# Cooperative Federalism

- The Office of Pesticide Programs places high value on maintaining and improving relationships with state, tribal, and international pesticide co-regulators.
- We achieve this with states and tribes through:
  - Grants administered at the HQ level.
  - Working with states and tribes to develop national pesticide priorities.
  - Monitoring and analyzing state and tribal grantee's end-of-year reports.
  - Working with EPA regions to respond to requests for HQ assistance to support state and tribal issues.

# EPA's FY18-FY22 Strategic Plan

Advances EPA's priorities and identifies three strategic goals:

- **Goal 1: Core Mission** – Deliver real results to provide Americans with clean air, land and water.
- **Goal 2: Cooperative Federalism** – Rebalance the power between Washington and the states to create tangible environmental results for the American people.
- **Goal 3: Rule of Law and Process** – Administer the law, as Congress intended, to refocus the Agency on its statutory obligations under the law.



- Reduce number of non-attainment areas from 166 to 101 (2019 APG = 138)
- Reduce number of community water systems out of compliance with health-based standards from 3,600 to 2,700
- Increase by \$40 billion the non-federal dollars leveraged by EPA water infrastructure finance programs (2019 APG = increase by \$16 billion)
- Reduce number of square miles of watershed with surface water not meeting standards by 37,000 square miles
- Make 255 additional Superfund sites Ready for Anticipated Use (RAU) (2019 APG = 102 additional)
- Make 3,420 additional Brownfields sites RAU (2019 APG = 1,368 additional)
- Make 536 additional Resource Conservation and Recovery Act (RCRA) corrective action facilities RAU
- Complete 56,000 additional Leaking Underground Storage Tank (LUST) cleanups that meet risk-based standards
- Complete all EPA-initiated Toxic Substances Control Act (TSCA) risk evaluations for existing chemicals in accordance with statutory timelines (2019 APG = 100%)
- Complete all TSCA risk management actions for existing chemicals in accordance with statutory timelines (2019 APG = 100%)
- Complete all TSCA pre-manufacture notice final determinations in accordance with statutory timelines (2019 APG = 80%)
- Complete all cases of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)-mandated decisions for the pesticides registration review program
- Reduce Pesticide Registration Improvement Act (PRIA) registration decision timeframe by an average of 60 days
- Increase number of grant commitments achieved by states, tribes, and local communities
- Increase use of alternative shared governance approaches to address state, tribal, and local community reviews
- Eliminate backlog and meet statutory deadlines for responding to Freedom of Information Act (FOIA) requests
- Reduce average time from violation identification to correction
- Increase environmental law compliance rate (2019 APG = reduce Clean Water Act National Pollutant Discharge Elimination System (NPDES) permittees in significant noncompliance with their permit limits from 24% to 21%)
- Meet 100% of legal deadlines imposed on EPA
- Eliminate unnecessary or duplicative reporting burdens to the regulated community by 10,000,000 hours
- Increase number of research products meeting customer needs
- Reach all permitting-related decisions within 6 months (2019 APG = Reduce by 50% those exceeding 6 months)
- Reduce unused office and warehouse space by 850,641 square feet
- Reduce procurement processing times by achieving 100% of procurement action lead times
- Improve 250 operational processes
- Increase enterprise adoption of shared services by four

# Office of Pesticide Programs

## Strategic Measures

- EPA's FY18-FY22 Strategic Plan contains the following goal and objective relating to pesticide regulation:
  - Goal 1- Core Mission: Deliver real results to provide Americans with clean air, land, water, and ensure chemical safety
    - Objective 1.4 - Ensure Safety of Chemicals in the Marketplace
- Under Objective 1.4, there are two strategic measures, addressing the registration of new pesticides and the reevaluation of existing pesticides.
- Progress in meeting strategic targets is reported and assessed monthly at the Administrator's level.

# OPP Strategic Measures

## Pesticide Registration

- By September 30, 2022, reduce the Pesticide Registration Improvement Act (PRIA) registration decision time frame by an average of 60 days
  - baseline avg. timeframe = 655 days based on FY15-FY17 data
- The purpose of this measure is to expedite the review and licensing of pesticide new active ingredients under PRIA, and more specifically, to bring EPA's decision time frames for these types of applications more in line with the time frames specified in the law.
- The strategic measure is supported by three performance measures setting annual targets
  - average timeframes for all new chemical decisions
  - average exceedance of PRIA timeframes for new chemical decisions where original PRIA due date was not met
  - percentage of PRIA decisions completed on-time

# OPP Strategic Measures

## Registration Review

- By September 30, 2022, complete all cases of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)-mandated decisions for the pesticide registration review program:
  - Baseline = 251 cases completed as of FY 2017
- The purpose of this measure is to ensure completion by September 30, 2022, of all 725 chemical cases being evaluated under the current cycle of registration review.
- The strategic measure is supported by two performance measures setting annual targets:
  - registration review decisions completed
  - draft risk assessments completed



# EPA's FY18-FY22 Strategic Plan

## Cooperative Federalism

- “More than 45 years after the creation of the EPA **most states, and to a lesser extent territories and tribes, are authorized** to implement delegated federal environmental programs within their jurisdictions.”
- “Recognizing the congressionally intended responsibilities of our state, local and tribal partners, we must adapt and modernize our practices to **reduce duplication of effort** and **tailor oversight** of delegated programs.”

# EPA's FY18-FY22 Strategic Plan

## Cooperative Federalism

- “The *FY 2018-2022 EPA Strategic Plan* sharply refocuses **EPA on its role of supporting the primary implementers of environmental programs** – states and federally-recognized Indian tribes<sup>1</sup> – by streamlining programs and processes, reducing duplication of effort, providing greater transparency and listening opportunities, and enabling the Agency to focus on its core mission work.”

# EPA's FY18-FY22 Strategic Plan

## Cooperative Federalism

- “EPA headquarters and regions will **facilitate constructive dialogue with states and tribes** to ensure maximum utilization of resources. EPA will adapt its practices to reduce duplication of effort with authorized states and tribes, and tailor its oversight of delegated programs.”

# EPA's FY18-FY22 Strategic Plan

## Cooperative Federalism

- “Cooperative federalism – the relationship between states, tribes and EPA – is **not just about who makes decisions, but about how decisions are made and a sense of shared accountability** to provide positive environmental results. EPA understands that improvements to protecting human health and the environment cannot be achieved by any actor operating alone, but only when the states, tribes, and EPA, in conjunction with affected communities, **work together in a spirit of trust, collaboration, and partnership.**”

# EPA's FY18-FY22 Strategic Plan

## Cooperative Federalism

- “Effective environmental protection is best achieved when EPA and its state and tribal partners work from a foundation of transparency, early collaboration – including public participation – and a **spirit of shared accountability** for the outcomes of this joint work.”

# EPA's FY18-FY22 Strategic Plan

## EPA and State Collaboration - FIFRA

- **“EPA is responsible for** licensing (registering) and periodically reevaluating (registration review) pesticides to protect consumers, pesticide users, workers who may be exposed to pesticides, children, and other sensitive populations, while considering the benefits associated with the use of the pesticide. EPA seeks public input on all pesticide reevaluations; all new active ingredients; first food uses; and the establishment, modification, or revocation of tolerances. For example, the rules governing the registration review program typically provide for three distinct comment periods at various stages of the review process. In making pesticide decisions, the Agency often seeks input from stakeholders to address specific information, such as real-world use patterns and benefits to the user

# EPA's FY18-FY22 Strategic Plan

## EPA and State Collaboration - FIFRA

- “EPA **works with** other federal, state, and tribal agencies, trade organizations, industry, and non-governmental organizations to ensure the effective and safe use of pesticides. EPA also has long provided **financial support and expertise** to states and tribes so that they can provide training, education, and outreach to pesticide applicators about the safe, proper, and legal use of pesticides. **States and tribes** work with farmers, businesses, and public agencies to protect human health and the environment and **serve as a critical part of job training and business growth in rural areas.**”

# Cooperative Federalism - FIFRA

- National Program Management
  - Cooperative Agreement
  - Grants
  - Issue Identification from FIFRA Organizations
  - State-Tribe/Region/HQ Collaboration
  - Measures
- Dicamba
  - Fumigants
  - Emergency Exemptions
  - Product Registration Issues
  - Pollinators
  - WPS and C&T
  - Producer Establishments
  - Fumigants
  - Technology
  - Etc.

# ECOS Cooperative Federalism 2.0 – June 2017

## States

1. Key Partners in development and implementation of health standards.
2. Preferred implementing entities for national environmental programs.
3. Flexibility in achieving standards.
4. Engage local governments, regulated entities, tribes and public.
5. Primary enforcement authority.
6. States should share information transparently with EPA.
7. Ability to pursue innovations and set more stringent standards.
8. Work cooperatively with EPA in the development of shared services.

## EPA

1. Lead in setting health standards.
2. Lead where states decline, fail, or statutes establish federal role.
3. Involve states as partners early and often.
4. Ensure appropriate tribal consultation.
5. Respect states' role as primary implementer.
6. Periodically and routinely audit state programs based on mutually developed criteria.
7. Convener and facilitator in important interstate issues.
8. Maintain robust scientific research and data gathering capacity to understand how to respond to complex/emerging environmental pollution challenges and modern technologies.

# Opportunities for Collaboration

## ECOS Cooperative Federalism 2.0 – May 4, 2018 Update

- “Underpinning the aspirations of CF2.0 is a belief that a **strong U.S. EPA and empowered state environmental agencies should and can coexist** while improving the performance of both parties.”
- “Inherent in CF2.0 is a belief that national standards are essential to achieving scientifically established environmental protection *and* that **local conditions, knowledge, and expertise play** an important role in successfully implementing and enforcing these national standards.”
- “CF2.0 remains a state-driven priority for more effective environmental protection and greater administrative efficiency through a fundamental realignment of program implementation responsibilities between states and the federal government. We also recognize that **U.S. EPA through its FY 2018-2022 Strategic Plan has embraced cooperative federalism broadly and through proposed areas of focus.**”

# Resources

- FY 18-22 EPA Strategic Plan
  - <https://www.epa.gov/sites/production/files/2018-02/documents/fy-2018-2022-epa-strategic-plan.pdf>
- ECOS Cooperative Federalism 2.0 Paper
  - <https://www.ecos.org/news-and-updates/cooperative-federalism-2-0/>
- FY National Program Managers Guidance
  - <https://www.epa.gov/planandbudget/final-fy-2018-2019-office-chemical-safety-and-pollution-prevention-ocspp-npm-guidance>
- Cooperative agreement guidance:
  - <https://www.epa.gov/compliance/fiscal-year-2018-2021-fifra-cooperative-agreement-guidance>
- OPP website:
  - <https://www.epa.gov/pesticides>
- Compliance Website
  - <https://www.epa.gov/compliance>
- FIFRA Enforcement Website
  - <https://www.epa.gov/enforcement/waste-chemical-and-cleanup-enforcement#chemical>



# Discussion