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**FY 99 OECA MOA Guidance Update**

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**MEMORANDUM**

**SUBJECT:** FY 1999 OECA Memorandum of Agreement (MOA) Guidance Update

**FROM:** Steven A. Herman  
Assistant Administrator

**TO:** Regional Administrators  
Deputy Regional Administrators

This memorandum provides you with our FY 1999 MOA guidance update to the two-year FY 1998/1999 OECA Memorandum of Agreement Guidance, issued on June 5, 1997. The OECA MOA guidance serves as the comprehensive planning, priority setting and accountability document for the compliance and enforcement programs. As we embark on the second year of this guidance, we are proposing only minor changes to the guidance and requesting FY 1999 commitments and resource information. As we look ahead to FY 1999, we remain committed to implementing the priorities and initiatives identified in the FY 1998/1999 MOA guidance, such as sectors, community, media specific, and cross-cutting activities which support a balanced, innovative, and aggressive compliance and enforcement program.

When submitting your FY 1999 MOA update, please bear in mind that it will serve as an addendum to the FY 1998/1999 MOA previously negotiated between your Region and Headquarters. Regions should use this supplement as an opportunity to inform us of any significant updates or adjustments you would like to make to your existing MOAs, such as changes in sector strategies, refinements to community-based areas, or adjustments to regional initiatives. Regions should also identify any support requests they feel are necessary to assist in the implementation of their MOA.

This FY 1999 MOA guidance package you are receiving does not include any attachments. The Regional Enforcement Division Directors and coordinators will receive a complete package that includes attachments which support the MOA and OECA's FY 1999 programs and will help them to develop their MOA update, such as the commitment charts, Headquarters assistance activities, and resource charts. A list of the attachments is included in this package for your information.

Please submit two hard copies and an electronic version of your FY1999 MOA addendum to John J. Neylan III, Chief, Planning Branch, Enforcement Planning, Targeting and Data Division, Office of Compliance, (mailcode: 2222-A) by August 21, 1998.

We appreciate your continued commitment to work with us to achieve our enforcement and compliance assistance goals and milestones for FY 1999. Please direct any questions on the FY 1999 MOA guidance update to Elaine Stanley at (202) 564-2280, (mailcode: 2221-A).

Attachments

cc: Assistant Administrators  
OECA Office Directors  
Regional Counsels  
Regional Enforcement Division Directors  
Regional Enforcement Coordinators

## FY 99 OECA MOA GUIDANCE UPDATE

### *Introduction*

In keeping with the directives of a 2-year MOA process, the national enforcement and compliance program will continue the priorities and program directions laid out in the FY 98/99 MOA guidance; with the addition of only two new priorities, compliance assistance at DOI facilities, and imminent and substantial endangerment. While certain minor adjustments are necessary, from both the Headquarters and Regional perspective, the signed FY 98/99 MOAs should remain largely intact as strategic work agendas for the year.

Similar to FY 98, the FY 99 MOA Guidance Update continues to articulate the national enforcement and compliance assurance program's most important goals, objectives, and priorities. While the primary purpose of the MOA guidance is to serve as a negotiated agreement between the Region and Headquarters addressing common, cross-cutting issues or concerns, we recognize that much of the implementation efforts involve both Regional and State activities. Therefore, Regions should use this guidance when discussing State agreements and workplans and, where appropriate, address implementation of national priorities which match State environmental problems, strategies, and resources. We recognize, however, that States face unique situations and that flexibility is important to ensure their most significant environmental problems are addressed. It is in the MOAs or State agreements themselves that final decisions on priorities and directions must be made.

Part I of this guidance provides updates and additional information for Headquarters, Regions and States to use as they develop FY 99 work programs to implement and manage their enforcement and compliance programs; Part II identifies the components of the FY 99 MOA annual update expected from each Region by August 21, 1998.

### **Part I: FY 99 MOA Guidance Updates**

#### ***A. FY 99 Refinements***

This guidance update identifies two new priorities and provides some clarifications and enhancements to seven other priorities. The new priorities are presented in full, and the clarifications are shown in bold italics. Other major activities are also identified which may impact Regional workload and commitments, but vary significantly between and within Regions, both in terms of timing and workload. These can be factored into discussions to adjust the MOAs for FY 99.

*1. NEW PRIORITIES*

**CROSS-CUTTING PRIORITIES**

**OVERARCHING PRIORITY AREA: COMPLIANCE ASSISTANCE AT DOI FACILITIES**

**Priority Activity:** Include DOI facilities in any ongoing compliance assistance activities already planned or underway in FY98/99 and undertake additional compliance assistance activities which are specifically targeted towards DOI bureaus and facilities in each Region.

**Selection Rationale:** DOI recently contacted EPA regarding their concerns about compliance problems and related enforcement actions at DOI facilities. DOI requested EPA assistance in helping to develop a compliance improvement strategy for DOI and its various bureaus and agencies.

**Performance Expectation/Measures:** With resources provided by FFEO, Regions should include and target DOI bureaus and facilities in their compliance assistance activities and provide updates to FFEO on progress in this area.

**Timeframes:** Regions should continue targeted DOI compliance assistance efforts in FY 99, which they commenced in FY 98.

**OVERARCHING PRIORITY AREA: IMMINENT AND SUBSTANTIAL ENDANGERMENT**

**Priority Activity:** Make responsible use of Imminent and Substantial Endangerment authorities to prevent and address endangerment to human health, welfare and the environment.

**Selection Rationale:** While Imminent and Substantial Endangerment Authorities have been used constructively in the past, the Agency has failed to realize the full potential of the range of these statutory authorities. Building on past successes, particularly with the use of CERCLA §106, RCRA §7003, and SDWA §1431, the Agency must overcome institutional barriers to the use of the authorities across all statutes as appropriate. To this end, it is important that Regional and Headquarters personnel commit themselves to sharing expertise and coordinating efforts.

**Performance Expectations/Measures:** The Regions are requested to undertake the following activities: 1) The Region will establish and maintain a Regional contact for purposes of coordinating enforcement responses to endangerment situations with the Headquarters I&SE team and Headquarters management. 2) The Region will attend the relevant I&SE training workshops (roundtables) and take advantage of expertise across its Region and the Agency and tools provided by Headquarters to make reasoned, effective use of the full range of authorities to promptly address endangerment situations. 3) The Region will incorporate I&SE into their case screening process. 4) The Region will attend a national meeting on I&SE. 5) Headquarters will provide the Regions with the capability to track these cases in DOCKET.

**Timeframes:** Those Regions that have not already established an I&SE contact should do so by the first quarter of FY 99. Coordination within the Region and with Headquarters should occur on an ongoing basis. Regional Roundtables will be offered in up to three different locations during FY 98/99 for purposes of sharing expertise.

**2. ENHANCEMENT AND CLARIFICATION OF EXISTING PRIORITIES:**

(Priorities from FY 98/99 guidance with **changes in bold italics.**)

**INDUSTRY SECTOR PRIORITIES**

*A priority theme for the FY 98/99 MOA guidance and the Regional MOA submissions was the development of compliance and enforcement strategies for specific industry sectors that warrant priority attention. In an effort to balance the need for a comprehensive national focus on key industry sectors with the need for flexibility to accommodate Regional and State specific issues and concerns, we developed a tiered approach to establishing sector priorities. To assure that attention is focused on resolution of compliance issues in sectors found to be nationally significant, we identified three sectors as “national priority sectors” and eight others as “significant sectors”. Although these sector have not changed, in reviewing the draft FY 98/99 Regional MOAs, we noted that the sector program is still evolving and many of the sector discussions in the Regional MOAs needed additional details. To address this concern and focus our efforts, Headquarters began working with the Regions to develop specific objectives for strategies in seven key sectors: **Petroleum Refining, Nonferrous Metals, Iron and Steel, Coal Fired Power Utilities, Concentrated Animal Feedlot Operations (CAFOs), Industrial Organic Chemicals, and Chemical Preparation.***

*In FY 98, Headquarters and the Regions developed national sector strategies and action plans that, because of timing issues between developing the strategies and finalizing the FY 98/99 MOA review and negotiations, were not included in the FY 98/99 MOA Agreements. As the Regions prepared their FY 98 MOA Mid-Year Reports, they were requested to include any sector write-ups that have been revised to reflect their participation in the current version of the national strategies and amend any other portions of their MOA which may have been impacted by participating in the national sector strategies. For the FY 99 MOA submission, the Region should focus on documenting significant changes which impact the approach or commitments established in the current MOA and mid-year report. These changes could include participation in the other national sector strategies that have been revised since the Mid-Year process. In addition, it is expected that participation in sectors other than the national sector strategies will continue, as previously committed to in the FY 98/99 MOA.*

## MEDIA PRIORITIES

### CLEAN AIR ACT

*This priority area was included within the negotiation of the FY 98/99 MOA, because the DOJ/OLC decision occurred after the MOA guidance had been issued. It is included here to re-affirm the discussions that occurred during the MOA negotiations.*

### OVERARCHING PRIORITY AREA: FEDERAL FACILITIES ENFORCEMENT

**Priority Activity:** *Conduct CAA inspections at Federal facilities using enforcement and penalty authorities clarified in the July 16, 1997 DOJ/OLC Decision and issue administrative penalty orders and/or field citations to Federal facilities based either on EPA inspections or referrals from states.*

**Selection Rationale:** *On July 16, 1997, the Department of Justice Office of Legal Counsel issued an opinion which concluded that the Clean Air Act authorizes EPA to issue administrative orders and assess civil penalties against Federal facilities for violations of the Act or its implementing regulations. This ruling does not address State enforcement authorities and, given the conflicting District Court decisions on this issue, it is critically important that EPA Regions conduct some inspections at Federal facilities even in States with authorized programs. Regions may also choose to issue administrative orders and assess penalties based on referrals from State inspections. Regions are encouraged to inform the states of EPA's authorities in this area and encourage them to refer appropriate cases to the Region for enforcement action.*

**Performance Expectation:** *Regions should incorporate a Clean Air Act component in all Regional multimedia inspections of Federal facilities as outlined in the Federal facilities section of the FY 98/99 MOA guidance. In FY 99, Regions should inspect at least one Federal facility per quarter using these newly clarified authorities. In addition, where the Regions find violations they should take enforcement actions as appropriate; they should also work with the States through PPA's or other means to encourage them to refer Federal facility cases to EPA when administrative orders and/or penalties would be the appropriate enforcement response.*

**Timeframes:** *EPA Regional inspections of Federal facilities should begin in the first quarter of FY 99 as part of targeted multimedia inspections or other program priority inspections. Administrative orders and penalties should be issued in a timely manner, when appropriate, following either EPA inspections or referrals from the States. Headquarters will be issuing guidance in the summer of FY 98 on EPA use of CAA administrative order and penalty authorities at Federal facilities. In addition, since the Regions will be using existing CAA enforcement authorities, there is no need for any additional delegation to the Regions for Federal facilities.*

## TOXICS

**OVERARCHING PRIORITY AREA: TSCA LEAD-BASED PAINT**

**Priority Activity:** *Compliance monitoring/inspections* and enforcement for TSCA section 1018 lead based paint notification and disclosure requirements. *Followup on tips and complaints (with priority emphasis on housing with pregnant women or children as occupants.) Share information on results of compliance/enforcement activities with HQ in accordance with Regional/HQ agreements and lead performance measures.* Review and approve State lead certification program applications under Sections 402/404 and oversee State enforcement cooperative agreements. Prepare for *and implement* Federal compliance and enforcement programs for States and Tribes which do not adopt programs for lead abatement, certification, training and pamphlet distribution requirements in sections 402/404/406.

**Selection Rationale:** *The TSCA Section 1018 lead-based paint requirements constitute a new Federal program. In FY 98/99, the Regions are focussing on compliance monitoring and enforcement for the 1018 requirements.* The Federal government is also responsible for the lead 402/404 requirements in those States which do not adopt the program by the end of FY 98.

**Performance Expectations/Measures:** *In FY 98/99, Regions will conduct inspections and other compliance monitoring activities to ensure compliance with section 1018 in accordance with the National Lead Investigation Guidance Manual. The Regions will implement the related EPA-HUD communication procedures on sharing inspection targeting information on a quarterly basis.* Regions will track, respond to and address Section 1018 tips and complaints and will bring enforcement actions in accordance with the enforcement response policy (ERP). *Regions will oversee State enforcement cooperative agreements for 402/404. In FY 98, in coordination with HQ, the Regions will plan for Federal 402/404 compliance/enforcement programs for those States and Tribes which do not have authorized programs, and in FY 99, will implement these Federal 402/404 compliance/enforcement programs. For 402/404 programs, a focus during the first year following the effective date will be compliance assistance. Followup on the 406 program will occur once it is final. The Regions will provide information to HQ on results of their compliance assistance, inspections and enforcement activities for section 1018 and 402/404/406 in accordance with Regional/HQ agreements and performance measures.*

**Time frames:** *The focus for 1018 for FY 98/99 is compliance monitoring and enforcement. For section 1018, Regions will conduct inspections, respond to tips and complaints, and issue enforcement actions. In FY 98, in coordination with HQ, Regions will plan for Federal programs for 402/404/406 (where States/Tribes do not have authorized programs) and in FY 99, Regions will implement Federal compliance and enforcement programs for 402/404 for those States/Tribes which do not have authorized programs. Followup on the 406 program will occur once it is final.*

**SAFE DRINKING WATER ACT**

**OVERARCHING PRIORITY: SAFE DRINKING WATER ACT**

**Priority Activity:** Implementation of the Safe Drinking Water Act Amendments of 1996

**Selection Rationale:** The Safe Drinking Water Act was reauthorized in FY 96. These amendments fundamentally change the drinking water program by providing the Agency and the States new tools, for example, the State Revolving Fund and new enforcement authorities, *including administrative order and penalty authority for Federal facilities*. Much work needs to be done to implement these new authorities. In FY 97, Headquarters and Regions set up the basic framework for implementation and began work on many provisions. At this time, there are draft implementation plans being reviewed in several of the major areas (e.g., small systems, State Revolving Fund, and compliance). Carrying out the activities in these plans will continue and remain a priority in FY 98/99. (Note: as the plans are finalized, Regional involvement in and commitment to various activities will become clearer so that by the time of MOA development, these can be incorporated into the MOA.)

**Performance Expectations/Measures:** Regions will implement the new provisions consistent with the strategies being developed during FY 97 *and include Federal facilities as part of other identified Safe Drinking water priority activities, conducting EPA inspections at Federal facilities using these newly clarified authorities. Regions should also incorporate a Safe Drinking Water Act component in all Regional multi-media inspections of Federal facilities as outlined in the Federal facilities core program section of the MOA Consolidated Technical Guidance. When Regions find violations, they should take enforcement action, as appropriate.*

**Timeframes:** Implementation activities will continue throughout FY 98 and 99.

**CLEAN WATER ACT**

**OVERARCHING PRIORITY AREA: WATER MEDIA PRIORITY/CLEAN WATER ACT/URBAN WET WEATHER**

Note: See also the Municipal Sector Priority Description

**Priority Activity:** Urban Wet Weather/Ensuring Compliance with CSO Policy and Implementing the SSO Enforcement Management System

**Selection Rationale:** Run-off from wet weather events (i.e., overflows from combined sewers, sanitary sewers, or stormwater runoff ) remains a leading cause of water quality impairment as documented in the Section 305(b) report and, in the case of sewer overflows, represents a significant threat to public health. Efforts to control wet weather flows have been underway for several years and, while there are areas where regulatory development and/or consultation with the Federal advisory group is still ongoing, there are areas which are ripe for compliance assistance and/or enforcement due to the passage of deadlines or the issuance of new policies. There are significant policies in each of the major wet weather areas:



Combined Sewer Overflows (CSOs): EPA's Combined Sewer Overflow (CSO) Policy requires that systems with CSOs have the nine minimum controls in place by January 1, 1997.

Sanitary Sewer Overflows (SSOs): In March 1996, EPA issued, after consultation with the regulated community and the Regions, an enforcement strategy for SSOs, entitled "Setting Priorities for Addressing Discharges from Separate Sanitary Sewers."

Stormwater: Stormwater compliance and enforcement is a priority, but several guidances/regulations are not complete at this time. The guidance on stormwater phase I and the integration of stormwater phase I/phase II is expected to be available to the Regions in FY 98-99. Stormwater phase II regulations are scheduled to be promulgated in March 1999. EPA anticipates developing a phase II compliance and enforcement strategy, as well as compliance assistance and educational materials for Regional use during FY 99. *EPA is in the process of issuing the 1998 Storm Water Enforcement Strategy, which provides direction on prioritizing inspections and enforcement of industrial and construction requirements for phase I industrial stormwater dischargers.*

See also the Municipal Sector Priority Description for an extended discussion of the tools available to assist the Regions in implementing this priority.

**Performance Expectations/Measures:** Regions which have CSOs are to insure that all systems with CSOs are in compliance with the CSO policy or that an enforcement action has been taken. This activity should have begun in FY 97 (consistent with guidance recently issued jointly by OECA and OW); however, due to the complexity of the issue, it often takes substantial time to resolve these cases. Regions should ensure that by the end of FY 99 at the latest, all systems with CSOs are addressed.

For those Regions with SSOs, Regions should (a) assess the magnitude of the overflows in their Region (if they have not done so); (b) target systems with SSOs especially those in areas where the receiving waters are impaired and/or in environmental justice areas. Systems may be targeted for enforcement or for compliance assistance; however, it is expected that a minimum of 20% of the systems will be addressed each year; (c) issue administrative orders, file judicial actions, and/or provide compliance assistance to the community.

As Regions address their CSOs and SSOs, they should turn to stormwater issues *with particular focus on industrial and construction activities covered under the "Phase I" regulations. Priority should be given to those facilities which: (1) have failed to apply for coverage under NPDES permit, (2) failed to develop and implement the required BMPs, and (3) cause significant water quality problems.*

**Timeframes:** Regions should begin reviewing the compliance status of these facilities with CSOs and SSOs and developing their plan for addressing them if they have not already done so. Regions will be expected to assess progress at the midyear and at the end of each fiscal year. Headquarters notes that many of these issues are complex and require lengthy negotiations with

the municipalities as well as with citizen groups in order to reach resolution. Therefore, it is estimated that activity will continue in 98/99 and beyond. However, Regions are expected to be making steady progress in the area.

## RCRA

### **OVERARCHING PRIORITY AREA: RCRA SUBTITLE I (UNDERGROUND STORAGE TANKS)**

**Priority Activity:** Enforce release detection requirements already applicable to underground storage tanks (USTs) and, after December 22, 1998, enforce requirements for upgrading, replacing, or closing USTs not having protection against spills, overfills, and corrosion. *This activity includes conducting UST inspections and issuing administrative penalty orders or field citations to owners/operators of UST facilities, including UST facilities in Indian Country and UST facilities owned and operated by Federal departments and agencies, as well as participating in the development of civil enforcement actions, where appropriate. Because of the significance of the 1998 deadline, Regional offices may temporarily shift inspection and legal resources (including travel funds) from within the RCRA enforcement program, as appropriate, to enforcement of the underground storage tank requirements. If a Region does intend to shift resources within its RCRA program to address the UST requirements, it should consult with the Office of Regulatory Enforcement prior to submitting its FY 99 MOA update. In addition, projected State UST inspection numbers should be provided for each State for FY 99.*

**Selection Rationale:** *There are approximately 970,000 Federally regulated underground storage tanks (USTs) in the United States. Over the last decade, more than 340,000 UST releases have been confirmed. Sixty percent of these releases have affected groundwater, the source of drinking water for half of all Americans. By December 22, 1998, all underground storage tanks (USTs) that are not already protected against corrosion, spills and overfills must be upgraded, replaced or properly closed. In May, 1997, the Administrator issued a memo reenforcing the Agency's commitment to maintaining that deadline, recognizing the 1998 requirements as a key element in the ongoing State-EPA effort to prevent groundwater contamination.*

*The Office of Underground Storage Tanks (OUST) estimates that as many as 45 percent of active USTs still are not in compliance with these requirements. OECA estimates that the average Regional resource commitment to UST enforcement is currently less than one FTE. While States have the primary responsibility for UST enforcement, the number of potential noncomplying UST facilities, coupled with the varying capabilities of State programs, indicates that Regional offices will have to play an active role in UST enforcement, at least during FY 99 and FY 2000. With the Administrator having made a commitment not to extend the December, 1998 deadline, it is essential that the Agency be prepared to ensure that the requirements are fairly and consistently enforced.*

*In addition to working with States to meet this deadline, Regions need to also address*

*Federal facilities. Based on the Attorney General's 1997 Clean Air Act decision and the Office of General Counsel's determination regarding EPA's authority under the UST provisions, RCRA provides penalty and order authority to EPA against Federal agencies for violations of UST requirements.*

**Performance Expectations/Measure:** *The following goal is established for the percentage of active USTs equipped to be in compliance. This percentage applies nationally; percentages will vary from one State to another.*

December 1999: 84 percent

*In addition, Federal facilities should be included as part of other identified UST priority activities; at least one Federal facility inspection should be conducted per quarter using newly clarified authorities; and an UST component should be incorporated in all Regional multi-media inspections of Federal facilities as outlined in the Federal facilities section of the MOA guidance.*

### 3. MAJOR ACTIVITIES IN FY 99

The following activities will have a significant impact in FY 99 as we implement the MOA guidance. Their impact will vary from Region to Region and within Regions as they deal with their States. While there is no way to quantify the impact of these activities on a national level, we feel it is important to recognize that they involve considerable time and effort and may result in the Regions shifting resources to accommodate these activities.

a. Implementation of the National Performance Measures Strategies On December 22, 1997, Steve Herman released and sent to the Regions the final report of the *National Performance Measures Strategy* ("Measures Strategy"). In a subsequent February 5, 1998 memorandum he provides greater detail on those future implementation steps, and requests further involvement of Regional staff and managers on several aspects of the implementation process.

Implementation, use and continued refinement of the Performance Profile is a major priority for OECA for FY 98 and the foreseeable future. OECA's goal is to fully implement or conduct pilot projects for each of the measures during FY 98. This goal is ambitious, and will require a significant commitment of time and resources, from both Headquarters and Regional offices.

b. Tribal Strategy: OECA is currently developing a Tribal strategic plan to address enforcement and compliance in Indian country. The OECA Tribal strategy will begin implementation in FY 99 and may require changes or resource shifts in certain areas (e.g., providing compliance assistance to Tribal governments.)

c. Implementation of the Clean Water Action Plan (CWAP):Base water programs and

water priorities should be implemented in support of EPA and USDA's Clean Water Action Plan issued on February 14, 1998, e.g., a portion of compliance and enforcement activities should be focused in priority watersheds.

d. Priority Persistent, Bioaccumulative, and Toxic Chemicals (PBTs): OECA participates on an Agency-wide workgroup which is developing a Multimedia strategy for PBT chemicals. Mercury and PCBs are two PBT chemicals of concern. This strategy will be in place in time for full implementation in FY 2000, and most likely the FY 2000-01 MOA guidance will embrace the commitments of Canada, Mexico, and the U.S. to reduce exposure to mercury and PCBs within the North American Agreement for Environmental Cooperation. Therefore, OECA encourages the Regions to take advantage of opportunities to focus compliance and enforcement activities on mercury and PCBs within existing FY 99 MOA commitments where possible.

e. Community-Based Environmental Protection (CBEP): The Deputy Administrator, in a December 2, 1997 memorandum, established the National Program Managers (NPM)/Regional Geographic Initiative (RGI) CBEP project funding initiative. Under this initiative the Regions and NPMs would jointly agree on high priority CBEP projects for funding. OECA's participation was with staff time and/or services in lieu of funding. This initiative is expected to continue in FY 99.

#### **4. GRANT GUIDANCE**

In previous years, the Pesticides and Toxics grant guidances were attachments to the MOA guidance. For FY 99, OECA guidance for pesticides and toxics compliance cooperative agreements were issued under separate cover. (See memoranda dated May 7, 1998, signed by Frederick F. Stiehl, Director, Enforcement, Planning, Targeting, and Data Division.)

Regions should use the priorities and activities identified in the MOA guidance as they negotiate the enforcement and compliance components of all State grant work programs and performance partnerships. Performance partnership grants (PPG) are voluntary and will provide States and Tribes with the option to combine funds from two or more of their categorical grants. Along with this flexibility, appropriate accountability provisions are also essential in designing the PPG program, and the Agency is developing guidance to address this area. As EPA and States and Tribes negotiate program commitments under PPGs, they are encouraged to focus on performance measures that address both environmental outcomes as well as programmatic requirements.

### **Part II: FY 99 MOA Submittals**

The Regions should provide a short update which reflects necessary updates and revisions to the MOA and includes annual commitment and resource data. Specifically, by August 21, 1998 Regions should submit, as an addendum to their MOA, a memo from their Regional Administrator to Steven Herman, attaching the following information:

- A. Regional Updates and Modifications
- B. Annual Commitment Charts

- C. Support Requests
- D. Resource Utilization Charts

***A. Regional Updates and Modifications***

Regions should provide updates or adjustments to their existing MOA, if necessary, to provide additional data, indicate modifications or discuss redirections. This section of the update provides the Regions the opportunity to discuss such things as progress or delays/changes in their sector strategies, refinements to their community based areas, or adjustments needed to complete Regional initiatives. The Region should focus on significant changes which impact the approach or commitments established in the current MOA. This discussion could also include new information ranging from environmental data to organizational changes that may affect implementation of the MOA.

***B. Annual Commitment Charts***

Attachment I provides the forms and definitions for FY 99 reporting measures that require up-front commitments or projections. These charts are the same as those completed for the FY 98 MOA, with the addition of a FIFRA Inspection form. Specifically, Regions should complete the following forms:

- NPDES/Pretreatment Inspections
- Drinking Water Fixed Base SNC
- RCRA Inspections
- TSCA Inspections
- EPCRA Inspections
- Air Inspections
- FIFRA Inspections

***C. Support Requests***

Under this section of their submittal, Regions should indicate what support from Headquarters is necessary to assist in implementation of their MOA activities. Attachment II provides the information NEIC is requesting by June 19, 1998, to start their review and commitment process for support. Regions should submit this information and begin discussions to allow for final agreements from NEIC during the negotiation phase immediately following the August 21st due date for the MOA Update.

Attachment III presents an update to the Headquarters Support Activities described in the FY 98/99 MOA Consolidated Technical Guidance. This includes the FY 98/99 OECA Course Plan, provided by the National Enforcement Training Institute to assist the Regions in considering enforcement and compliance training needs in conjunction with the MOA process. Regions should submit any remaining support requests in their MOA Update for Headquarter's review and response.

***D. Resource Information***

## **FY 99 OECA MOA Guidance Update**

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Attachment IV presents the Resource Utilization charts which Regions should complete as part of their FY 99 MOA Update. The charts ask Regions to report on FTE, extramural dollars and the enforcement and compliance piece of State grants. This information is necessary to account for enforcement and compliance activities for a variety of reasons: to identify resources under new Regional reorganizations; to assess trends and shifts in programs; to develop more realistic budget documents and meet GPRA requirements; to understand State investment in enforcement and compliance programs; and to inform Congress and others as to our resource allocations and results.

The MOA is the most logical place to collect this information and to establish a common set of numbers for the upcoming year. OECA senior management is committed to using these numbers wherever possible to address budget and resource questions and thus limit the ad hoc requests to Regions for this information.

The draft FY 99 MOA guidance presented the resource discussion and indicated that this information would be collected as part of the FY 99 update, although the charts and definitions were not available. Based on our experiences with other resource collection efforts, we anticipate that follow up discussions and questions will stem from this effort. We plan to hold a conference call with all Regions in late June to focus on resource information.

## FY 99 OECA MOA GUIDANCE ATTACHMENTS

*Attachment I*                      *Reporting Forms for FY 99 Commitments*

*Attachment II*                     *NEIC Support Requests*

*Attachment III*                    *Updated Headquarters Support Activities*

*Attachment IV*                    *Resource Utilization Charts*