

ENVIRONMENTAL TECHNOLOGY EXPO AND COMPLIANCE
WORKSHOPS
LANSING, MICHIGAN, OCTOBER 9, 1996

REMARKS BY BERTRAM C. FREY, DEPUTY REGIONAL COUNSEL
U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 5

Thank you for inviting me to speak to you this morning. I am pleased to be able to join you.

Twenty-six years ago, this country joined together -- citizens, businesses, government -- in a nationwide commitment to protect our health, the air, the water, and the land we all share. Through working together this nation has made a great deal of progress -- progress for which we can all be proud. We no longer have rivers catching on fire. Our skies are cleaner and clearer.

Particularly over the past three years, the U. S. EPA and the states have worked together to build new partnerships, in which each level of government can do what it does best, to protect public health and our environment. We have worked hard to find common-sense, cost-effective solutions that recognize the strengths that each level of government brings to the responsibility we share. And we are seeing results.

Today, 50 million Americans in 55 cities are breathing cleaner air.

Together, we have accelerated the cleanup of urban properties that have long lain contaminated or abandoned, returning them to productive use, creating jobs, creating hope.

In the past three years, EPA and the states have cleaned up more toxic wastes than in the previous 12 years of the Superfund program.

Regulatory reinvention is cutting red tape for businesses, states and communities. EPA has reinvented the environmental grant process to give states the flexibility to shift resources to meet state needs and priorities. Under this year's budget, states have the flexibility to combine categorical grants into a single Performance Partnership Grant. Through Performance Partnership Grants and

through the Environmental Performance Agreements signed by states and the federal government, we work together to focus on environmental results. Together, we encourage flexibility. We encourage innovation. We tailor our efforts to reflect different capabilities and the different priorities of each individual state.

Strong enforcement is also a vital part of our partnership. In all that we do, we recognize that is the responsibility of state and federal government to ensure for the American people fair, consistent, and effective enforcement of the environmental laws and regulations.

The people of this nation want protection from pollution, and demand enforcement of our environmental laws to ensure that protection. The public's expectation of protection from environmental hazards drives our enforcement and compliance program. It gives clarity to our mission. Our strength is derived from the overwhelming support of the American people. Whether by strong criminal and civil cases, swift administrative actions, or through policies and programs that provide incentives for companies to voluntarily step up to the mark and confront their environmental problems, enforcement and compliance assurance work.

Most federal environmental statutes give primary enforcement authority to a delegated state, such as Michigan. When the state desires to take the lead in an enforcement case, the Agency will almost always defer. We have limited resources; so do the states. But in the first instance, the states and EPA generally try hard to agree up-front who will take the lead in an enforcement case, so as not to duplicate enforcement resources.

Having said that, I must still stress that Congress has enacted the substantial body of federal environmental laws to secure equal treatment for industries across the country, and to limit the states' ability to create havens for pollution, should they be economically motivated to do so. EPA is charged with assuring that, when states are delegated the responsibility to manage environmental programs, they maintain a "level playing field" for businesses and conduct those programs in a manner consistent with federal law. The environmental laws must be enforced in a manner so that a violator does not gain an economic advantage over a complying competitor. Notwithstanding that most federal laws allow states to enact more stringent requirements than federal law, where a state acts in derogation of federal law, EPA is obligated to intercede. If the environmental cop is not on the beat, we

will not maintain the gains of the past 26 years.

In addition, EPA is providing compliance incentives and compliance tools in areas where in the first instance, enforcement is not appropriate. Our Common Sense Compliance incentives for small business will waive or reduce penalties for first-time violators who agree to fix the problems. We would rather see the money spent to solve problems and prevent pollution. EPA's new Compliance Assistance Centers are helping to do this.

Our flexible compliance policy for small communities helps those communities target to address their most pressing environmental needs.

EPA's Environmental Leadership Program, our incentives for self-policing, and Project XL are all exciting new approaches to help companies go beyond compliance and get the very best environmental results.

Many state Attorneys General helped EPA develop our new audit policy, which provides incentives to come forward and disclose and correct violations, while still protecting the public's right to know and government's ability to protect the public health and the environment. Now the debate has passed to the state legislatures. State Attorneys General and environmental commissioners are on the front lines to make sure that **state** environmental programs include those same safeguards, protecting the public's right to know, the government's ability to protect public health and the environment.

New and creative approaches are essential for boosting compliance with the environmental laws. But make no mistake: new compliance initiatives do not in any way replace strong, effective enforcement actions. On the federal level and on the state level alike, their role is to complement enforcement -- not to take the place of enforcement.

I will next focus on issues presented by state environmental audit privilege and immunity laws and briefly explain the features of EPA final self-policing policy that became effective in January of 1996.

[presentation from overheads]

The price of a clean, safe environment is that we must always be vigilant. The responsibility will always be ours to protect our health, our natural resources, and our children's future.

The American people continue to want strong, effective protection of public health and our environment -- because the job is not done.

One in three Americans still lives in an area where the air is too polluted to meet federal health standards. Asthma is on the rise. One in four Americans lives near a toxic waste dump. Forty percent of our rivers, lakes, and streams are too polluted for fishing or swimming.

Those of us in government, whether in state government or in federal government, have an obligation to our citizens, to protect our air, our water, our land, the health of our children, and generations to come. The whole cloth is achieved only when each of us brings what we can uniquely contribute. Together we can protect public health and the environment so that our children and our grandchildren can enjoy a healthy and prosperous life.