



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

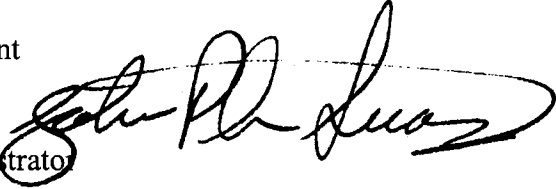
WASHINGTON, D.C. 20460

APR 15 2003

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Smart Enforcement

FROM: John Peter Suarez 
Assistant Administrator

TO: All OECA Staff
All Regional Enforcement Staff
Regional Administrators
Deputy Regional Administrators

The purpose of this memorandum is to set forth the framework for enhancing and strengthening our enforcement and compliance assurance program. EPA's enforcement and compliance assurance program is fortunate to have a cadre of dedicated and talented staff who are committed to ensuring that the air we breathe is cleaner, the water is purer, and the land is better protected. We are challenged each and every day with making decisions that enable us to produce results that will further benefit the public.

Governor Whitman has stressed the need for this Agency to use sound science, common sense, and our collective experiences to enhance the environment and to protect public health. In the context of the enforcement and compliance assurance program, these principles mean that we must be "smart" in the work that we do. As a result, the enforcement and compliance assurance program will embrace the notion of "smart enforcement" in all aspects of the enforcement and compliance assurance program.

"Smart enforcement", in many respects, is the culmination of the work and experience within the enforcement and compliance assurance program over the past several years. The program has strategically focused efforts on some of the largest emitters of air and water pollution. Under the banner of "Enforcement First," the Superfund enforcement program aggressively seeks response and restitution from responsible parties. Regions have creatively integrated all of the program's enforcement and compliance tools to target regional environmental problems, including those in environmental justice communities, and to address widespread noncompliance in a host of sectors. However, these collective experiences have also demonstrated a need to more sharply focus the resources of the program on issues and problems that matter. Thus, "smart enforcement" embodies a common sense approach to problem solving and decision making.

Simply put, **“smart enforcement” is the use of the most appropriate enforcement or compliance tools to address the most significant problems to achieve the best outcomes.**

For the enforcement and compliance assurance program, “smart enforcement” entails five keys area of focus:

- (1) Addressing **significant** environmental, public health, and compliance problems;
- (2) Using data to make strategic decisions for better utilization of resources;
- (3) Using the most appropriate tool to achieve the best outcome;
- (4) Assessing the effectiveness of program activities to ensure continuous program improvement and desired program performance; and
- (5) Effectively communicating the environmental, public health and compliance outcomes of our activities to enhance program effectiveness.

“Smart enforcement” crystalizes lessons learned in the enforcement and compliance assurance program, into a series of specific action items that will be undertaken in the next eighteen months to improve program performance. It is my desire that the implementation of these activities will be led by specific OECA program offices or specific OECA senior managers. The implementation of these activities will be further enhanced by collaboration with regional offices, program media offices, and states. Accordingly, the significant action items to be implemented in furtherance of “smart enforcement” are attached.

Many of the action items described above are well underway. Nevertheless, the list of action items represents a significant commitment to this effort, and will require close cooperation among all of us. I believe that if we are successful in implementing these action items, then there will be little doubt that EPA’s enforcement and compliance efforts will be the model against which all others are compared. As we move forward in the enforcement and compliance assurance program, we will continue to meet and exceed our expectations by focusing our resources on the most significant problems to achieve the best outcomes. I am very proud of the work that we do and I am confident that “smart enforcement” will enhance our efforts to achieve cleaner air, purer water and better protected lands.

cc: Christine Todd Whitman
Linda Fisher
Tom Gibson

Attachment

Attachment

SIGNIFICANT ACTION ITEMS TO BE IMPLEMENTED IN FURTHERANCE OF “SMART ENFORCEMENT”

- **Activities to Address Significant Environmental, Public Health, and Compliance Problems**
 - Development of Case Selection and Forum Criteria Supporting Smart Enforcement
 - Enhances ability to address significant environmental, public health, and compliance problems.
 - Office of Regulatory Enforcement (ORE)
 - July 2003
 - Refinement of Parallel Proceedings Protocol to Support Civil and Criminal Program Collaboration
 - Ensures selection of proper forum for enforcement.
 - ORE/Office of Criminal Enforcement, Forensics and Training (OCEFT)
 - September 30, 2003
 - Workforce Deployment Analysis
 - Addresses program’s ability to deploy resources to address significant environmental, public health, and compliance problems
 - Deputy Assistant Administrator (DAA)
 - August 2003
 - Refine Key Priority Areas for 2004
 - Ensures that short term priorities address significant environmental, public health, and compliance problems
 - Office of Compliance (OC)/ORE/OCEFT
 - August 2003
 - Development and Implementation of Environmental Justice Enforcement and Compliance Initiative
 - Enhances program’s ability to address environmental, public health, and compliance issues in low income and minority communities
 - DAA/ORE/OC/OCEFT/Office of Planning, Policy Analysis and Communication (OPPAC)/Federal Facilities Enforcement Office (FFEO)/Office of Site Remediation Enforcement (OSRE)
 - July 2003

- **Activities to Support Using Data to Make Strategic Decisions and Better Utilization of Resources**

- Establishment of OECA Planning Council (OPC)
 - Enhances program ability to collaboratively make strategic decisions concerning program priorities in FY2005 with States, Regions, and Program Media Offices
 - OC
 - April 2003
- Identify and develop expertise in data analysis
 - Strengthens the ability of HQs and Regions to make strategic decisions that are supported by data
 - OC
 - July 2003
- Complete Inventory of Federal, EPA, and private data sources
 - Enhances program's ability to make strategic decisions from a broad spectrum of sources
 - OC
 - September 2003
- Apply compliance rate methodology to selected regional initiatives
 - Strengthens credibility of statically valid compliance rates
 - OC/OPC
 - December 2004
- Refine "Watch List" methodology
 - Increases program's ability to address issues related to significant noncompliance
 - OC
 - May 2003
- Development of QA/QC Protocol for Data Quality
 - OC
 - June 2003

- **Activities to Support Appropriate Tool Selection**

- Develop Guide for Tool Selection
 - Provides framework for program staff to make decisions regarding appropriate enforcement and compliance tools
 - OC/OPPAC/ORE
 - June 2003
- Develop Criteria for Identifying Program Areas Appropriate for Expedited Settlements and Methodology for

Implementation

- Ensures that the expedited settlement tool is effectively utilized
 - ORE
 - June 2003
- Promote Early and Comprehensive Potentially Responsible Party (PRP) Searches and Maximize Enforcement Opportunities throughout Superfund Cleanup Process
 - Revise Potentially Responsible Party Search Manual
 - OSRE
 - September 2003
- Develop Strategy for Assessing Enforcement Response Policies to Support Smart Enforcement Principles
 - Provides foundation for reviewing selected enforcement response policies to enhance program's ability to address significant environmental, public health, and compliance issues
 - OC/ORE/OPPAC
 - July 2003

● **Activities to Support Assessment of Program Effectiveness**

- Formation of cross regional, state, HQs workgroup to establish model state program review protocol
 - Addresses issues of state performance in delegated enforcement and compliance programs
 - OPPAC/OC
 - January 2004
- Completion of Pilot Program Performance Assessment for NPDES
 - Provides framework for assessing program performance
 - OC
 - January 2004
- Pilot Assessment of Program Performance in Key Program Area by a Third Party
 - Strengthens program credibility by partnering with a third party to evaluate selected program areas
 - OPPAC
 - October 2004
- Distribution of Monthly ICIS Reports
 - Enhances management's ability to manage for results with "in-time" program data.
 - OC
 - April 2003

- **Activities to Support Effective Communication and Improved Outcome Measurement**
 - Development of Model Communication Tools
 - Strengthens program's ability to communicate program success
 - OPPAC
 - October 2003
 - Assessment and Recommendations for Improvement of OECA Website
 - Ensures effective utilization of internet as a communications tool
 - OPPAC
 - October 2003
 - Improved Outcome Measurement in Preventive Programs
 - Captures outcomes from preventive program and increases ability to communicate significant outcomes in preventive programs
 - OC
 - June 2003
 - Improved Outcome Measurement in Compliance Assistance Program
 - Captures outcomes from compliance assistance program and increases ability to communicate significant outcomes through the use of compliance assistance
 - OC
 - June 2003
 - Increased Use of Case Conclusion Data Sheets in All Media Areas
 - Institutionalizes the use of case conclusion data sheets to capture all program outcomes
 - OC/Regions
 - April 2003
 - Development of National Enforcement and Compliance Assurance National Conference
 - Strengthens communications within program at all management levels
 - OPPAC/Office of Administration and Resource Management Support (ARMS)
 - May 2004