Fact Sheet
Watch List Management Tool
11/02/11

What is the Watch List?

The Watch List is a management tool used to facilitate discussion between EPA, state, and local agencies on some enforcement matters. The Watch List does not identify which alleged violations may pose the greatest risk to public health or the environment. Being on the Watch List does not mean that the facility has actually violated the law only that an evaluation or investigation by EPA, or a state or local environmental agency has led those organizations to allege that an unproven violation has occurred.

The Watch List is comprised of a subset of violations identified under EPA enforcement response policies (ERPs). The ERPs define when a violation of environmental laws and regulations becomes significant. In the Clean Air Act (CAA) enforcement program, these violations are referred to as high priority violations (HPVs) and they are defined in *The Timely and Appropriate Enforcement Response to High Priority Violations* policy (1998). In the Clean Water Act National Pollutant Discharge Elimination System (CWA NPDES) enforcement program, these violations are referred to as significant noncompliance (SNC) and they are defined in *The Enforcement Management System* guide (1989). In the Resource Conservation and Recovery Act (RCRA) enforcement program, the violators are referred to as significant noncompliers (SNC) and they are defined in the *Hazardous Waste Enforcement Response Policy* (2003). After discovering a significant violation, EPA expects the government agency with jurisdiction to initiate an appropriate enforcement response in a timely manner. The Watch List identifies facilities that have been in SNC or HPV status for a specified period of time.

The referenced policies can be found at www.epa.gov/compliance/resources/policies/civil/index.html.

When was the Watch List initiated?

January 2004.

Are all facilities with an HPV or SNC automatically added to the Watch List?

No. If a violation is identified as SNC or HPV, the applicable ERP sets forth the period of time the identifying agency has to respond to the violation(s) with an appropriate enforcement action. A facility is not added to the Watch List until the specified period of time is exceeded.

Is it possible that some facilities are on the Watch List in error?

Yes. The Watch List is an automated report based on the best available data, but there can be data issues. For example, a violation may have been addressed by an enforcement action, but that enforcement action may not have been reported yet to EPA. So, while the problem is addressed, natural lags in data reporting will cause the facility to continue to be on the Watch List until the reporting is completed. The Watch List may not include facilities that should be listed – particularly if violation data has not been reported properly by the state. These issues are typically identified and addressed during dialogue and review that occurs between EPA, and state and local agencies. EPA works with the states to rectify all data errors so that the correct information is available.

How can errors be reported?

The Watch List is based on a facility's data record – in particular the SNC and HPV status, and associated government enforcement actions. If the SNC, HPV, or enforcement action record appears to be in error, any data user (government, regulated entity or public) can submit an error report from the Enforcement and Compliance History Online (ECHO) Detailed Facility Report (DFR) by clicking the "Report Error" button found in the top right corner of the DFR. A general error or specific error can be reported. To report a specific error click on the green arrow (◀) found in the right hand column of the line that contains the error. To report a general error, click on the green "Report a General Error" button. The responsible data steward in EPA or the state will review the error report and determine whether a data correction needs to be made. The person reporting the error will receive information on the decision of the data steward. Please note that EPA does not take comment on whether a facility should be on the Watch List, but will take comment on the data described above that is used to generate the Watch List.

What is the difference between SNC, HPV and the Watch List?

SNC is the term used in the CWA and RCRA enforcement programs, and is defined in the respective ERPs. HPV is the term used in the CAA enforcement program and defined in the corresponding ERP. The Watch List is a management tool that facilitates oversight of ERP implementation. It is the subset of SNC and HPV facilities where it appears that the expected enforcement actions have not been taken in a timely manner. The Watch List is not an indicator that a violation at a facility identified as HPV or SNC poses any greater risk than any other HPV or SNC.

How and when is the Watch List generated?

The Watch List is generated monthly using data reported by EPA regional offices, and state and local agencies to four EPA data systems. Those systems are the CAA Air Facility System (AFS), the CWA Permit Compliance System (PCS), the CWA-NPDES Integrated Compliance Information System (ICIS), and the RCRAInfo system.

How does a facility leave the Watch List?

Based on the most current data in the database, when a facility no longer meets the Watch List criteria it will automatically be taken off the list. There are multiple reasons why a facility may be taken off the Watch List, for example: 1) the SNC or HPV is addressed and/or resolved by an enforcement action issued to the facility and the necessary data is accurately entered in the database; 2) the facility self-corrects the violation (primarily occurring only under the CWA); or 3) the data entry problems which placed the facility on the Watch List are corrected.

**Note that a facility may continue to show up as SNC or HPV on the ECHO website, even though it has left the Watch List. Two common situations when this occurs: 1) the original violations that put the facility on the Watch List were addressed, but new violations were identified and have not reached a point that government action is not timely; or 2) a violation at a facility may be "addressed" by a formal enforcement action (thus the facility leaves the Watch List), but the facility remains in HPV based on EPA

policy that the HPV status continues until payment of penalties, and completion of obligations that are included in the enforcement action (this example primarily occurs under the Clean Air Act).

Is the Watch List public?

Yes. The list of facilities that compose the Watch List each month is available on the ECHO website (www.epa-echo.gov/echo/echo_watch_list.html). In addition, EPA provides the public with a full list of facilities in SNC and HPV status through the ECHO website.   Some information regarding the Watch List is exempt from FOIA release and remains internal because the information relates to enforcement activities.