



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

April 30, 2021

MEMORANDUM

SUBJECT: Strengthening Enforcement in Communities with Environmental Justice Concerns

FROM: Lawrence E. Starfield **LAWRENCE**
Acting Assistant Administrator **STARFIELD**

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Date: 2021.04.30 08:32:04
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TO: Office of Enforcement and Compliance Assurance Office Directors and Deputies
Enforcement and Compliance Assurance Directors and Deputies
Regional Counsels and Deputies

In his message to employees on Wednesday, April 7, 2021, the Administrator directed all EPA offices to “strengthen enforcement of violations of cornerstone environmental statutes” in communities overburdened by pollution.¹ This is consistent with Executive Order 14008.² During a recent Office of Enforcement and Compliance Assurance (OECA) overview briefing for the Administrator, I outlined a number of actions that were developed with your participation, that could strengthen enforcement and help advance the protection of communities, using existing resources. This memorandum sets out steps to advance these environmental justice (EJ) goals.³

Enforcement Program Goals to Advance Environmental Justice

- *Increase the number of facility inspections in overburdened communities.*

To effectuate this goal, we first plan to evaluate what types of programmatic inspections address the most serious threats to overburdened communities. We have begun to examine that issue with regard to national initiatives, and Regional input will be critical to this evaluation. We will then need to understand the number and nature of such inspections that have occurred in communities with EJ concerns, as evaluated and determined by the Regions in consultation with OECA. I have asked the

¹ [Administrator Michael Regan Message to EPA Employees on Commitment to Environmental Justice](#) (Apr. 7, 2021).

² Executive Order 14008 (Jan. 27, 2021), 86 Fed. Reg. 7619, calls upon EPA, to “strengthen enforcement of environmental violations with disproportionate impact on [overburdened] communities through the Office of Enforcement and Compliance Assurance” (section 222(b)).

³ This memo focuses on the civil regulatory enforcement program. Additional memos will be issued on the cleanup and criminal enforcement programs.

Office of Compliance to assist in this analysis. Once we have this information, we can set new inspection goals.

I recognize that we are currently constrained in our ability to conduct inspections due to the continuing COVID-19 health crisis. A top priority continues to be the safety of our employees, via compliance with the robust [*Interim COVID Health and Safety Guidelines for Field Activities*](#) (July 6, 2020) and the [*EPA COVID-19 Workplace Safety Plan*](#) (February 2021). When an inspection can be safely performed and failure to inspect a facility could threaten to impact the community's health (e.g., where health effects are reported in an overburdened community), then an inspection to assess the threat would be deemed mission critical and appropriate under Agency guidance.

We should also continue use of our offsite compliance monitoring tools, including facilities in EJ areas.

- *Strengthen enforcement in overburdened communities by resolving environmental noncompliance through remedies with tangible benefits for the community.*
 - *Prevent further pollution due to noncompliance, mitigate past impacts from pollution, and seek penalties for violations that impact overburdened communities.*
 - *Seek early and innovative relief, e.g., fence-line monitoring and transparency tools.*
 - *Incorporate Supplement Environmental Projects (SEPs) in settlements, where appropriate.*
 - *Assist and seek to obtain restitution for victims of environmental crimes.*

In addition to addressing ongoing noncompliance, a critical goal of the civil enforcement program is to obtain injunctive relief that remediates the pollution and addresses past harms to communities. I would challenge each of our case teams to think creatively, and use all available tools and settlement provisions, to craft settlement agreements that fulfill these goals. (See my memorandum of April 26, 2021, on [*Using All Appropriate Injunctive Relief Tools in Civil Enforcement Settlements*](#).) State and local authorities, tools, and resources can also be very helpful in providing tangible benefits for the community. The Department of Justice is currently reviewing the prior Administration's rule limiting SEPs. If we are able to resume use of this settlement provision, which is so important to communities harmed by environmental violations, I would ask case teams to actively consider the use of SEPs in settlements with willing parties.

While our goal in all cases is to take prompt action to address pollution threats and impacts, we recognize it can take some time to resolve cases that include remedies that make a tangible difference for a community. Therefore, I am asking case teams to explore ideas for obtaining early relief for affected communities. This could include issuing administrative orders in judicial cases to expedite the implementation of pollution controls or the installation of monitoring equipment, seeking a preliminary injunction to stop noncompliance, or taking other interim measures.

- *Increase engagement with communities about enforcement cases that most directly impact them.*
 - *Provide more information to communities about facilities, pollution, and enforcement activities, through appropriate and available means such as press releases and public meetings.*

- *Empower communities by increasing awareness of enforcement program resources and make it easier for the public to search for EJSCREEN information and Enforcement and Compliance History Online (ECHO) compliance history data.*
- *Increase opportunities for community engagement in the development of cleanup and reuse agreements to ensure community concerns are addressed in a meaningful manner.*

Greater public access to compliance data can promote a community's ability to better understand and manage risks and monitor compliance at local facilities. Offices and Regions are encouraged to develop press releases that highlight the elements of an enforcement action that help a community. When additional resources become available, I welcome discussion on ways to increase our engagement with communities, either on a case-specific basis, through community/geographic initiatives, or other approaches.

EJ is a Shared Goal with Co-Regulators

Our work to protect communities with EJ concerns is a shared goal and responsibility of EPA and our partner agencies. We should continue to conduct joint planning with states and other co-regulators and, whenever possible, endeavor to perform our enforcement and compliance work in partnership with them. However, if there is a situation where a community's health may be impacted by noncompliance, and our co-regulator is not taking timely or appropriate action, we should not hesitate to step in and take necessary action. We need to ensure the protection of communities regardless of where a person lives.⁴

EJ in Enforcement Steering Committee

In order to more agilely guide our EJ work, I set up an Enforcement Steering Committee consisting of six senior managers from OECA Headquarters and the Regions. This small team will oversee our EJ work and will coordinate with the Office of Environmental Justice and other entities across the Agency, as appropriate.

Conclusion

With your help, we can make a difference in the lives of overburdened communities that are affected by environmental noncompliance. I appreciate your support in this vital effort.

cc: Acting Regional Administrators

⁴ To the extent that action in this scenario is inconsistent with guidance provided in [Enhancing Effective Partnerships Between the EPA and the States in Civil Enforcement and Compliance Assurance Work](#) (July 11, 2019), then the direction in this memorandum controls.