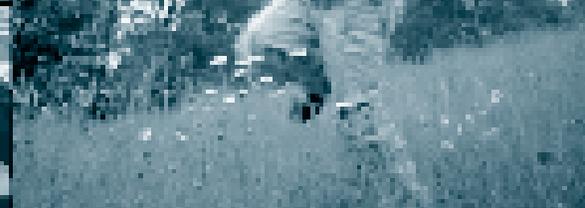
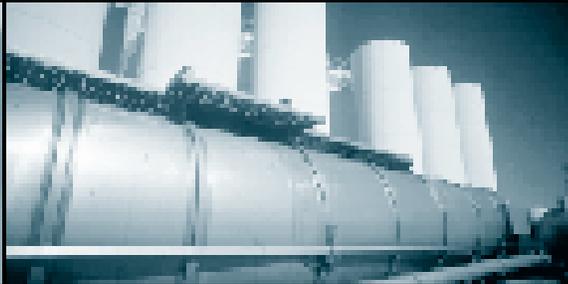
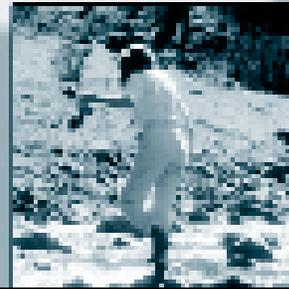




# Protecting Your Health & The Environment Through Innovative Approaches to Compliance

## *Highlights from the Past 5 Years*



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# Message from the Assistant Administrator

Five years ago, EPA reorganized its compliance programs. This reorganization was undertaken by Administrator Browner with the goal of making EPA's enforcement and compliance programs more effective in protecting public health and the environment. This booklet describes some of the major initiatives EPA has undertaken to reinvent its compliance programs. EPA is committed to evaluating all these efforts and continually improving our compliance programs.

Compliance with environmental laws is essential for achieving the public health and environmental protections intended by these laws. EPA's reorganization recognized a major role, not only for government, but for all stakeholders, in ensuring this compliance. First, enforcement functions were consolidated in a single entity to ensure an efficient and effective enforcement program. Second, major new compliance programs were put in place to foster voluntary compliance with public health and environmental laws. This booklet highlights many of these new compliance programs in the interest of sharing information with you and the rest of the public.

Over the last five years, EPA has invested considerable time and resources in establishing programs and policies to implement our new vision. This vision focuses on creating an array of new tools, all developed to promote compliance with the Nation's environmental laws. Among these compliance initiatives are EPA's nine compliance assistance centers that provide assistance to small businesses and others seeking to comply with the law, a self-audit policy which provides incentives for voluntary discovery of violations and rapid disclosures and correction, and the National Performance Measures Strategy, a new approach to measuring compliance. These and other new programs complement our strong base enforcement program. All of these efforts benefitted tremendously from extensive stakeholder involvement in their development.

Today, as a result of this new thinking, we have stronger programs in place to protect the American people and our natural world from the harmful effects of pollution. We at EPA are committed to continuing our efforts to foster a strong national compliance and enforcement program. Much work remains to be done in partnership with our colleagues at the state, tribal, and local levels. We welcome suggestions from you and all stakeholders on how we can continually improve compliance with environmental laws.

As we approach the 21st century, EPA will continue to work with its partners to foster and refine its efforts to ensure compliance with the Nation's environmental laws. In doing so, we hope to further our goals of protecting all Americans from threats to our health and the environment, and preserve our environment for future generations.

Steven A. Herman  
Assistant Administrator



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# Introduction

# Introdu





Many of America's environmental improvements over the last 25 years are the direct result of a strong set of environmental laws and an expectation of compliance with those laws.

EPA has headquarters, regional and field operations devoted to ensuring compliance with our Nation's environmental laws and working in partnership with the states, tribes, territories, and local governments.

In late 1994, EPA reorganized its enforcement and compliance operations into the Office of Enforcement and Compliance Assurance. This reorganization was based on the principle that EPA needed to complement its enforcement program with new tools to achieve a higher level of environmental compliance. As part of the reorganization, EPA committed to take a series of steps to improve compliance. This booklet highlights EPA's progress to date in taking these new directions.

Since 1994, EPA has developed and implemented a new set of policies and tools to further improve environmental compliance. Today, you see an increased emphasis on compliance assistance and compliance incentives programs, as well as new policies and practices designed to help small businesses and small communities meet their environmental requirements. Many of these efforts are also geared to meet the needs of certain sectors of the economy.

EPA also maintains a strong enforcement program, developing strategies and initiatives to target the highest risks to human health and the environment. The enforcement program also uses approaches which address environmental problems in multiple media at one time.

Throughout all these new approaches, we recognize the need to target our actions more effectively and then analyze the real impact of enforcement and compliance activities on public health and the environment, as well as to share this analysis with the public. All of our efforts in the last five years have benefitted tremendously from extensive input from Americans of all walks of life, representing state, tribal, and local governments, businesses, citizens, professional groups, and academia.

As you read the highlights in this booklet, we welcome and encourage your comments and ideas on how EPA can continue to fulfill its obligation to the American public – to protect your health and the environment.

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# Protecting Your Health & the Environment through Compliance Assistance

Over the past five years, EPA has greatly increased its efforts to develop compliance assistance tools, particularly for small businesses, in different industry sectors. Why? Because most small businesses will do the right thing if they have the information that they need to comply. The key is to get information on environmental requirements into the hands of all businesses, small, medium and large, who want to comply.

Compliance assistance encompasses a variety of efforts, from ensuring that the regulated community understands its obligations by providing consistent “plain language” descriptions of environmental requirements, to a wide assortment of types of training tools.

Below, you can read examples of EPA’s new approaches to providing assistance and ensuring compliance.

## National Sector-Based Compliance Assistance Centers

In partnership with industry associations, environmental groups, universities, and other government agencies, EPA has launched nine Compliance Assistance Centers, all accessible through Internet web sites as well as toll-free telephone assistance lines. These Centers are just one approach to help businesses and governments, especially small and medium-sized businesses and local governments, better understand and comply with federal environmental requirements.

Each Center is targeted to a specific industry sector and explains, in plain language, the federal environmental regulations that apply to that sector. Eight of the nine Centers were selected to serve sectors in which there are a large number of small businesses that can cause real environmental impacts depending on the processes and practices that they use. The benefit of the Centers is that they make information available to those businesses who want to do the right thing, but need answers to their questions. Since not all small businesses have access to the Internet, the Centers also provide information through toll-free phone lines and fax mail.





Features of the nine EPA-sponsored Compliance Assistance Centers include regularly updated news, compliance policies and guidelines, pollution prevention information, sources of additional information and expertise, summaries of regulations and initiatives, access to e-mail discussion groups, vendor listings and directories, environmental management software and benchmarking tools that can be downloaded from the Internet. Some of the Centers also contain “expert help” features that guide a small business to information, “virtual shops” that allow a user to click on any facet of an illustrated operation and see what regulations apply, and online access to relevant state regulations.

For the first time, local governments also have a Center devoted to serving their environmental information needs. The local government center not only serves as a clearinghouse for regulatory and compliance information, but also provides case studies and other “how-to” information related to waste water management, brown fields, solid waste, and many other issues. A user-friendly aspect of the Center is its “virtual city.” This is a mockup of a city with different illustrations, such as a city landfill, city garage, solid waste truck on the road, a city water tank, just to name a few examples. A local official can double click on a segment of the city, like the city water tank, and identify all of the federal regulations that apply to a municipality. The intent is to provide a visual aid to finding the information that a local government may be looking for.

We know that businesses are using these Centers based on a review of usage data. From January to June 1998, the Web sites of the five Centers open at the time logged almost 75,000 distinct visits at their sites and responded to over 2,000 calls and questions via e-mail and telephone assistance lines. The next couple of pages provide a short summary on each Center, including each Internet address, so you can access the Centers yourself. We encourage you to log onto each Center and offer your comments and suggestions for improvements.

#### **Different Roles in Providing Compliance Assistance**

States and localities are the primary providers of direct assistance to the regulated community. EPA views its role as providing tools for states, tribes, localities and the regulated community and has prepared a separate booklet entitled “Compliance Assistance Tools” which is an inventory of EPA national materials published to date.

EPA’s limited on-site assistance is done in partnership with the states, and is most often focused on federally operated programs and national compliance priorities. In Fiscal Year 1997 alone, EPA provided telephone assistance to over 40,000 businesses; conducted workshops and training for over 100,000 people; and participated in over 2,000 on-site visits.

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***Printers' National Environmental Assistance Center***

1-888-USPNEAC (877-6322)

<http://www.pneac.org>

The Printers' National Environmental Assistance Center offers satellite and on-location training, compliance guides for state regulations, and two e-mail discussion groups on technical and regulatory issues: PRINTECH, designed for technical printing issues, and PRINTREG, which focuses on environmental laws and regulations affecting the printing industry. Over 1,800 viewers participate in PNEAC's annual Green and Profitable Printing national pollution prevention videoconference that is downlinked to 28 states and Canada. PNEAC is operated by the University of Illinois Waste Management Resource Center, the University of Wisconsin's Solid & Hazardous Waste Education Center, and the Graphic Arts Technical Foundation.

***National Metal Finishing Resource Center***

1-800-AT-NMFRC (286-6372)

<http://www.nmfrc.org>

The National Metal Finishing Resource Center allows its Web site users to search technical databases for abstracts, full-text articles, and reports; search a Vendor Directory for over 300 suppliers of metal finishing equipment and services; and use on-line calculators to determine flow requirements for rinsing, coating weights, and costs estimates. On the Compliance Assistance page under state Primary Environmental Regulatory Agencies, users can click on any state on the map to obtain an online listing of state regulations that apply to metal finishing.

***National Agriculture Compliance Assistance Center***

1-888-663-2155

<http://www.epa.gov/oeca/ag>

The National Agriculture Compliance Assistance Center directs its communications efforts primarily at agricultural information providers. A popular feature is a comprehensive listing of the 34 major federal laws that apply to farmers, which are also accessible graphically. Users can click on any part of a farm illustration and find out the relevant federal regulations.

***ChemAlliance***

1-800-672-6048

<http://www.chemalliance.org>

ChemAlliance is the new Compliance Assistance Center for the chemical industry. Among its features is an exciting "expert help desk," which offers an interactive guide to finding compliance resources specific to a user's needs. Take a "virtual plant tour" to find out which regulations apply to your company's operations by clicking on a detailed chemical plant illustration. Make your own bookmark to keep track of important links to favorite regulatory, pollution prevention, and chemical industry Web sites.

ChemAlliance is operated by the Center for Clean Industrial Treatment Technologies (CenCITT), a research consortium, along with Pacific Northwest National Laboratory and the University of Wisconsin's Solid and Hazardous Waste Education Center.

**"After years of waiting for this type of resource, I find the National Metal Finishing Resource Center to be a valuable part of our daily business. The Center provides comprehensive information on all metal finishing topics in a timely manner – instant gratification!"**

***Larry Zitko, President,  
ChromeTech Inc.***

**“The resource I appreciate most is the online technical information database. The ability to search keywords and then download them out of the library is convenient and useful and is also surprisingly rare in this age of information technology.”**

***Dave Dudek, North Carolina State University***

***Transportation Environmental Resource Center***

1-888-459-0656

<http://www.transource.org>

The Transportation Environmental Resource Center provides compliance assistance services for each mode of commercial transportation — air, shipping and barging, pipelines, rail, and trucking. Each home page offers a menu of technical fact sheets, regulatory information, contacts, bibliographies, sector notebooks, and related compliance Web sites. The Center is operated by the American Association of Airport Executives and the American Trucking Association.

***Paints and Coatings Resource Center***

<http://www.paintcenter.org>

The Paints and Coatings Resource Center provides regulatory compliance and pollution prevention information to individual organic coating facilities, industry vendors and suppliers, and others. The Paint and Coatings Regulatory Locator helps users find relevant state and federal regulations. A technical database with over 5,000 full text conference papers and journal articles is also available online.

***Local Government Environmental Assistance Network (LGEAN)***

877-TO-LGEAN (877-865-4326) <http://www.lgean.org>

LGEAN is aimed at facilitating communications among state and local officials, inspectors, and regulators, and promoting local government participation in the federal rulemaking process. LGEAN is a “first-stop shop” providing environmental management, planning, and regulatory information for local government elected and appointed officials, managers, and staff. LGEAN offers 24-hour access to regulatory and pollution prevention information, message boards, regulatory updates, grants and information, and much more. LGEAN also offers a fax-on-demand service, a quarterly newsletter, “SCAN,” and a Web site.

LGEAN is coordinated by the International City/County Management Association in partnership with the American Water Works Association, Air & Waste Management Association, Environmental Council of the States, National Association of Counties, Solid Waste Association of North America, and Water Environment Federation.

***Printed Wiring Board Resource Center***

<http://www.pwbrc.org>

The Printed Wiring Board Resource Center offers a state Regulations Locator, with air, water and hazardous waste regulations hyperlinked for each state. A Recordkeeping and Reporting Requirements Database, containing detailed entries on over 1,100 federal and Texas regulations, is available for downloading. And a unique guide provides pollution prevention information for each of the major process steps for multilayer board manufacturing. PWBRC is operated by the National Center for Manufacturing Sciences in partnership with the Institute for Interconnecting and Packaging Electronic Circuits.

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### ***CCAR-GreenLink®***

1-888-GRN-LINK (476-5465)

<http://www.ccar-greenlink.org>

CCAR-GreenLink®, the Automotive Compliance Information Assistance Center, provides compliance assistance to the automotive service industry, primarily owners and technicians of auto body and repair shops, but also automotive trade associations, automotive educators and students, and new car dealer service departments. CCAR-GreenLink® develops materials for the automotive service industry, such as a consolidated screening checklist and environmental curriculum modules that walk shop owners and technicians through statutes, regulations, and health and environmental issues. The “Virtual Auto Shop” allows users to click on any part of a picture to call up environmental information for a particular shop activity. The Center is operated by CCAR, the Coordinating Committee for Automotive Repair, a consortium of automotive industry affiliates.

## **Sector Notebooks**

In addition to the Centers, EPA has developed other tools to enhance compliance with environmental laws on an industry by industry basis. Sector Notebooks are industry sector profiles which help owners and operators of regulated industries understand their regulatory obligations through comprehensive plain-English guides.

Since 1995, EPA has published profiles of 28 major industries and distributed over 300,000 copies in printed and electronic form. You can access these Notebooks yourself through the Internet at “<http://www.epa.gov/oeca/sector/>”.

Each profile contains information on the overall compliance history of the industry, applicable federal laws and regulations, industrial processes, the amount and type of pollutants generated, applicable pollution prevention approaches, and current cooperative programs designed to improve the environmental performance of each industry. The notebooks are virtually the only government publication in which all of these cross-cutting environmental issues are presented in a single document per industry sector.

Why is this important? This information can be used to develop industry-based assistance strategies to improve overall compliance in ways that are cheaper, cleaner, and smarter. By using the Sector Notebooks, federal and state governments, the regulated industries, and the public will be better able to define the key environmental issues associated with each industry. The public will have greater access to information concerning industries within their communities.

If you're interested in finding out about other compliance assistance tools developed by EPA, we've prepared a separate booklet entitled “Compliance Assistance Tools” which provides an inventory of EPA national materials published to date. You can access information on this booklet at “<http://www.epa.gov>”.

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## On-site Compliance Assistance focused on National Compliance Priorities

In addition to the development of compliance assistance materials and tools, over the past several years, EPA has identified specific industry sectors as priorities for national sector-wide compliance assistance efforts. There are efficiencies and environmental benefits to addressing environmental problems on a sector-wide basis.

EPA regions and states have undertaken many such assistance projects in partnership with industry. EPA's Fiscal Year 1996 and 1997 "Enforcement and Compliance Assurance Accomplishments Reports" (available at "<http://es.epa.gov/oeca>") contain descriptions of these projects in every region of the country. For example:

- In 1997, EPA, Virginia, Maryland, the District of Columbia, and the Korean Dry Cleaners Association of Greater Washington partnered to address the needs of the Korean perchloroethylene dry cleaning community. Dry cleaners were selected because they can result in significant multi-media chemical releases to the environment and have the potential to significantly impact human health and the environment. The partners developed a mentoring program where experienced dry cleaners (coaches), who have been trained by EPA and the states, assisted less sophisticated dry cleaners to increase their understanding of, and compliance with, environmental requirements. The compliance rate of participants was estimated to be 20% higher than other dry cleaners in the area.
- Similarly in 1996, targeted compliance assistance efforts in EPA's Atlanta Office included both dry cleaners and chrome electroplaters. These two industries were targeted for compliance assistance in Florida and Georgia due to new national emission standards for hazardous air pollutants (NESHAPs) aimed at reducing inhalation risks to the public and workers. These initiatives educated industry to enhance compliance, evoke changes in behavior, and resulted in increased compliance rates. Georgia reported an 81 percent compliance rate for chrome electroplaters with the new air toxics NESHAP. Florida reported 64 percent of dry cleaners targeted this year entered the regulatory system via notification as a result of compliance assistance.



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Protecting Your Health & the Environment  
through  
Policies Designed to  
**Promote Compliance**  
by **Businesses**  
and Small  
**Communities**





Once the regulated community has access to the information which they need to comply and obtains compliance assistance, they then must use that information to check their own compliance status. Over the past several years, EPA has worked with our state and local partners and small business groups to develop specific policies which provide real incentives for industry and others to voluntarily identify and correct their own environmental violations.

Why? Because such policies encourage voluntary actions by the regulated community to protect public health and the environment, while still providing full openness and the accountability that the public expects. Three such policies are described below.

## Working With Small Businesses

EPA's *Final Policy on Compliance Incentives for Small Businesses* is one of the 25 regulatory reform initiatives announced by President Clinton in 1995. Issued in May 1996, the policy promotes environmental compliance among small businesses with 100 or fewer employees. The policy rewards responsible small businesses by providing penalty waivers or reductions if the small business receives compliance assistance, conducts an environmental audit, detects violations as a result of it, and agrees to correct the violations by a date certain.

As part of its small business policy, EPA encourages its state partners to combine their delegated enforcement authorities and compliance assistance efforts to enhance compliance among small businesses. EPA defers to state policies that provide penalty mitigation or waiver for small entities and that are generally consistent with the EPA policy.

More than 150 small entities have returned to compliance under the Agency's incentives policies. EPA has so far reduced or waived penalties by \$900,000 for more than 90 small entities that disclosed and corrected their violations. The Small Business Policy provides small businesses a whole other avenue by which they can demonstrate good faith commitment to environmental compliance.

This work is just one example of how EPA meets its obligations under the Small Business Regulatory Enforcement Fairness Act (SBREFA). Passed by Congress in 1996, SBREFA requires agencies to better assist small entities through improved outreach and compliance assistance activities, development of flexible penalty policies, and consideration of potential impacts on small entities in regulatory development and review.

## Working with Small Communities

Like small businesses, small communities often lack the administrative, technical, or financial capacity to ensure environmental compliance, but their compliance problems can have a major impact on the state of the environment. Thirty percent of Americans live in towns having 2,500 or fewer residents.

As part of the Clinton Administration's common sense efforts to reexamine the way we do business, EPA developed its *Policy on Flexible State Enforcement Responses to Small Community Violations* to promote increased compliance with environmental regulations by small communities. It provides the tools and flexibility that small communities need to achieve environmental compliance on a sensible schedule and with penalty reduc-

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tions for correcting violations. EPA's policy encourages states to work with small communities to address their environmental problems. The Agency defers to the state's efforts to return a small community to compliance.

Protection of public health and the environment remains EPA's fundamental goal. Enforcement flexibility, within the framework of such policies, can promote increased compliance by allowing communities to focus on their worst environmental problems first, and by reassuring them that asking for help need not result in the assessment of a penalty.

## Environmental Auditing: Working with the Regulated Community in General

In addition to the Small Business and Small Communities Policy, over the past five years, EPA has developed an Audit Policy which encourages *all* companies to self-police by giving them real economic incentives to self-monitor, disclose, and correct environmental violations.

Under the policy, EPA eliminates or reduces penalties for companies that detect violations through an environmental audit or compliance management program, voluntarily disclose the violations to EPA, and take prompt action to correct them. Importantly, the policy encourages self-policing in a fair manner without tolerating secrecy, providing blanket immunities, or excusing criminal conduct.

EPA's policy, *Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations* (December 1995) was the result of an intensive, 18 month public process to find the best way to encourage companies to police themselves while preserving fair and effective enforcement.

In fashioning this policy, EPA sought the input of other federal agencies, state attorneys general and local prosecutors, state environmental agencies, the regulated community, and public interest organizations.

Thus far, over 318 companies have disclosed and corrected violations under the audit policy at more than 1,668 facilities. The rates of disclosing companies and corrected violations under the policy have increased every year since its effective date.

EPA recently surveyed users of the Audit Policy. Eighty-eight percent of the respondents said that they would use the policy again, and 84% would recommend it to others. The survey results also reveal that the policy encourages about half of the users to make specific improvements in the auditing programs and environmental management systems.

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# Protecting Your Health & the Environment through Compliance Incentive Programs

Now that policies exist which provide incentives for industry and others to comply, EPA has taken steps to actively encourage their use through a variety of new Compliance Incentive Programs. Why? Because there are real benefits to the public and the environment when the regulated community audits their own compliance status and corrects their environmental violations.

Compliance with environmental laws cannot be achieved without vigorous efforts by the regulated community to monitor and ensure their own compliance. Use of self auditing and environmental management systems have become routine practices at responsible companies. EPA's compliance incentives programs are geared at encouraging these efforts. As part of our continuing reinvention efforts, the Agency intends to initiate additional programs, such as those described below, in years to come.

## Targeted Compliance Incentive Programs

"Compliance Incentive Programs" use a combination of compliance assistance, environmental audits, self-disclosure of violations, and reduced or eliminated penalties for those participating in the program. Below are six examples of such projects and programs which have been undertaken by EPA in partnership with the states and regulated community.

### Companies as Environmental Leaders: The Environmental Leadership Program

As part of the Clinton Administration's reinvention of regulation to achieve the best environmental results at the least cost, EPA launched a one year pilot of the Environmental Leadership Program. This program was designed as a partnership



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with industry, to jointly come up with what constitutes an environmental leader.

Facilities of 12 private companies and utilities, as well as two federal facilities, used innovative management techniques such as environmental auditing and pollution prevention to reduce the burden of paperwork and inspections on the facilities, while enhancing compliance with existing environmental laws.

states were active participants in the ELP selection process. The facilities participating in the ELP pilot program helped EPA and the states identify ways to streamline reporting requirements and reduce inspections, without sacrificing environmental and public health protection. The facilities acted as laboratories to evaluate different elements of what might comprise an “Environmental Leader,” e.g., development of Environmental Management Systems, mentoring programs, etc.



## Compliance Incentive Programs Which Encourage Use of Environmental Management Systems

EPA, through its Region 1 New England Office and the New England states, has implemented the StarTrack program which provides outreach and assistance to facilities with substantial environmental requirements to encourage the use of compliance audits and environmental management systems to improve environmental compliance and performance and to provide more facility performance information to the public.

Under the pilot StarTrack program, participating facilities work towards compliance by conducting annual multi-media compliance and environmental management audits which undergo third-party verification, implementing environmental management systems, and publishing annual compliance reports to provide the public with information regarding facility progress in waste reduction and energy, water and hazardous materials usage.

In the first year of implementation, eight companies in New England participated, with nine additional facilities joining in year two. Environmental indicator reports of participating facilities show a history of improvement in environmental performance and pollution prevention as a result of this compliance incentives program.

## Using Compliance Incentives to Identify Hazardous Chemicals in Your Community and Improve Accident Response

Among other things, the Emergency Planning and Community Right to Know Act (EPCRA) requires facilities to submit annual inventories of hazardous chemicals on site to local fire departments and state emergency responders so that they can be prepared in case of an accidental chemical release. Unfortunately, there have been many instances where EPCRA reports have not been filed, accidental chemical releases occurred, and emergency workers have walked into unknown dangers resulting in injury or death.

In 1996, EPA learned that a number of accidental releases had occurred at facilities within the Food and Kindred Products Sector. As a result, the EPA Regions worked closely with state Emergency Response Commissions to determine whether specific

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facilities in the Food and Kindred Products Sector (SIC Code 20) had reported their inventories of hazardous chemicals on site. Chemicals used by the food processing industry include anhydrous ammonia, chlorine, sulfuric acid, and nitric acid.

EPA first conducted compliance assistance and outreach efforts, and then gave facilities a specific period of time to come into compliance and submit their inventories of hazardous chemicals, while paying a greatly reduced penalty of \$2,000 per facility for identified violations.

Some 175 companies signed agreements with EPA to come into compliance with EPCRA §312. As a result of this program, state and local emergency responders and community members are better able to plan for, and respond to, accidental releases of hazardous chemicals.

## Reducing Threats to the Nation's Waterways through Compliance Incentives

As part of President Clinton's Clean Water Action Plan, in November 1998 the Environmental Protection Agency and the National Pork Producers Council (NPPC) entered into a voluntary compliance program to reduce environmental and public health threats to the Nation's waterways from runoff of animal wastes from pork-producing operations.

Under this initiative, participating pork producers will have their operations (as many as 10,000 facilities) voluntarily assessed for Clean Water Act violations by certified independent inspectors. Producers who promptly disclose and correct any discovered violations from these audits will receive a much smaller civil penalty than they might otherwise be liable for under the law.

The program will help control runoff from animal feeding operations, a major source of water pollution, associated with such threats to public health and the environment as Pfiesteria outbreaks.

In implementing this program, EPA will consult closely with the states, who may administer the program directly.

## Using a Multi-Media Approach to Compliance Incentive Programs

Another example of a compliance incentives program is the pilot initiated by EPA's Chicago Office (Region 5) to secure environmental improvements at steel mini-mills in Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. A mini-mill is a steel-producing electric arc furnace shop with an associated rolling mill. This industry sector has realized significant recent growth, possibly changing the compliance status of some facilities with regard to multi-media regulatory requirements.

EPA provided the mini-mill sector a period of six months to self-audit and resolve violations in accordance with EPA's Audit Policy or, if applicable, the Small Business Policy. EPA encouraged companies to share their audit results and self-disclose any vio-

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lations. EPA also offered outreach and technical assistance, conducted public briefings, and created a home page on the Internet for companies wanting more information.

Half of the operating mini-mills in EPA Region 5 participated in the project and the majority of these self-disclosed violations to the EPA and came up with plans to correct them. The Region and states are following up with multi-media inspections of the facilities that did not conduct self-audits under the program and developing enforcement actions as necessary to ensure compliance within the rest of the sector.

## Preventing Risks from Toxic Chemicals Through Compliance Incentives

Under the Toxic Substances Control Act (TSCA), companies that manufacture, process or distribute chemicals are required to inform EPA of any information that reasonably supports the conclusion that a chemical substance or mixture presents a substantial risk of injury to your health or the environment.

Several years ago, the Agency discovered that some regulated industries were not submitting information on chemical hazards and exposure. To encourage chemical companies to voluntarily audit their records and submit all relevant data to EPA, the Agency initiated a program that would allow for a company's liability to be capped at \$1 million for those companies that conducted audits, identified violations, and submitted required substantial risk data within a certain deadline.

As a result, 123 companies undertook environmental audits. EPA received over 11,000 previously unreported studies or reports on chemicals that may cause health or environmental harm and collected over \$22.7 million in penalties.



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# Protecting Your Health & the Environment through Better Targeting and Environmental Results Enforcement



Compliance assistance and incentive programs will continue to be used by EPA because they help the regulated community comply with the law. But EPA will also continue to maintain a strong base enforcement program. Why? Because strong enforcement remains critical to ensuring compliance by those who continue to violate the law despite opportunities to come into compliance.

Strong enforcement achieves environmental protection by deterring potential violators, bringing actual violators into compliance, rectifying damage to the environment, and assuring that those who follow the law will not be put at an economic disadvantage by those who ignore their environmental obligations. Since the reorganization, EPA has implemented a number of new policies and programs to enhance our focus on environmental results which can be achieved through effective enforcement.

## **Enforcement is a Partnership with state, tribes and territories**

Effective environmental regulation requires a strong partnership with states, tribes, and territories.

Most federal environmental statutes recognize the importance of this partnership by authorizing delegations to states of the responsibility for implementing and enforcing most federal programs. tribal governments remain the primary parties for managing environmental programs on tribal lands where they have the capacity to do so. This framework provides states and tribes the opportunity to tailor solutions to address local health risks and environmental problems.

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These statutes also recognize the necessity and importance of the federal Government's role and give EPA the authority and responsibility to establish baseline national standards for public health and the environment and to take action to ensure that these standards are implemented and enforced fairly and consistently throughout the country, so that public health is protected.

## Targeting for Environmental Results

Effective compliance and enforcement is not only dependent on a partnership with states, tribes, and territories, it's also dependent on effective targeting of the most significant public health and environmental risks. Because of this and a recognition that government resources are finite, EPA has worked since the reorganization to improve our ability to target our efforts to areas of greatest need.

EPA has enhanced these targeting approaches by using a broad array of environmental quality information, demographics, and information on the results of our compliance monitoring activities. We target our enforcement and compliance assistance efforts taking into account:

- sector-based environmental problems or compliance patterns;
- statute-specific compliance problems; and
- an analysis of compliance/enforcement history and pollutant releases.

New methods of examining these data incorporate risk considerations, which predict the relative effects of facilities, or groups of facilities, on the human population.

When targeting is effective and violations are identified, the process of bringing the violators back into compliance can result in significant impacts on human health and the environment.

## Supplemental Environmental Projects, Benefits to the Environment

Supplemental Environmental Projects (SEPs) are an excellent example of how enforcement can result in environmentally beneficial projects that did not exist previously. Since the reorganization, EPA has increased its use of SEPs.

A SEP is an environmentally beneficial project which a violator agrees to undertake in settlement of an environmental enforcement action, but which the violator is not otherwise legally required to perform. In return, some percentage of the cost of the SEP is considered as a factor in establishing the appropriate settlement penalty paid by the violator.

In fiscal years 1995 — when EPA first issued a draft SEP policy — through 1997, EPA negotiated settlements in 820 cases which contained SEPs. The SEPs were valued at approximately \$254 million. Most significantly, these SEPs have contributed to the reduction of millions of pounds of toxic chemicals releases.

By definition, a SEP must reduce or remediate the risks or harm that may have been caused by the violations. Performance of a SEP does not alter a violator's obligation to



remedy a violation expeditiously and return to compliance. SEPs thus provide environmental and public health improvements which would not otherwise be available except for the settlement incentives provided by the SEP Policy. SEPs often involve pollution prevention or other innovative technologies that may result in greater environmental protection at reduced cost.

EPA revised its SEP Policy based on early experiences and in 1998, issued the *Final Supplemental Environmental Projects Policy*, encouraging public participation when negotiating SEPs and enhancing the Policy's clarity and flexibility.

## Measuring the Environmental Results of Enforcement: The National Performance Measures Strategy

As part of EPA's reinvention efforts, we have also focused on better ways to measure the results of our compliance and enforcement activities. Why? Because through proper measurement, we can determine the real impact of compliance and enforcement on risk reduction and environmental protection.

In so doing, EPA can determine which tools and strategies are working best to ensure compliance and to allow the Nation to examine whether the regulated community is meeting its responsibilities to comply with the law.

In the past, EPA primarily used activity or output measures, such as the number of inspections conducted, enforcement cases issued, and penalty dollars assessed, as its principal measures of performance. These numbers remain a useful measure of the general presence of the EPA enforcement and compliance assurance effort, but they do not help us measure the state of compliance with environmental laws, the environmental results achieved, nor the degree to which program objectives are being met and non-compliance problems are being addressed.

The National Performance Measures Strategy is EPA's pioneering effort to identify, design, implement, and use meaningful performance measures to assess the effectiveness of our national enforcement and compliance assurance program.

During 1997, EPA held more than 20 public meetings with stakeholders — including environmental organizations, regulated industries, environmental justice advocates, state environmental departments, oversight agencies, and academic experts — to identify the “vital few” performance measures which could best serve EPA and the public.

During 1998, EPA managers and staff, assisted by contractors and expert consultants, worked to design the measures by developing definitions, information collection and reporting processes, and modifications to existing data systems.

Over the course of 1999, the measures will be implemented in stages, and the entire set of twelve measures (known as the Performance Profile) will be fully operational by the beginning of Fiscal Year 2000 (October 1999).

The Performance Profile includes eight measures of environmental results or outcomes: noncompliance rates for selected regulated populations; environmental and human

## New Approach to Measuring Results

### Measuring the Results of Federal Enforcement Actions as Reductions in Pollutants (FY 1997)

<u>Pollutant</u>	<u>Reduction</u> (pounds)
PCBs and PCB-containing Material	576,585,000
Volatile Organic Compounds	62,562,000
Tailings	28,000,000
Particulate Matter	24,555,000
Carbon Monoxide	21,502,000
Lead	10,297,000
Benzene	7,666,000
Chromium	6,329,000
Sulfuric Acid	359,000

### Measuring the Impact of State Actions in New Terms

- Clean Air Act "New Source Review" actions cut NOx by 300 tons in one case and 162 tons in another case, the equivalent of removing nearly 75,000 passenger cars from the roads a year.
- An Idaho Panhandle Initiative reduced particulate matter by 1,400 tons, the equivalent of removing over 1 million passenger cars from the road for a year.

*Source: FY 1997 Enforcement and Compliance Assurance Accomplishments Report*



health improvements from enforcement actions, compliance assistance, and initiatives which integrate assistance and enforcement; disclosure and correction of violations using EPA compliance incentive policies; timeliness of return to compliance by significant violators; and recurring or new violations by significant violators.

These measures will help EPA and the public assess the state of compliance, the environmental improvements resulting from the full range of EPA's enforcement and compliance assurance activities, and the changes in behavior of regulated entities. The Profile also includes four measures of program activity or outputs. The number of inspections conducted and enforcement cases issued will remain important activity measures, while other output measures of the number of facilities/entities reached through compliance assistance and the amount of capacity building efforts for state, tribal, and local governments will also be used to measure performance.

What's the bottom line? The Performance Profile will allow EPA and the public to know not just the amount of activities conducted by the enforcement and compliance assurance program, it will also measure the results achieved by those activities, enable EPA and the public to examine the relationship between activities and results, and help identify how strategies and activities need to be changed or applied to produce the best possible environmental results.

EPA can now determine the pounds of pollutants reduced through enforcement actions, the percentage of enforcement actions which produce particular kinds of benefits to the environment, and the number of instances in which facilities reduced emissions or took other beneficial actions as a result of EPA enforcement action.

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As individual measures are implemented in 1999, and when all the measures are fully operational in FY 2000, EPA will be able to better measure the performance of our programs and their effectiveness in ensuring compliance, provide the public with better data, and enhance our ability to protect the environment.

## Environmental Results Enforcement

The Performance Profile will be applied to compliance and enforcement activities in the future to measure their environmental and public health impacts.

Several examples follow which illustrate how well-targeted enforcement activities, which apply innovative policies and strategies, can lead to significant improvements for your health and the environment.

### *A Whole Sector Approach: Cleaning Up our Air*

Over the past few years, EPA has found that frequently the most effective way to address environmental noncompliance problems is on a sector basis.

A recent example occurred in 1998, when EPA and the Justice Department announced an enforcement settlement with the seven heavy-duty diesel engine manufacturers who were part of the largest Clean Air Act enforcement action in history. The settlement resolved charges that the companies violated the Clean Air Act by installing software that allowed engines to meet EPA emission standards during testing but disabled the emission control systems during normal highway driving. When these engines are running on the highway, up to three times the limit of nitrogen oxide (NO<sub>x</sub>) emissions result. Why is this settlement important?

The settlement is expected to prevent 75 million tons of NO<sub>x</sub> air pollution over the next 27 years and reduce total NO<sub>x</sub> emissions from diesel engines by one-third as of the year 2003. These companies comprise 95 percent of the U.S. heavy-duty diesel engine market.

EPA estimates that the companies will spend collectively more than \$850 million to introduce cleaner new engines, rebuild older engines to cleaner levels, recall pickup trucks that have defeat devices installed and conduct new emissions testing. The companies will also undertake a number of projects to lower NO<sub>x</sub> emissions, including research and development projects to design low-emitting engines that use new technologies and cleaner fuels.

### *A Multi-Media Approach: Cleaning Up the Air, Water and Soil*

In another example of “environmental results enforcement,” EPA and state regulatory agencies worked jointly to address noncompliance across five environmental statutes at the petroleum refineries of Ashland, Inc. located in Kentucky, Minnesota, and Ohio.

The corrective actions Ashland will undertake include improvements to the wastewater drainage system at its Ohio facility to prevent the release of volatile organics into the atmosphere, upgrades to the wastewater treatment system at the Kentucky plant to

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reduce the release of harmful chemicals into the Big Sandy River, and the installation of a series of wells to prevent the release of petroleum contaminants into the Mississippi River in Minnesota.

As part of the settlement, Ashland also agreed to perform SEPs to restore and donate 274 acres of ecologically significant dune prairie grassland to the state of Minnesota for permanent preservation as a scientific and natural area; assist the state of Kentucky with air monitoring; install two hydrofluoric acid release detection and mitigation systems at the Ohio and Minnesota refineries to provide protection for the workers and the surrounding communities from possible releases of hydrofluoric acid; establish an environmental compliance promotion and education program in the state of Kentucky; and improve an oil/water separation system and two tanks at the Ohio facility to substantially reduce the emissions of volatile organic hydrocarbons to the atmosphere

### ***A Multi-Media Approach: Promoting the Use of Environmental Management Systems to Prevent Violations from Recurring***

A recent settlement with ASARCO exemplifies the benefits of a multi-media strategy towards enforcement whenever appropriate. This precedential settlement is the first time the federal government has entered into a settlement that resolves multi-media violations involving multiple facilities at a single company.

In this precedential settlement, ASARCO was required to pay \$6.38 million in penalties and invest in excess of \$50 million for environmental cleanup and supplemental environmental projects (SEPs) to correct alleged hazardous waste and water violations at two of its facilities in Montana and Arizona. The settlement will result in reduced levels of toxic heavy metals such as mercury, lead, and arsenic being illegally released into the environment.

The settlement also marked the first time that a company agreed to establish an enforceable environmental management system applicable at all of its active facilities nationwide to identify and correct violations of environmental laws. In ASARCO's case, this system covers 38 operating facilities with more than 6,000 employees in seven states.



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Protecting Your Health & the Environment  
through

Information

Sharing

Information



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Over the past five years, in addition to focusing on enforcement actions which lead to environmental results, EPA also made citizens' access to compliance and enforcement information a priority. Why? Because citizens must be involved in environmental protection. However, in order for this to occur, citizens need access to information.

Public access to data allows communities to monitor environmental conditions and compliance records of nearby facilities and provides an additional incentive for businesses to be in compliance with environmental laws. It also allows communities to monitor the performance of government agencies charged with implementing environmental laws and improves data quality because the greater the use of information, the more often errors will be found and corrected.

The Integrated Data for Enforcement Analysis (IDEA) system, for example, provides interested members of the public with access to more than ten EPA databases. In fact, many businesses are starting to use this system to monitor their own environmental performance.

EPA believes that technology is now making management and maintenance of computer records the most important way to track facility information, and is gradually replacing the hard copy file approach to managing records. In fact, many states are also beginning to also provide citizens with access to their compliance records. EPA plans to continue efforts to expand access to compliance records through the Internet under initiatives such as the Sector Facility Indexing Project.

#### **Providing the Public with Access to information about EPA's enforcement and compliance programs**

A central goal of EPA's reinvention efforts is to provide comprehensive information about environmental compliance and enforcement issues to the general public and the regulated community in order to help deter non-compliance, promote voluntary action by the regulated community, provide meaningful opportunities for public participation, and protect the public's right to know.

The EPA Web site currently contains about 4,200 enforcement and compliance-related documents – and we expect to triple that number by the end of FY 1999. In addition, EPA's Enhanced Public Access Task Project will make all of the Agency's significant guidance and policies electronically accessible to Regions, states, industry, and the public by the end of FY 2000. Users will be able to follow a user-friendly format to browse the system and locate material of interest.

Last year, EPA also opened an **Enforcement and Compliance Docket and Information Center (ECDIC)**, which contains a library system for identifying the Agency's enforcement and compliance assurance regulations, policy and guidance, and related documents. This material will be physically available at the ECDIC via hard copy or on microfilm, along with a report generator for distributing information to the public. The Center will be another valuable outreach tool of the Agency's enforcement and compliance assurance program.

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## Sector Facility Indexing Project

The Sector Facility Indexing Project (SFIP), a pilot program being developed by EPA, is a first step towards integrating and providing access to more environmental information than has ever before been available to the public in one location. During the first eight months of its availability, the SFIP Internet site has been accessed with approximately 50,000 user sessions and 265,000 hits.

The SFIP profiles approximately 650 individual facilities in five industrial sectors: automobile assembly, pulp manufacturing, petroleum refining, iron and steel production, and the primary smelting and refining of aluminum, copper, lead, and zinc (non-ferrous metals).

This project gives citizens the ability to access multi-media environmental data about each facility on the Internet, such as the number of inspections, compliance with federal regulations, enforcement actions taken, chemical releases, and spills. Also available is background information on the location and production capacity of each facility, as well as information on the population of the surrounding area.

The information on each of these facilities is intended to satisfy the potential needs of a range of stakeholders:

- community groups interested in learning about the overall compliance record of a nearby facility;
- industrial trade associations interested in better understanding common compliance problems in order to design compliance and self-policing programs;
- an individual facility interested in identifying pollution prevention activities for its chemical releases, both in terms of its own record or in bench-marking its performance by looking at the records of similar facilities; and
- and a state or local government interested in better access to integrated, multi-media environmental data, which could be used to evaluate the impact of current facilities in a specific geographic area.

From EPA's perspective, we see several uses for this data. The SFIP allows us to track compliance records in individual sectors. This is a very important effort in terms of assisting us in planning and measuring the effectiveness of compliance and enforcement strategies. It allows us to build benchmarks across sectors to aid in targeting resources for compliance and enforcement activities.

The project has undergone multiple federal and state data quality reviews and the public has also had several opportunities to comment. As a final matter, EPA gave the facilities themselves the opportunity to review the data. While most of the data was found to be accurate, EPA made corrections as appropriate and will continue taking comments as the pilot project evolves.

To allow users to access current environmental information as it becomes available, the data included in the Project is updated regularly. The database is available on the Internet at "<http://www.epa.gov/oeca/sfi>".

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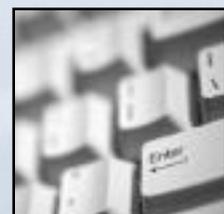
### Public Access to Information About Your Drinking Water

One of EPA's primary goals is to ensure safe drinking water for all Americans. In August 1996, Congress passed extensive amendments to the Safe Drinking Water Act to ensure that our Nation's drinking water meets all health standards. Under these amendments, the Agency will produce an annual report based on state and tribal data which portrays the compliance of drinking water systems across the country and which ensures public access to information about the quality and source of their drinking water. The first compliance report was issued in September 1998.

1996 data provided by the states showed that 86 percent of all Americans are served by water systems with no reported violations. Nonetheless, EPA and the states are working together to vigorously address those who are in noncompliance with health-based standards, treatment technique requirements, and significant monitoring and reporting requirements. Continued monitoring and improved reporting data will enable regulators and the public to identify compliance concerns and develop appropriate strategies to address any risks to public health. The EPA report is available on the Internet at "<http://www.epa.gov/oeca>".

### Conclusion

These are just a few examples of new and innovative approaches to doing business which EPA intends to continue and expand upon in the future. We welcome your thoughts and suggestions on any of the approaches you've just read about, or any new ideas which you'd like to share. We encourage you to visit our Web sites, listed on the next page, and to provide us with your feedback. Your input is critical as EPA's compliance and enforcement program continues to work to fulfill its mission on a daily basis — to protect your health and the environment through innovative approaches to compliance.



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Index of

# Web Sites

Audit Policy: Incentives for Self Policing

<http://www.epa.gov/oeca/auditpol.html>

Audit Policy Interpretive Guidance/Results from Audit Policy/Newsletters

<http://www.epa.gov/oeca/apolguid.html>

Small Business Policy

<http://www.epa.gov/oeca/smbusi.html>

Small Communities Policy

<http://www.epa.gov/oeca/scpolicy.html>

Supplemental Environmental Projects

<http://www.epa.gov/oeca/sep/>

National Performance Measures Strategy

<http://www.epa.gov/oeca/perfmeas/npmsfinal.html>

OECA Operating Principles

<http://www.epa.gov/oeca/princip.html>

Sector Facility Indexing Project

<http://www.epa.gov/oeca/sfi>

Sector Notebooks & One Year Progress Report

<http://www.epa.gov/oeca/sector/>

Office of Compliance Fact Sheets

<http://www.epa.gov/oeca/oc/fact.html>

Compliance Assistance Centers Information

<http://www.epa.gov/oeca/mfcac.html>

1996 OECA Accomplishment Report

1997 OECA Accomplishment Report

<http://www.epa.gov/oeca/96accomp.pdf>

<http://www.epa.gov/oeca/97accomp.pdf>

EPA Environmental and Spatial Data

<http://www.epa.gov/enviro/>

EPA Center for Environmental Information and Statistics

<http://www.epa.gov/ceis/>

Environmental Monitoring for Public Access and Community Tracking (EMPACT)

<http://www.epa.gov/empact/>



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# Comments

*We welcome your  
comments and feedback.*

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*Please mail to:*  
Office of Enforcement and Compliance Assurance (2201A)  
U.S. Environmental Protection Agency  
Washington, DC 20460  
Attn: Enforcement Capacity and Outreach Office

