



DEPARTMENT OF ENVIRONMENTAL QUALITY  
POLICY AND PROCEDURES

SUBJECT: COMPLIANCE AND ENFORCEMENT

Number: 04-003

Date: May 30, 2001

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Revised: October 12, 2001

**ISSUE:**

An important tool the Department of Environmental Quality (DEQ) has in meeting its mission is its compliance and enforcement activities. This includes inspections, reporting, monitoring, formal and informal compliance notifications, and escalated enforcement activities. The purpose of this policy is to assure that the DEQ effectively identifies and investigates potential violations of the statutes, rules, and permits it administers and that identified violations are responded to in a consistent and effective manner.

The DEQ has eight divisions and the Office of Criminal Investigations (OCI) that have regulatory program responsibilities. These divisions and the OCI administer numerous state and delegated federal environmental programs that require ongoing compliance and enforcement activities and, on occasion, the initiation of escalated enforcement actions. Through the years, each division has developed its own compliance and enforcement process to meet its specific regulatory needs. The DEQ's varied compliance and enforcement processes, procedures, documents, and associated nomenclature create a challenge to communicate internally and externally about DEQ compliance and enforcement policies, practices, activities and successes.

This policy establishes some basic principles that will drive the DEQ's compliance and enforcement programs. It also provides guidance and direction for divisions and the OCI in key areas that need to have consistent departmental processes and procedures.

It is important to view enforcement as one tool available to achieve compliance. Enforcement in and of itself is not a goal—compliance is the goal.

**POLICY:**

All DEQ compliance and enforcement programs shall be administered in accordance with this policy to ensure that these basic principles are followed.

**Compliance and enforcement actions must be timely:** To be most effective, an action must occur promptly after the violation takes place or is discovered. A timely action not only sends a clear message to violators, but also limits the environmental harm that a given violation may cause.

- Compliance and enforcement actions must be appropriate to the violations alleged:** In deciding which compliance and enforcement action is the most appropriate response for a violation, consideration needs to be given to a number of factors. These factors include, but are not limited to, the violation's effect on program integrity; the severity and duration of the violation; any public health risk or resource damage caused by the violation; the compliance history of the violator; and the willfulness, negligence, and recalcitrance of the violator.

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### **3. Compliance and enforcement actions must be consistent for like violations:**

Compliance and enforcement actions of the DEQ must not be construed as arbitrary, capricious, or as an abuse of discretion. To this end it is important that compliance and enforcement actions be consistent and fair. Like violations of a given statute, rule, or permit should end in a similar result where the circumstances are the same or comparable.

A consistent compliance and enforcement program provides the regulated community with the benefit of knowing what to expect from the DEQ when violations occur. A consistent approach also ensures a level playing field for all regulated entities. Cases requiring an action that differs or appears to differ from past actions for like or similar violations need to be documented with material facts that account for the difference in the level of action taken.

### **4. Compliance and enforcement actions in response to repeat or continuing violations must be progressive in nature:**

To ensure that violations are resolved as quickly and efficiently as possible, the DEQ will use a progressive compliance program. Failures to comply with previous compliance and enforcement actions must subject the violator to progressively stronger actions.

### **5. Compliance and enforcement actions must be responsive to division program priorities and needs:**

Compliance and enforcement actions should ensure that program and regulatory responsibilities are successfully carried out. Compliance and enforcement should not be considered as a program unto itself, but should reflect larger program priorities that are set forth in annual work plans.

## **COMPLIANCE ASSISTANCE:**

Although this policy sets standards for carrying out compliance and enforcement responsibilities, it does not lessen each division and office's responsibility to foster compliance through compliance assistance activities. The DEQ believes that both activities--assistance and enforcement--have a justified place in DEQ efforts. By using both compliance and enforcement and assistance tools, the goal of protecting and enhancing Michigan's environmental quality and public health should be met.

## **IMPLEMENTATION OF POLICY:**

This policy identifies some basic elements that must be contained in each division's compliance and enforcement program. These elements are listed in sections found in **Appendix A**, in the order they normally occur in the compliance and enforcement process of divisions. The sections in order are as follows.

1. Compliance Evaluations
2. Compliance and Enforcement Process
3. Settlement Issues
4. Compliance Coordination, Tracking, and Measurement
5. Compliance and Enforcement Coordination at the District Level

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Divisions and the OCI shall develop and implement necessary policies, procedures, and guidance for each section. Divisions and the OCI have the latitude to tailor its compliance and enforcement program to meet the needs of the statutory requirements it is charged with administrating; however, this policy sets forth the minimum standards that must be met for each section.

Periodically, DEQ management will find it necessary to provide direction on how this policy applies to given situations, provide details on initiatives, or set priorities. Divisions shall ensure that these directives are maintained with this policy and that appropriate changes are made to division programs, policies, and procedures to implement the directives.

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Approved  Date: 10/10/07