

# OVERVIEW OF DNRE ENFORCEMENT POLICIES AND PROCEDURES

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## Key MDNRE Regulatory Offices and Divisions

- Air
- Water Resource
- Groundwater
- Remediation
- Criminal Investigations
- Science and Policy

## Key Regulatory Programs

- NPDES; contaminated site cleanups; CERCLA; nonpoint source discharges; solid and hazardous waste management; mining; oil and gas; stationary sources; storage tanks; scrap tires; groundwater discharges; wetlands; inland lakes and streams; storm water

## Compliance and Enforcement Process – Field Components

- Inspection
- Evaluation of findings
- Compliance Communication, Violation Notice, Enforcement Letter
- Evaluation of response
- Second Violation Notice (discretionary)
- Evaluation of response

## Inspection Process

- At discretion of field inspector; District Supervisor, Multi-media Coordinator; Department of Attorney General; and/or Office of Science and Policy
- Selection based on statute, policy or in response to a citizen complaint
- Monthly district review meeting

## Inspection Performed

- Unannounced and can consist of one multi-media inspection or several separate program inspections
- Inspections are documented with a written report which may contain sketches and photographs (if necessary)

## Evaluation of Response

- Violation Notice requires a response from the regulated entity
- Response is evaluated by the Department
- Acceptable responses are managed by the inspecting entity
- Unacceptable or non-responses may be referred for additional enforcement

## Evaluation of Findings

- Results of inspections are evaluated by Department
- Considerations include:
  - previous inspection results
  - ongoing violations
  - corrective actions
  - cooperation

Preparation of Response - directly related to results of inspection

- Compliance letter: No action required
- Violation Notice: First written notice
- Enforcement Letter: Indication of impending legal action

Enforcement Scheme

- Inspection
- Verbal Notice
- Violation Notice
- Referral to Compliance and Enforcement for Civil/Administrative Action and/or referral for Criminal Prosecution
- Parallel Proceedings
- Once a case is referred to Compliance and Enforcement:
  - Enforcement Letter
  - Administrative Consent Order (ACO)
  - Referral to Department of Attorney General and/or U.S. EPA
- Other Enforcement Tools or Options:
  - Penalty Orders
  - Director's Final Order
  - Cease and Desist Order
  - Unilateral Administrative Order
  - Stipulated Penalties

Penalty Consideration Factors

- Damage to the environment, public health and welfare
- Extent of violation
- Duration of violation
- Importance to regulatory scheme or integrity of regulatory program
- Economic benefit on non-compliance
- Size of violator

Penalty Adjustments

- Violator's degree of willfulness or negligence
- Violator's cooperativeness or responsiveness to remediation
- Compliance history of violator
- Financial ability to pay penalty
- Litigation risk
- Voluntary performance of non-mandatory remediation or improvements before violation

Supplemental Environmental Projects

- Discretionary program
- Proposal must be made by violator and approved by MDNRE
- Projects allow violators to improve and participate in their own community
- Policy found at:  
[http://www.michigan.gov/documents/deq/deq-occc-sup-env-projects-penalty-mitigation\\_248504\\_7.pdf](http://www.michigan.gov/documents/deq/deq-occc-sup-env-projects-penalty-mitigation_248504_7.pdf)