



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING



LIESL EICHLER CLARK
DIRECTOR

January 8, 2021

VIA EMAIL

The Honorable Gretchen Whitmer
Governor of Michigan
P.O. Box 30013
Lansing, Michigan 48909

Dear Governor Whitmer:

A year ago, you directed the Department of Environment, Great Lakes, and Energy (EGLE) to review agency procedures to “strengthen enforcement.”

EGLE welcomed the review as an opportunity to improve our performance in protecting Michigan’s environment and public health by ensuring our department runs consistent, transparent compliance and enforcement programs that deliver reasoned, timely results and hold regulated entities appropriately accountable to the law.

We engaged the Office of Continuous Improvement (OCI) at the Department of Technology, Management and Budget to guide our review. Their experienced facilitators led EGLE team members and law enforcement partners through hours of data collection and conversation to review current practices, identify program strengths and weaknesses, and evaluate potential improvements.

The enclosed report is the product of that work and EGLE’s response to your directive.

While our department will pursue each of the report’s recommendations over time, I am directing my team to prioritize immediate action in three areas:

- 1. Standardizing and simplifying enforcement procedures** to make EGLE actions more accessible and understandable to all stakeholders and ensure unresolved matters move through our escalated process at a predictable, timely cadence.
- 2. Improving coordination among EGLE’s enforcement staff and programs** to deploy resources across the department as efficiently as possible and streamline work on cases involving multiple regulatory programs.
- 3. Enhancing transparency and engagement** to fulfill our commitment to open government and foster better communication among local community members, regulated entities, and EGLE.

Governor Gretchen Whitmer

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In addition to the many steps EGLE will take in these positive directions by thinking creatively and implementing low-cost best management practices, timely implementation of EGLE's new IT Modernization Strategy will support the strength and success of our compliance and enforcement programs in the coming years.

Modern IT will allow us to make integrated data on regulated facilities available online, thus serving residents' desire to know what is happening in their communities, regulated entities' interest in having their EGLE records available in one place, and our team's ability to partner across the department on facilities regulated by multiple divisions.

Additionally, as you noted when you directed us to conduct this review, "critical underfunding and understaffing" undermines EGLE's ability to "keep the public safe." Our team possesses the technical expertise, dedication, and public service commitment to reasonably and effectively enforce environmental laws. But we need to further build and invest in our team to both manage the volume of entities and sites we regulate and meet the public's expectations for environmental protection—expectations we share.

I greatly appreciate your steadfast backing of increased investments in EGLE personnel and technology. We will continue to advocate for those investments and do our best to earn your continued support.

We are proud of the work our team has done this year with OCI facilitators to chart a path to more effective compliance and enforcement programs. As detailed in the enclosed report, the review you directed us to complete will make EGLE a stronger department that more effectively serves our 10 million fellow Michiganders.

Thank you for your leadership on behalf of Michigan's environment and public health.

Sincerely,

A handwritten signature in blue ink, appearing to read "Liesl Eichler Clark", with a long horizontal flourish extending to the right.

Liesl Eichler Clark
Director
517-284-6712

Enclosure

Environmental Compliance & Enforcement Review

FINAL REPORT AND RECOMMENDATIONS 2020



MICHIGAN DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY

Michigan Department of
Environment, Great Lakes, and
Energy

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The Department of Technology, Management and Budget (DTMB), Office of Continuous Improvement (OCI) provides services to facilitate teams in the identification of issues and ideas to improve processes and programs in the state of Michigan government. The OCI facilitators do not provide subject expertise to the teams they facilitate. For more information on the OCI please visit our website: <https://stateofmichigan.sharepoint.com/teams/insidemi/opt/rpm/Pages/Office%20of%20Continuous%20Improvement.aspx>

Executive Summary

The Michigan Department of Environment, Great Lakes, and Energy (EGLE)'s mission is to protect Michigan's environment and public health by managing air, water, land and energy resources. In order to achieve this mission, EGLE must be able to effectively identify and investigate potential violations of the statutes, rules, permits, licenses and judicial and administrative orders that are administered by the department. Compliance monitoring and enforcement (C&E) activities are among the tools available to help EGLE effectively accomplish that task. The EGLE, C&E programs must be designed to ensure that identified violations are responded to in a timely, appropriate and consistent manner using a progressive and responsive process. As laid in out in the existing C&E policy,¹ the effectiveness of the program can be measured by how well the following criteria are met:

- **Timely**: To be most effective, an action must occur promptly after the violation takes place or is discovered. A timely action sends a clear message to violators, and limits the environmental harm that a given violation may cause.
- **Appropriate**: In deciding which compliance and enforcement action is the most appropriate response for a violation, consideration needs to be given to several factors. These factors include, but are not limited to, the violation's effect on program integrity; commitments associated with programs authorized or delegated by the federal government; the severity and duration of the violation; 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.
- **Consistent**: It is important that compliance and enforcement actions be consistent and fair. Violations of a given statute, rule, permit, or license should end in a similar result where the circumstances are comparable. However, consistency does not mean identical and no two cases are exactly alike.
- **Progressive**: To ensure violations are resolved as promptly and efficiently as possible, failure to comply with previous compliance and enforcement actions must subject the violator to a progressively stronger enforcement response.
- **Responsive**: Compliance and enforcement actions should reflect larger program priorities that are set forth in annual work plans, or otherwise identified by the department.

In addition to these existing criteria, EGLE's C&E program should also aim for transparency, as defined below:

- **Transparent**: Ensure that internal and external stakeholders have access to the information needed to understand C&E decisions across the department.

Common observations from participants in this review suggest that EGLE's C&E program is mature and guided by strong department leadership and internal policies. C&E staff are skilled, experienced and dedicated to fulfilling EGLE's mission. As detailed in the recommendations; however, there are opportunities to improve the program through the implementation of objective criteria and

¹ DEQ Policy 04-003

standardization, an increase in staffing and technology resources, enhanced training and inter-division collaboration, and a greater use of data to inform decision making and risk management.

The recommendations proposed below are rooted in EGLE's mission and values and are intended to address the issues identified by this review while furthering the department's commitment to a compliance and enforcement program that is transparent, fair, objective, efficient, and holds the regulated community responsible for violations.

High-Level Recommendations

1. Ensure department stakeholders experience predictable and consistent interactions with EGLE by simplifying and standardizing key processes, timelines and documentation.
2. Continue to invest in technology that will enhance transparency and the ability to make data-driven decisions through improved data sharing and case tracking.
3. Enable cases to be resolved in a timely manner by giving field staff the tools and authority to resolve cases and by providing objective criteria for moving issues through the progressive enforcement process.
4. Formalize and clarify the policy governance structure.
5. Improve management of multimedia cases by defining staff roles, responsibilities, and expectations.
6. Increase and improve cross-divisional communication, coordination, and collaboration.
7. Enhance collaboration with other state, federal and local agencies.
8. Assist divisions with fulfilling EGLE's mission by maintaining sufficient and appropriate staffing, resources, and training.
9. Improve transparency and consistency by communicating EGLE's compliance and enforcement philosophy throughout the organization.
10. Continue to prioritize education, outreach, and compliance assistance to aid the public and regulated community in understanding and meeting EGLE's compliance and enforcement goals.
11. Use retroactive analysis and case studies to promote best practices and mitigate future risks.

Workgroup Members and Roles

Project Leadership		
Name	Department/Division	Classification/Title
Liesl Clark	EGLE	Director
Aaron Keatley	EGLE	Chief Deputy Director
Andy Draheim	EGLE	Chief of Staff

Facilitators		
Name	Department/Division	Classification/Title
Matthew Casby	DTMB/Office of Continuous Improvement	Process Improvement Consultant
Sara Keel	DTMB/Office of Continuous Improvement	Process Improvement Consultant
Brett Gleason	DTMB/Office of Continuous Improvement	Continuous Improvement Manager

Purpose and Background

In her December 30, 2019 statement on contamination at the Electro-Plating Services site in Madison Heights, Governor Gretchen Whitmer directed EGLE to “conduct a formal review of its pollution inspection procedures to strengthen enforcement and accountability.” As part of its response to this directive, EGLE launched a formal review to:

- Assess enforcement procedures across EGLE Divisions and district offices and identify opportunities to improve the consistency, timeliness, and responsiveness of the Department-wide enforcement process;
- Identify challenges, best practices, and areas for improvement;
- Propose department-level business rules for enforcement that enhance consistency across the agency and advance EGLE’s mission to protect the environment and public health;
- Create standard templates and processes to be used by all divisions where standardization is appropriate;
- Develop recommendations for mitigating environmental and public health risks and ensuring consistent enforcement outcomes, including those related to staff roles, responsibilities, and accountability; legislative or rule changes; and technology improvements; and
- Develop plans to implement proposed changes.

Methodology

To respond to the Governor’s directive, EGLE and OCI launched a comprehensive multi-phase department review.² The review began with a detailed subject matter expert analysis of EGLE’s six divisions with enforcement responsibilities.

This program area analyses produced process maps and an index of regulatory and statutory authorities for each enforcement unit. In addition, divisions identified known process issues and risks.

EGLE leadership then identified and assembled a group of subject matter experts to represent each division. OCI engaged with this group to further analyze the detailed program area reviews and gather additional information about C&E activities. Findings and recommendations were then formed and further refined through feedback from division leadership and other department stakeholders.

The results of this review are presented in this report for further action.

Subject Matter Experts and Contributors		
Name	Department/Division	Classification/Title
Jenine Camilleri	EGLE/AQD/Enforcement Unit	Environmental Manager
Stephen Weis	EGLE/AQD/Field Operations	Senior Environmental Engineer
George Krisztian	EGLE/DWEHD	Assistant Division Director
Brian Thurston	EGLE/DWEHD/Field Operations Section	State Administrative Manager
Alexandra Clark	EGLE/MMD/Enforcement Section	State Administrative Manager
Fred Sellers	EGLE/MMD/Field Operations Section	Environmental Manager
Mark Snow	EGLE/OGMD/Permitting and Technical Services Section	State Administrative Manager
Rick Henderson	EGLE/OGMD/Field Operations Section	State Administrative Manager
Darren Bowling	EGLE/RRD/Enforcement Unit	Environmental Manager
Dan Yordanich	EGLE/RRD/Compliance and Enforcement Section	State Administrative Manager (Acting)
Dave Pingel	EGLE/WRD/Enforcement Unit	Environmental Manager
Christine Veldkamp	EGLE/WRD/Field Operations Section	NPDES Compliance Specialist
Vence Woods	DNR Law Enforcement Division/Environmental Investigation Section	Section Supervisor
Polly Synk	Attorney General	Assistant Attorney General
Chris Ethridge	EGLE/AQD/Field Operations	State Administrative Manager
Erin Moran	EGLE/AQD/Enforcement Unit	Environmental Quality Analyst
Maureen Nelson	EGLE/DWEHD	Environmental Quality Specialist
Dana DeBruyn	EGLE/DWEHD/Environmental Health Section	State Administrative Manager
James (Matt) Gamble	EGLE/DWEHD/Environmental Health Section	Environmental Manager
Kris Philip	EGLE/DWEHD/Community Water Supply Section	State Administrative Manager

² OCI is not a content expert and depends on bureau subject matter experts to discover, analyze, and discuss opportunities for improvement.

Jeremy Hoeh	EGLE/DWEHD/Environmental Health Section	Eng Mgr Lic 14
Dan Dettweiler	EGLE/DWEHD/Environmental Health Section	Environmental Manager
Melinda Shine	EGLE/MMD/Enforcement Section	Environmental Quality Analyst 12
Lonnie Lee	EGLE/MMD/Field Operations Section	State Administrative Manager
Daniel Rockafellow	EGLE/RRD/Enforcement Support Unit	Environmental Manager
Amy Lounds	EGLE/WRD/Field Operations Support Section	State Administrative Manager
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Brad Pagratis	EGLE/Information Management Division	Division Director
Regina Strong	EGLE/Executive Office	Environmental Justice Public Advocate
Ninah Sasy	EGLE/Executive Office	Clean Water Public Advocate

Division Summaries

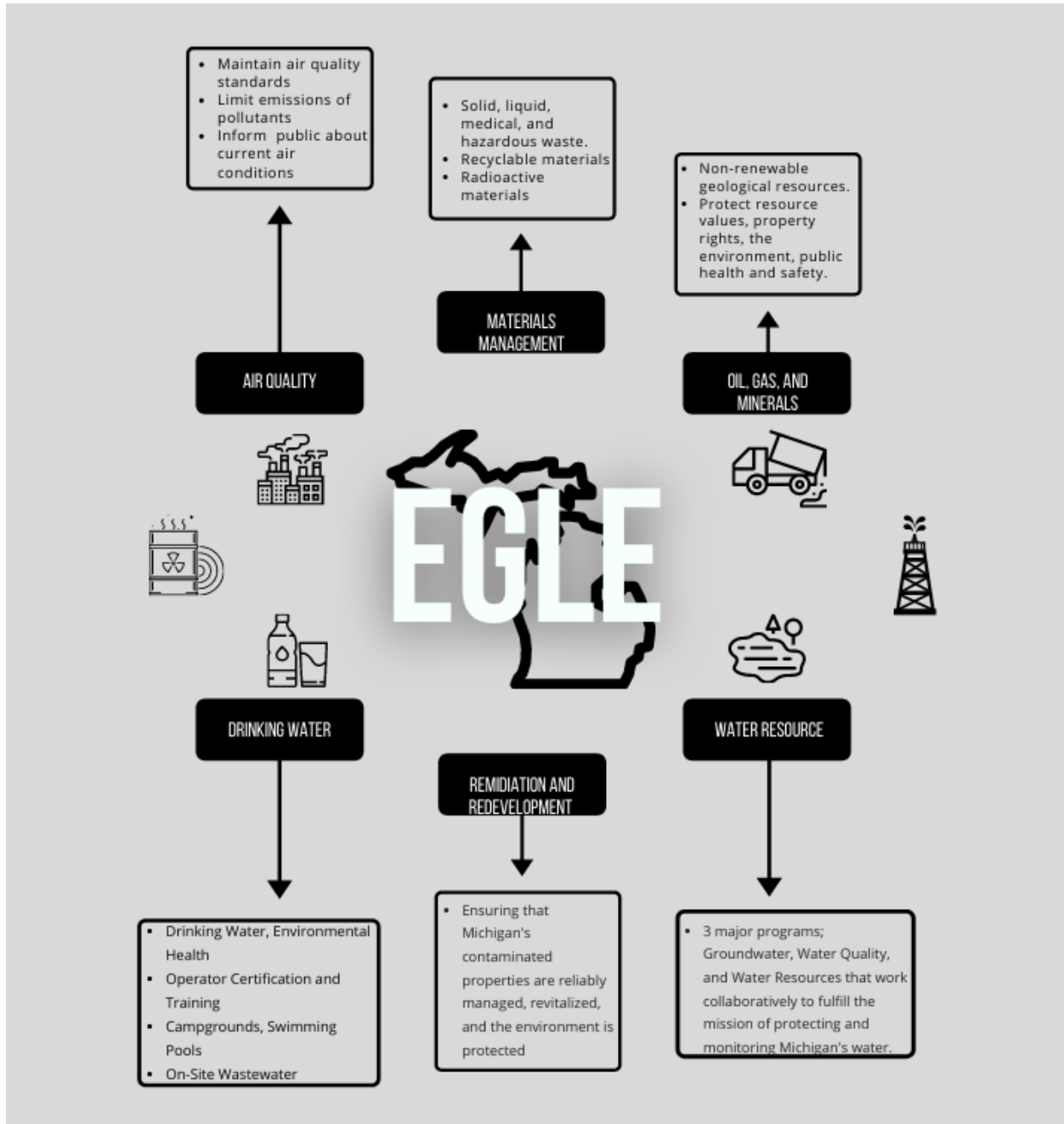
EGLE's compliance and enforcement activities are conducted by six divisions within the agency. These divisions administer numerous state and delegated federal environmental programs within their specialized/particular area of focus. These programs perform ongoing compliance and enforcement activities and, on occasion, initiate escalated enforcement actions. Each year these divisions conduct approximately 4,900 enforcement activities based on identified violations.

4,900
enforcement
activities
annually

A summary of each division is included below. An EGLE organizational chart and additional details on each division's specific programs, jurisdiction, and statutory authority can be found in the Program Profiles included with this report.

- The Air Quality Division (AQD) ensures that Michigan's air remains clean by regulating sources of air pollutants to minimize adverse impact on human health and the environment. Among AQD's goals are to meet and maintain air quality standards, limit emissions of hazardous and toxic pollutants, and inform the public about current air conditions.
- The Drinking Water and Environmental Health Division (DWEHD) is responsible for program areas that deal with drinking water, environmental health, operator certification and training, campgrounds, swimming pools, and on-site wastewater.
- The Materials Management Division (MMD) is responsible for program areas that deal with solid, liquid, medical and recyclable materials; hazardous products; and radioactive materials.
- The mission of the EGLE Oil, Gas, and Minerals Division (OGMD) is to assure that development of Michigan's oil, gas, and minerals is done in a manner that conserves natural resources and protects public health, safety, and the environment.
- The Remediation and Redevelopment Division (RRD) uses compliance assistance, partnerships, collaboration, and enforcement to create a future where Michigan's contaminated properties are reliably managed, revitalized, and the environment is protected.
- The Water Resources Division (WRD) protects and monitors Michigan's waters - swimmable, fishable, fish safe to eat, and healthy aquatic ecosystems.

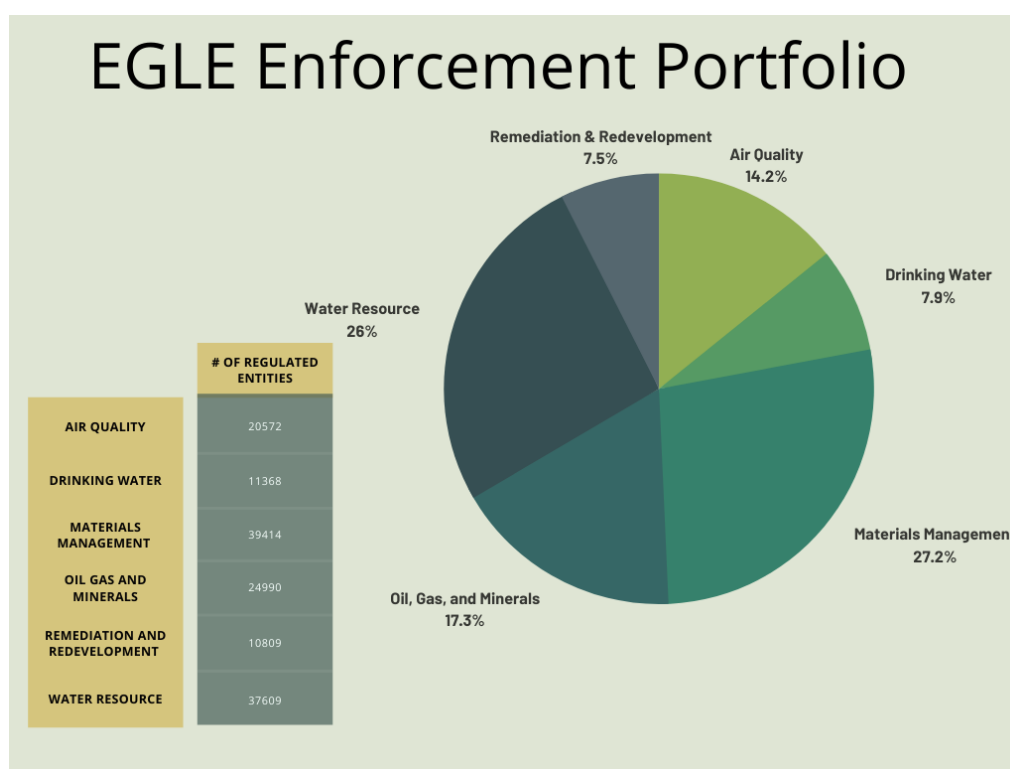
EGLE Compliance and Enforcement Divisions



Compliance and Enforcement Overview

EGLE's department policy outlines a progressive model of enforcement in which divisions can deploy several different tools and cases are escalated along a progressive sequence of actions until compliance is obtained. The process has been adapted to fit changing program needs and may vary between divisions and program areas, but generally follows the course described here.

The C&E process is intended to provide opportunities to resolve violations in a consistent and progressively escalated manner. There is a general presumption that the process will start at the lowest stage, however, specific factors or circumstances, such as the seriousness of the violation, threat to human health and the environment, resources damaged or impaired, previous compliance history, agency program needs, or an applicable federal enforcement response policy for a delegated program, may all serve to escalate the initial level of enforcement action.



The C&E process starts with a Compliance Evaluation.³ If a violation is discovered, the first step is typically the issuance of a Compliance Communication. If these attempts to gain voluntary compliance fail to correct the issue or violation, then a Violation Notice is issued. If a sufficient response to the Violation Notice is received and the violation has been, or is being, corrected in a timely manner, no further enforcement action is usually necessary. Failure to adequately and timely respond may result in either issuance of a Second Violation Notice or initiation of an escalated enforcement proceeding.

³ This and other terms used in this section are defined in the Appendix

If the preceding administrative actions have been unsuccessful; then a regulated entity is sent to escalated enforcement - however, seriousness of the violation, resources damaged or impaired, previous compliance history, agency program needs, or the applicable federal enforcement response policy for a delegated program may also result in a case being sent to escalated enforcement.



Next, a formal Enforcement Notice is sent to the violator and the Department begins discussions to settle violations through the entry of a settlement agreement.

At times, EGLE staff encounter situations where indications show that a crime may have been committed and a criminal investigation and prosecution may be warranted or where the EGLE staff require legal advice or representation. In such situations, cases are referred to the Department of Natural Resources, Law Enforcement Division, Environmental Investigation Section (EIS), or the Department of Attorney General (AG) for an administrative or civil action.

EGLE Enforcement Notices and Violations by Division

	# of Regulated Entities	Compliance Communications Issued	Violation Notices Issued	Enforcement Notices Issued
Air Quality	20572	0	481	26
Drinking Water	11368	973	655	3
Materials Management	39414	8*	381	18
Oil, Gas and Minerals	24990	360	13	8
Remediation and Redevelopment	10809	231	51	7
Water Resource	37609	804	877	30

* EGLE divisional data for 2019

*Materials Management's compliance communications are largely absorbed in the reported violation notice numbers. This reporting was not available until late 2019.

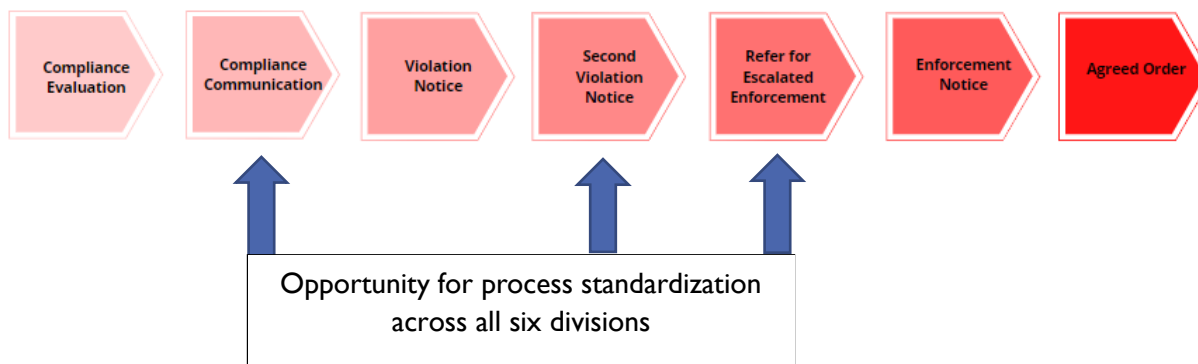
Recommendations and Findings

Recommendation 1: Ensure department stakeholders experience predictable and consistent interactions with EGLE by simplifying and standardizing key processes, timelines, and documentation

Due to the broad and extremely complex range of activities and entities regulated by EGLE, it is difficult to apply a one-size-fits all approach to EGLE's C&E work. Nevertheless, there are commonalities across all program areas, and EGLE should strive to achieve predictable and consistent outcomes by standardizing and simplifying key processes, timelines, and documentation. Examples of such actions include:

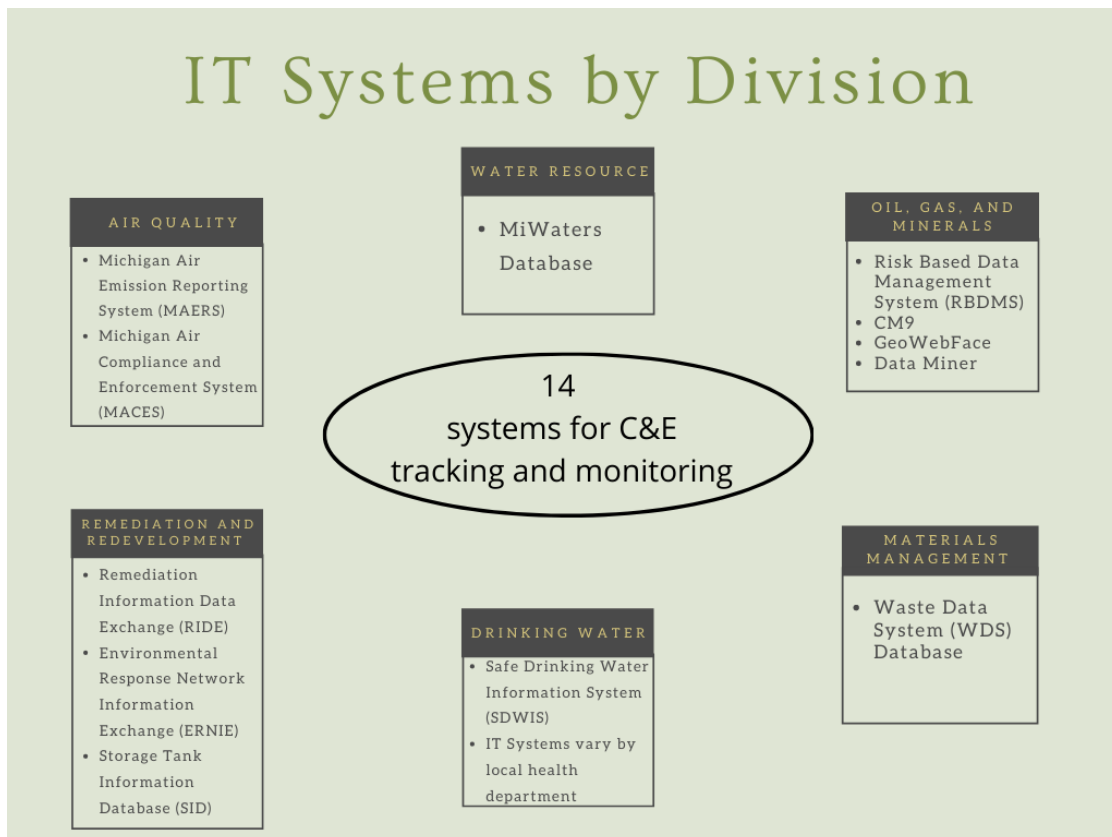
- Developing standardized content and formatting of all enforcement communications;
- Incorporating checkpoints into the process to maintain timeliness; and
- Documenting material facts that account for differences when cases require an action that differs, or appears to differ, from past actions for like or similar violations.

So while it is important to recognize that each program has unique needs and statutory requirements that must be accounted for, it is possible to achieve a more standardized C&E approach by closing the gaps identified in current policy during this review. Standardizing these business processes will help achieve a more consistent and predictable regulatory environment, while allowing the necessary program flexibility.



Recommendation 2: Continue to invest in technology that will enhance transparency and the ability to make data-driven decisions through improved data sharing and case tracking

Each of the six divisions within EGLE that administer C&E activities use different technology systems. These systems are not fully compatible with each other and there is a large disparity in the level of functionality offered by each system: Some program areas have access to robust databases and reporting capabilities, while others rely on paper records. Data is very difficult to share between divisions, reports are not easily accessed or created, and there is no simple way to see the full enforcement history for a facility. This makes it difficult for the department to track cases across time, identify potential multimedia cases, make data-informed decisions about C&E priorities, or conduct risk evaluation and trend analyses. It also creates challenges for EGLE in serving members of the public and media who are interested in information from across the department about specific facilities, and for facilities that provide information to multiple divisions within EGLE.



The Department's IT Strategic Plan has existing projects that include building a data repository and implementing case tracking. Although these projects are currently focused on other functions of the department, EGLE's Information Management Division could determine applicability to C&E activities.

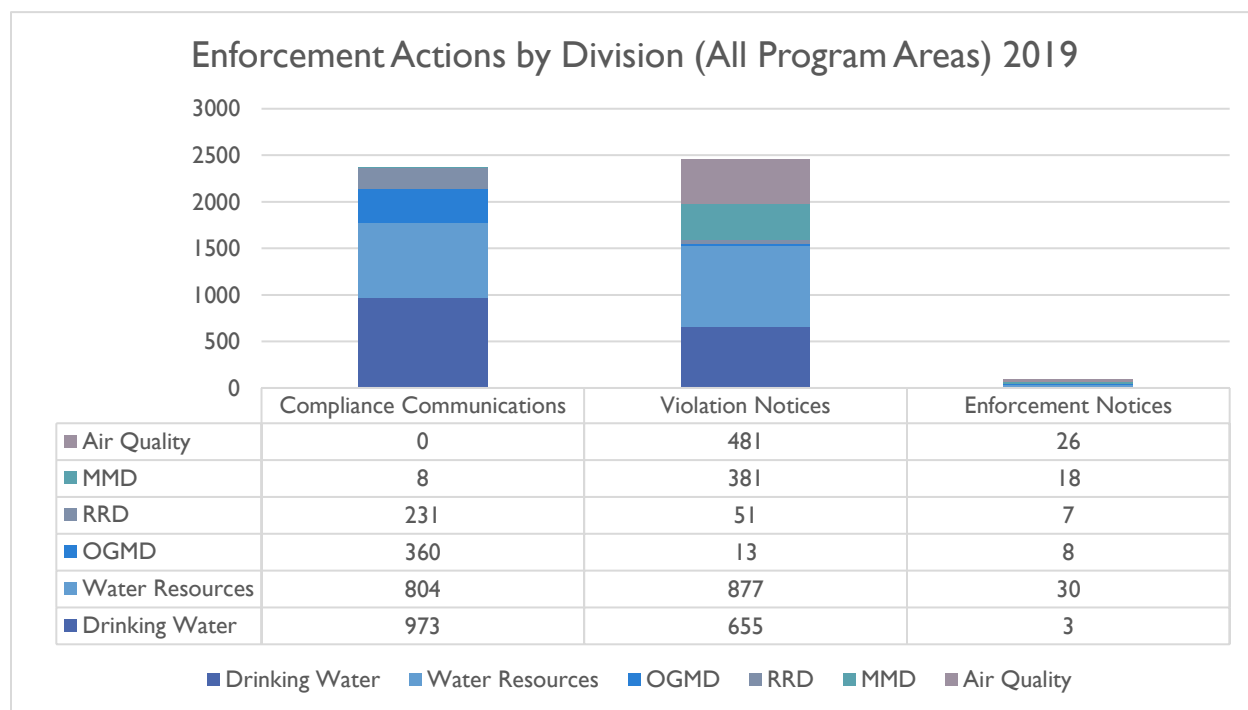
Investment in systems such as these could enable better coordination of C&E activities with facilities and better serve the public with information from across the department about specific facilities.

Recommendation 3: Enable cases to be resolved in a timely manner by giving field staff the tools and authority to resolve cases, and providing objective criteria for moving issues through the progressive enforcement process

Currently there is a great deal of variance in the length of time a case remains at any given stage of the enforcement process. Some of this variance is due to statutory and program requirements, but some is the result of unclear process expectations. Some field staff feel that escalating a case into the formal enforcement stage is time consuming, involves needlessly duplicative work, and removes field staff's involvement/ability to bring a facility to compliance. There is also a perception that, due to competing priorities and limited resources, escalated cases will take a longer to resolve.

Much of this can be corrected through the adoption of standardized processes and timelines, however, additional changes should also be implemented. EGLE should strongly consider broader application of division-specific practices that equip district-office staff with additional authority and tools, such as limited settlement authority and the ability to enter in to binding "field agreed orders." These changes would promote timely compliance without significant gaps that could expose the environment and public health to greater and/or more extended risk.

And while quickly returning a regulated entity to compliance is in the best interest of the public and EGLE – steps must also be taken to ensure that these resolutions are appropriate and consistent. This is especially true since, as shown in the chart below, more than 97% of violations are resolved in the field -



through Compliance Communications and Violation Notices - without ever entering the escalated enforcement process. This can be achieved by creating and providing field staff with standardized guides and checklists based on objective and simplified decision-making matrices.

In addition, field staff should be encouraged to continue proactively providing Compliance Assistance throughout the progressive enforcement process – even after a case has been referred for escalated action. This would allow central C&E leaders to focus more intently on protracted matters and those involving the most significant environmental and public health risks.

Recommendation 4: Formalize and clarify the policy governance structure

Current EGLE department policy requires divisions to develop and implement necessary program-specific policies, procedures and guidance in alignment with each section of the policy - so while divisions may tailor their compliance and enforcement program to meet the needs of their specific statutory requirements, the department policy sets forth the minimum standards that must be met by each division. In order to ensure that these minimum standards are being met, there must be a strong policy governance structure in place to maintain policy integrity at the department level. This will also help ensure consistent and transparent enforcement procedures across all program areas.

By providing consistent monitoring to keep the policy up to date with current circumstances, an enhanced governance structure can minimize the use of outdated documents and written policies that do not reflect the actual practices of divisions, ensure that directives are maintained, and that changes to the policy are implemented when EGLE finds it necessary to reset priorities or expectations.

Recommendation 5: Improve management of multimedia cases by defining staff roles, responsibilities, and expectations

Multimedia cases are those that involve violations that cross conventional program area boundaries or involve other governmental agencies, such as the United States Environmental Protection Agency (EPA), the US Department of the Interior, Bureau of Land Management; or the US Forestry Service. They can arise when a facility holds multiple permits or when an emission or leak of pollutants causes simultaneous releases into the air, water, and/or ground.

These cases are often technically complicated, pose significant threats to the public, or require significant effort to resolve. Coordinated multimedia actions can result in improved detection and resolution of environmental violations, achievement of optimal enforcement results, more effective enforcement, and more efficient use of resources.

Existing policy provides a framework for managing these case types, however, this review found that this framework does not provide a completely effective process. The current policy relies on the use of a District Coordinator – this position, however, has been eliminated since the implementation of this policy. Furthermore, while it did exist, the District Coordinator’s authority and reporting structure was unclear, which limited its effectiveness.

A comprehensive and effective multimedia process should start with well-defined roles and responsibilities for staff handling multimedia cases. There must also be clear procedures developed with objective criteria for deciding when to pursue a multimedia case and how to assign a case lead. The department should also focus on early identification of multimedia violations by using joint or cross-divisional comprehensive inspections and technology such as a database of potential multimedia sources.

Recommendation 6: Increase and improve cross-divisional communication, coordination, and collaboration

A key issue raised throughout this review is that communication, collaboration, and information sharing within divisions, and between district offices and the central office can be improved. Divisions must not appear to be operating independently of the others with minimal coordination or collaboration, as the consequences of this are often felt outside the department as regulated entities experience EGLE division by division and external stakeholders (including the general public) are unable to readily understand C&E decisions across the department.

This can be partially attributed to conflicting division priorities and the complexity of the numerous local/state/federal programs being administered, and so can be addressed in part through standardized processes and increased data sharing via technology. This issue, however, also needs to be addressed through building a more open and transparent culture that will break down division silos and build inter-division relationships. Many of the recommendations laid out in this report will have the effect of increasing coordination and improving trust between field staff and central office staff. Additional steps, such as cross-training, joint inspections, and enhanced district collaboration through annual/quarterly prioritizing meetings to create a coordinated district plan of activities should also be implemented.

Recommendation 7: Improve collaboration with other state, federal, and local agencies to increase access to technology and expertise

Failures to prevent, detect, or correct environmental damage can have far-reaching and long-lasting repercussions. Due to the complex nature of these issues, it is therefore integral that EGLE maintain close relationships with a variety of other governmental agencies, including the EPA, the AG, DNR, the Department of Health and Human Services (DHHS), and local health departments.

There are currently clear connections in place between EGLE and the EPA, the AG, and the Environmental Investigations Section of DNR (EIS). EGLE should continue to maintain these relationships and seek out opportunities to strengthen and leverage them. For example, efforts should be made to better incorporate the AG and EIS into the enforcement process as a resource for advice, guidance, and early detection. The EPA has the potential to provide access to advanced technology and robust databases and statistics. And when C&E decisions have the potential to impact community health, EGLE should prioritize working with community advocates, local health departments, and DHHS to identify compliance solutions that place the public health at the forefront and avoid unnecessary conflict with these stakeholders.

Enhancing inter-governmental cooperation and collaboration will result in better solutions and outcomes that consider a bigger picture and are based on the best available information.

Recommendation 8: Assist divisions with fulfilling EGLE’s mission by maintaining sufficient and appropriate staffing resources and training

Maintaining appropriate staffing levels is critical to fulfilling EGLE’s C&E mission and will be required to fully implement many of these proposed recommendations. Failing to support program areas with appropriate staff can result in slower compliance resolutions, unreliable documentation, reduced transparency, and create backlogs in enforcement action. Ultimately, this will increase potential risks to public health.

It is also critical that all staff are appropriately trained. An enhanced program that includes training on toxicology, geology, health impact, and Environmental Justice would help provide the specialized and technical knowledge and expertise that is often required to fully evaluate a regulated facility’s corrective action plan. And a training curriculum for field staff that includes cross-training would foster collaboration and communication between divisions.

Ensuring that divisions have sufficient staffing levels and an enhanced training curriculum aimed at providing broader knowledge will allow EGLE to make more informed decisions when approving or denying corrective action plans, mitigate the risks of inconsistent training, lessen the burden of staff turnover on existing staff, and promote the cultural shift of transparency, information sharing, and collaboration.

Recommendation 9: Improve transparency and consistency by communicating EGLE’s compliance and enforcement philosophy throughout the organization

EGLE’s overarching compliance and enforcement philosophy should be fully incorporated into all department policies and procedures. Communicating a clear and concise compliance and enforcement philosophy throughout the department will help unite divisions toward a common cause and help establish a consistent strategy and approach that divisions can use when engaging with regulated entities. This will have the added benefit of reducing divisional and regional inconsistencies experienced by the regulated community and the public.

Recommendation 10: Continue to prioritize education, outreach, and Compliance Assistance to aid the public and regulated community in understanding and meeting EGLE’s compliance and enforcement goals

Divisions rely heavily on voluntary compliance by regulated entities, and as noted above, a majority of enforcement work takes place in the field, never reaching the enforcement unit. Therefore, the relationship between field staff and the regulated community is vital to the success of EGLE’s C&E programs. An important tool in building and maintaining these relationships is Compliance Assistance. Compliance Assistance is information or assistance provided by EGLE staff to help the regulated

community comply with legally mandated environmental regulations. This may be in the form of workshops, webinars, videos, publications, compliance evaluations, phone calls, written communications, and meetings. These activities increase the understanding of regulations, streamline compliance with regulations, lay out the available options to compliance, and decrease costs associated with meeting the requirements of compliance.



Compliance Assistance gives EGLE a method to proactively mitigate violations and environmental health risks and allow field staff to work more efficiently and effectively. Due to resource restrictions and changing priorities, there is a danger that Compliance Assistance could become less of a focus for the C&E programs. To prevent this issue, it is critical that the department continue to prioritize and emphasize Compliance Assistance activities and dedicate appropriate resources to performing them.

In addition to Compliance Assistance for the regulated community, public education and outreach efforts should also remain a department priority. Due to the complex nature of EGLE's work, the public is sometimes unaware of the department's available resources, the limits of the department's jurisdiction, or the nuances of enforcement decisions. This can have a negative impact on the public's perceptions of EGLE's C&E activities. Public education and outreach can help inform the public of EGLE's rationale and justification for taking (or not taking) certain actions, improve the public's trust, and create opportunities for positive collaboration.

Improved public education and community engagement starts with transparency. Steps such as the creation of the Office of Environmental Justice Public Advocate and the Office of Clean Water Public Advocate in 2019 - both of which are now led by individuals with “Public Advocate” titles - go a long way towards mitigating these issues. These new structures and positions have already helped EGLE improve its community engagement work by providing residents more complete and accurate information, and greater opportunities to participate in conversations about environmental and public health matters that impact their neighborhoods and hometowns.

Continuing to innovate and invest in this work will further ensure that EGLE’s values of public service, communications, and reasoned decision making are well reflected in its C&E programs.

Themes emphasized throughout this report, including simplifying and standardizing C&E processes, improving documentation of EGLE actions, and enhancing IT systems to make more information easily available online, will make major contributions to EGLE’s goal of making its C&E programs and decisions more understandable and accessible to Michigan’s 10 million residents.

Recommendation 11: Use retroactive analysis and case studies to promote best practices and mitigate future risks.

To identify best practices and areas of risk within the C&E process, EGLE should regularly perform “postmortem” evaluations using case studies and retroactive analysis to review successes and failures. These are useful and effective tools that can increase transparency, drive policy and process decisions, and avoid the recurrence of missteps or errors. This is especially important when reviewing high profile cases or recalcitrant operators. Additionally, retroactive analysis and case studies help identify root causes and inform continuous improvement efforts.

Conclusion

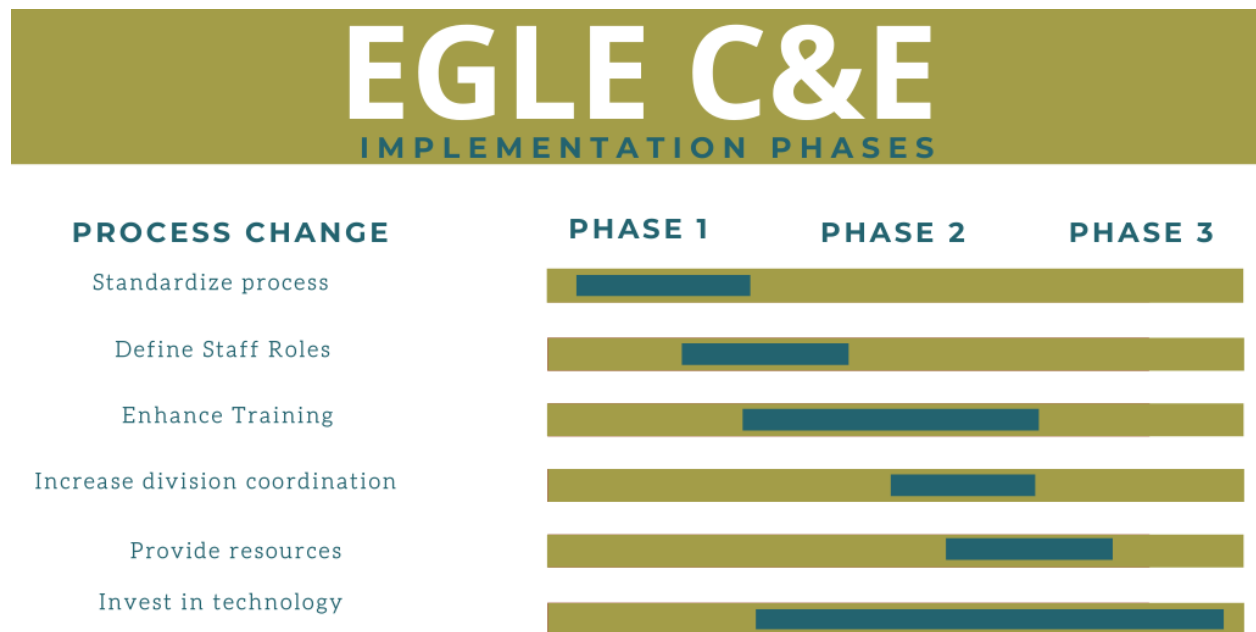
As noted above, EGLE’s mission is to protect Michigan’s environment and public health by managing air, water, land, and energy resources. An effective compliance and enforcement program is an important means of achieving this goal. A compliance and enforcement program must be able to hold the regulated community responsible for violations in a timely, appropriate, and consistent manner. An effective compliance and enforcement program should also strive to be transparent, fair, objective, and efficient.

The conclusions and recommendations in this report are the result of a highly collaborative process and incorporate the input of multiple stakeholders from across the Department. They also reflect the diversity and complexity of the statutes, rules, permits, licenses, and judicial and administrative orders that are administered by EGLE. There is an overarching theme present in each recommendation of achieving greater transparency through technology and process simplification and standardization.

The subject matter experts that contributed to this review are confident that EGLE’s compliance and enforcement program is strong and well-established. They also raised several opportunities for EGLE to improve and enhance its compliance and enforcement program – these are detailed in the recommendations proposing specific actions by the Department.

Next Steps

The Department must now begin an iterative continuous improvement process to successfully implement and operationalize these recommendations and other program improvements. This must be done in a way that supports individual program areas with change management, process redesign, and alignment to new Department standards and expectations. An example of how these changes can be sequenced is included on the pages below. With support from the EGLE Director, OCI is available to work with staff and executive leadership to support implementation planning, provide change management support for individual program areas, and assist with process alignment to new Department policies and standards.



Phase I	Phase II	Phase III
<p>Standardize Process</p> <ul style="list-style-type: none"> Standardize key process and documentation Apply timelines to the progressive enforcement process Coordinate and conduct comprehensive joint inspections Adopt objective criteria for referring cases to outside agencies (EPA, AG, EIS) 	<p>Enhance Training</p> <ul style="list-style-type: none"> Enhance field staff training curriculum to include cross-training Provide opportunities for staff to gain knowledge of environmental justice issues Provide basic training on geology, toxicology engineering, and other areas of technical and specialized knowledge 	<p>Invest in Technology</p> <ul style="list-style-type: none"> Invest in technology to develop a shared data and reporting solution Increase transparency and improve multimedia case management through inter-divisional data sharing
<p>Define Staff Roles</p> <ul style="list-style-type: none"> Define roles, responsibilities, and expectations for management of multimedia cases 	<p>Increase Division Coordination</p> <ul style="list-style-type: none"> Increase opportunities for cross-divisional communication and collaboration Enhance collaboration with other local, state, and federal agencies 	<p>Provide Resources</p> <ul style="list-style-type: none"> Provide adequate staffing levels for each division Increase public education, outreach, and compliance assistance to assist the public and regulated community with compliance

Definitions

Compliance Evaluation is any effort designed to determine the compliance status of a regulated entity with Michigan's environmental requirements or applicable pollution control limits. These activities include on-site inspections; off-site observations or surveillance; review and analysis of records self-reported, supplied, or maintained by regulated entities; documenting information and compliance determinations; reporting; monitoring (i.e., sampling and analysis); informal and formal compliance notifications; and escalated enforcement activities.

Compliance Communication is an informal telephone, e-mail, letter, or in person communication to a regulated entity to inform them of compliance issues or violations that need attention.

Violation Notice is a formal means of notifying the regulated entity of a significant or priority violation, or when previous attempts to gain voluntary compliance have failed to correct the compliance issue or violation.

Enforcement Notice is a formal means of notifying the regulated entity of a significant or priority violation. It serves to advise that the case has been referred for escalated enforcement; specify the nature of the unresolved violation(s); provide the violator with a final opportunity to: (1) demonstrate compliance; (2) present factual information in writing that should be considered regarding the violations; or, if appropriate, (3) meet and discuss options for satisfactorily resolving the violation(s); specify a deadline for a response to the Enforcement Notice; and specify the consequences for failure to adequately respond and/or resolve or address the violations.

Settlement Agreement is a legally enforceable document that binds EGLE and a regulated entity for the purpose of resolving the alleged violation(s) of laws or regulations. A settlement agreement usually contains provisions requiring the regulated entity to correct the violation, take steps to ensure the violation is not repeated, repair environmental damage and/or pay a monetary compensatory damage amount, or pay a penalty to deter future noncompliance. A settlement agreement may be in the form of a Judicial Order (court-approved consent decree) or an Administrative Consent Order (an agreement without the involvement of the court).