

Compliance Education

CAPCA Presentation
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EPA Region 4

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Commitments in our priority areas between Region 4 and Headquarters

- NSR/PSD:
 - Cement Kilns
 - Glass Industry
 - Nitric and/or Sulfuric Acid
 - Coal-fired Electric Utility
- MACT:
 - Surface Coating
 - LDAR
 - Flares

Commitments between EPA Region 4 and States

Compliance Monitoring Strategy (CMS)

GOALS OF THE CMS

1. Provide national consistency in developing stationary source air compliance monitoring programs, while at the same time provide States/locals with flexibility to address local air pollution and compliance concerns.
2. Improve communication between States/locals and Regions on stationary source air compliance monitoring programs, and enhance EPA oversight of these programs.

GOALS OF THE CMS CONTINUED

3. Provide a framework for developing stationary source air compliance monitoring programs that focuses on achieving measurable environmental results.
4. Provide a mechanism for recognizing and utilizing the wide range of tools available for evaluating and determining compliance.

Scope of the CMS Policy

- EPA recognizes that State/local agencies perform additional compliance monitoring activities beyond those addressed by this policy. This policy is not designed to preclude those activities, but focuses on federally enforceable requirements for the following source categories:
 - Title V major sources; and
 - Synthetic minor sources that emit or have the potential to emit at or above 80 per cent of the Title V major source threshold.

Scope of the CMS Policy

- For purposes of this policy potential to emit means, the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable or legally and practicably enforceable by a state or local air pollution control agency.
- This commitment is to be entered into Air Facility Subsystem (AFS) of EPA's database.

RECOMMENDED EVALUATION FREQUENCIES

- A Full Compliance Evaluation (FCE) should be conducted, at a minimum, once every two years at all Title V major sources except those classified as mega-sites. For mega-sites, a FCE should be conducted, at a minimum, once every three years.
- A FCE should be conducted, at a minimum, once every five years at synthetic minor sources that emit or have the potential to emit at or above 80 per cent of the Title V major source threshold.

RECOMMENDED EVALUATION FREQUENCIES

- An on-site visit should be conducted, at a minimum, once every five years at all Title V major sources to ensure a compliance presence in field, verify record reviews, observe modifications or new construction, and identify any major permit deviations.

EVALUATION/OVERSIGHT

- At the end of each fiscal year, the Regions shall evaluate whether the States/locals met their commitments, and in those cases where they did not, determine why they did not and what adjustments need to be made for the following year.

EVALUATION/OVERSIGHT

- EPA Headquarters shall in turn conduct a similar analysis nationally. This information should be transmitted back to the appropriate officials in a timely manner so that they can make mid-course corrections in their program if necessary.

HPV Policy

- The High Priority Violation (HPV) Policy is designed to direct scrutiny to those violations that are most important. To that end, the extent of violations falling under the definition of an HPV is more limited than under the Significant Violator Policy. The HPV Policy contains ten General HPV Criteria and five HPV Matrix Criteria.

HPV Policy

- Each of the General HPV Criteria addresses a specific type of violation -- for example, failure to obtain a PSD permit -- and no specific evaluation of the magnitude or duration of a violation is required.

HPV Policy

- The HPV Matrix, in contrast, covers violations of emission limits and other parameter limits where the parameter is a direct surrogate for an emissions limit, and these violations generally involve a consideration of the duration and/or magnitude of the violation.

HPV Policy

- The Workbook contains sections covering the identification of HPVs, using the General HPV Criteria and the HPV Matrix, and also presents case studies to aid in the analysis of emissions violations under the HPV Matrix

HPV Policy

- EPA would like to emphasize that while the HPV Policy covers only a subset of violations, all violations are important, and EPA expects all violations to be addressed in an appropriate manner.

Identification of HPVs

- Ten General HPV Criteria
- Emissions or parameter violations that fit within the HPV Matrix Criteria
- The violation may be categorized as an HPV on a discretionary basis

Identification of HPVs

- The HPV Policy applies to major sources for violations where the pollutant at issue is a pollutant for which the source is categorized as major. Synthetic minor sources may also be subject to the Policy where expressly stated in the individual General HPV Criteria or HPV Matrix Criteria.

TIMELY AND APPROPRIATE ENFORCEMENT

- Under the HPV Policy, the timeframe for actions occurring before Day Zero has been extended so that Day Zero will ordinarily be no later than 45 days from the day the violation was discovered.
- For violations requiring additional information, Day Zero is still 90 days from the date the violation is discovered, or the date of receipt of the additional information, whichever is earlier.

TIMELY AND APPROPRIATE ENFORCEMENT

- If a violation is self-reported, Day Zero will be 30 days from the date the agency receives the information.
- Under the HPV Policy, the FOV/NOV should be issued by Day 60 and the conference with EPA should take place by Day 150.

TIMELY AND APPROPRIATE ENFORCEMENT

- Under the HPV Policy, the deadlines for addressing a violation are Day 270 (no lead change) and Day 300 (with a lead change).
- Appropriate timelines for enforcement actions are calculated from Day Zero.

EPA CONSULTATIONS:

- On a monthly basis (or as negotiated by each program), the State/Local agency and EPA should hold a conference call to discuss the status of current cases. The purpose of this call is to communicate the compliance status of each source, where relevant, and to determine which agency is best suited to take or maintain the lead for each case. In addition, the participants to the call should determine the best method of returning the source to compliance.

EPA CONSULTATIONS:

- At any point in a case, EPA may assume the lead in the enforcement action. EPA may also have the lead on a case from the beginning, such as in the case where EPA discovers a violation.
- For some cases, extra time may be needed to completely address all of the issues. In those cases, a consultation between the State/Local agency and EPA should take place and the appropriate changes to the usual timeline should be made.

Issuance of NOV/FOV:

- By Day 60, the State/Local agency must issue an NOV/FOV. The State/Local agency may also request that EPA issue the notice and EPA may issue a notice where the State/Local agency has failed to do so.

Case Progress Evaluation:

- On or before Day 150, if a case has not been Resolved/Addressed, the State/Local agency and EPA should have a conference to determine specific actions to take to Resolve/Address the case.

Violation Resolved/Addressed:

- By Day 270 (if there has been no lead change), the violation should be either Resolved or Addressed. There should be an administrative or judicial order in place for compliance purposes, or the case should be subject to referral for an enforcement hearing or judicial action (Addressed) or the source should have been returned to compliance (Resolved).

AIRS Facility Subsystem (AFS) and HPV

- In EPA's HPV Policy two major aspects of HPV accounting are recognized. One is the HPV flag in the AIRS Facility Subsystem (AFS) which indicates whether or not a source is an HPV and is critical for tracking HPVs and for multimedia enforcement targeting. The second is the T&A accounting of how long the lead agency took to address the violation (s), which is based on Day Zero. Proper monitoring of HPVs in AFS consists of three steps and can be performed using AFS on-line or batch capability.

HPV Tracking in AFS

1. Update the Plant Action Record with the appropriate action type to identify that a facility is in violation. Upon discovery of a violation, a discovery action and a Day Zero action is entered. This begins the clock for which T&A timelines are based. This initiates the HPV action linking process.

HPV Tracking in AFS

2. Update the compliance status by entering a non-compliance code in the State Pollutant Compliance Status field for the Air Program Pollutant Record (s) in violation.

HPV Tracking in AFS – HPV Flag

- As a facility returns to compliance, the two steps are repeated by adding actions, updating the compliance status. The HPV flag will reflect the most significant violation when there are multiple violations pending. However, violations that were discovered during that same investigation should be grouped under the same Day Zero, especially if the clustered violations will be addressed in the same enforcement action.

HPV Tracking in AFS – Action Linking

- AFS is capable of associating certain related actions types within a facility. This process is called action linking, and was developed to improve the AFS tracking of violation activity to resolution. Action linking associates information on activities performed to address a single violation by using something called a pathway. A pathway should be viewed as a timeline, starting with an initial action, any and all activities which occurred as a result of the initial action, and eventually an action which brings the timeline to a close.

HPV Tracking in AFS – Action Types

- AFS provides action types which represent initial, supporting, and closing actions performed in the process of bringing a violation to resolution. Beginning action types are often referred to as "key" (or "Day Zero") actions. Actions that bring a pathway to a close are often called Addressing and/or Resolving actions. Supporting actions which occur between those two points in time can be just about any action type, but predefined Day Zeros and Addressing actions must be used.

ECHO

- **Enforcement and Compliance History Online** information system provides a single place to find detailed, up-to-date, environmental compliance history of EPA-regulated facilities. This innovative e-Government tool, developed in partnership with the states, integrates current compliance and inspection data under air, water, and hazardous waste programs, as well as demographic data of the surrounding area into a format that is easy to use and understand.
<http://www.epa-echo.gov/echo>

The Facility Watch List (“Watch List”)

- Assist EPA and the states in tracking facilities violations of our environmental laws, but with no formal enforcement response within the HPV guidelines. It improves our ability to implement existing policies that are now carried out by Regions and states by providing an automated tool and management process to facilitate EPA State dialogue on enforcement matters.

Watch List Cont.

- As an automated tool, the Watch List provides the Regions and states with a list of facilities that are in significant violation of our environmental laws and that appear not to have been addressed by timely and appropriate enforcement.
- Facilities will appear on the Watch List if they are high priority violators (HPV) under the Clean Air Act, or significant noncompliers (SNC) under the Clean Water Act's National Pollutant Discharge Elimination System, or SNC under the Resource Conservation and Recovery Act.

Watch List Cont.

- As a management process, the Watch List will facilitate enforcement discussions among the Regions and states about the status of facilities.

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