



Hazardous Waste Enforcement

WMAWMA Hazardous Waste Workshop

March 20, 2019

Enforcement

SUBJECT: Violation Notice

Enforcement

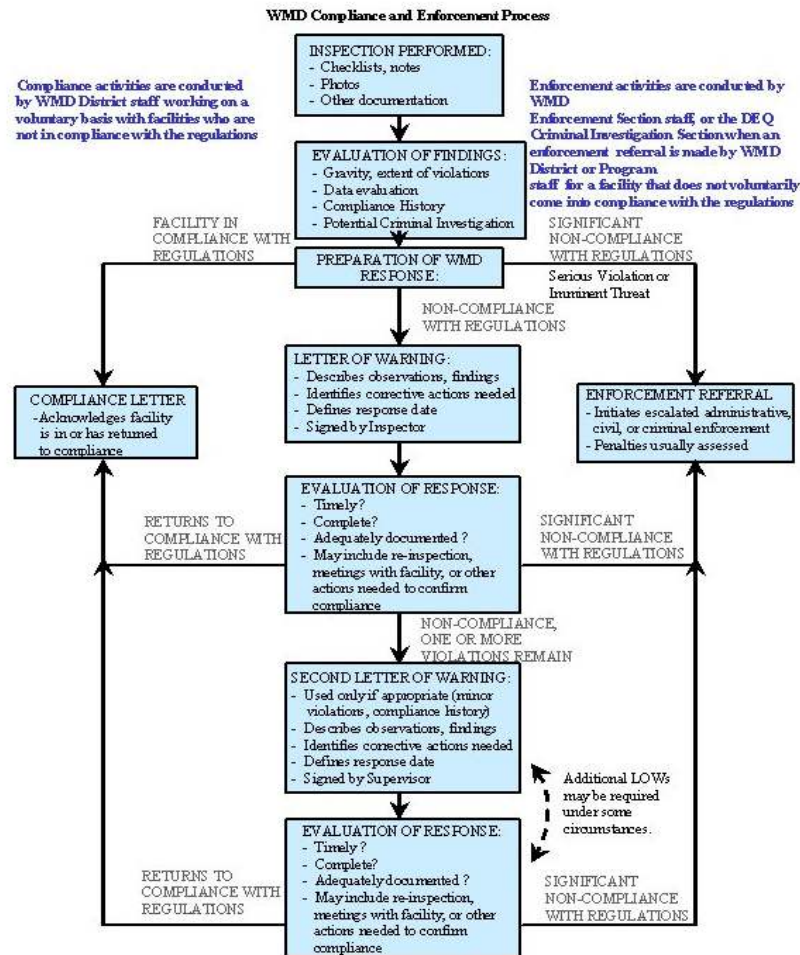
SUBJECT: Violation Notice

- Get counsel involved
- Develop facts
 - Review pre-inspection
 - Review inspection
 - Review post-inspection

Resolution

Compliance and Enforcement Process Flow Diagram

Agency: Environmental Quality



Resolution

- Compliance now and into the future
- Penalty?
- SEP?
- Documentation of Resolution
 - Letter
 - Order
- Close out resolution

Examples

- Speculative Accumulation
- Problem at generator; problem at TSD

Other Types of Enforcement

Criminal

- Company, owner plead guilty to illegally storing hazardous waste



"Sayers' knowing, illegal storage of waste cyanide, highly corrosive wastes, toxic chromium waste and reactive wastes posted a significant danger and threat to nearby communities and the environment," Clark said. "He and his company continued their illegal and poor handling despite many years of warnings by environmental regulators, and they are now being held accountable for their willful refusal to comply with the law."

Source: <https://www.candgnews.com/news/company-owner-plead-guilty-to-illegally-storing-hazardous-waste-112138>; 2/21/19

Other Types of Enforcement

Citizen Suits

- **Any** “person” may commence a suit against **any other** “person” . . .
 - “(a)(1)(A)” claim: “who is alleged to be in violation of any permit, standard, regulation, condition, requirement, prohibition, or order” made effective pursuant to RCRA.
 - “(a)(1)(B)” claim: imminent and substantial endangerment.

42 U.S.C. § 6972 (a)(1)(A) & (b)

RCRA (a)(1)(A): Violations of Seven Things

Alleged to “be in violation of:”

- Permit
- Standard
- Regulation
- Condition
- Requirement
- Prohibition
- Order

“made effective” pursuant to RCRA.

RCRA (a)(1)(B): Imminent & Substantial Endangerment

Three Requirements:

- (1) Defendant has generated solid or hazardous waste.
- (2) The defendant is contributing or has contributed to the handling, storage, treatment, transportation, or disposal of that waste.
- (3) The waste may present an imminent and substantial endangerment to health or the environment.

RCRA (a)(1)(A) & (a)(1)(B)

- Notice requirement
- If government is acting (diligently prosecuting), typically suit cannot proceed
- Relief may be injunctive, civil penalties, attorney fees

Private Party Citizen Suit

- Individuals brought suit against interim status facility that was conducting remediation
 - (a)(1)(A) claim alleged that even though closure process completed still in violation because contamination remained above state standards and because closure plan failed to include waste management unit; claim failed
 - (a)(1)(B) claim alleged VI creating ISE; claim continuing

MDEQ Citizen Suits - (a)(1)(B) authority

- Consent Decree against DOD and two owner/operators to address off-site vapor intrusion
- Complaint against private party included claim that past solid waste disposal practices created imminent and substantial endangerment

QUESTIONS?



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