



Environmental Enforcement Overview

Waste & Materials Management Study Group

April 14, 2016

Ann Coakley, Director



Environmental Enforcement

- Enforcement is essential to a successful environmental protection program.
- We are expected to treat public and private entities in a similar manner – level playing field.
- Our goal is to resolve violations at the lowest level that is appropriate for the circumstances.
- Depending on the program and circumstances, violations may be resolved through criminal or civil enforcement.



Stepped Enforcement

What is Stepped Enforcement?

A series of actions designed to resolve violations at the lowest level appropriate for the circumstances.

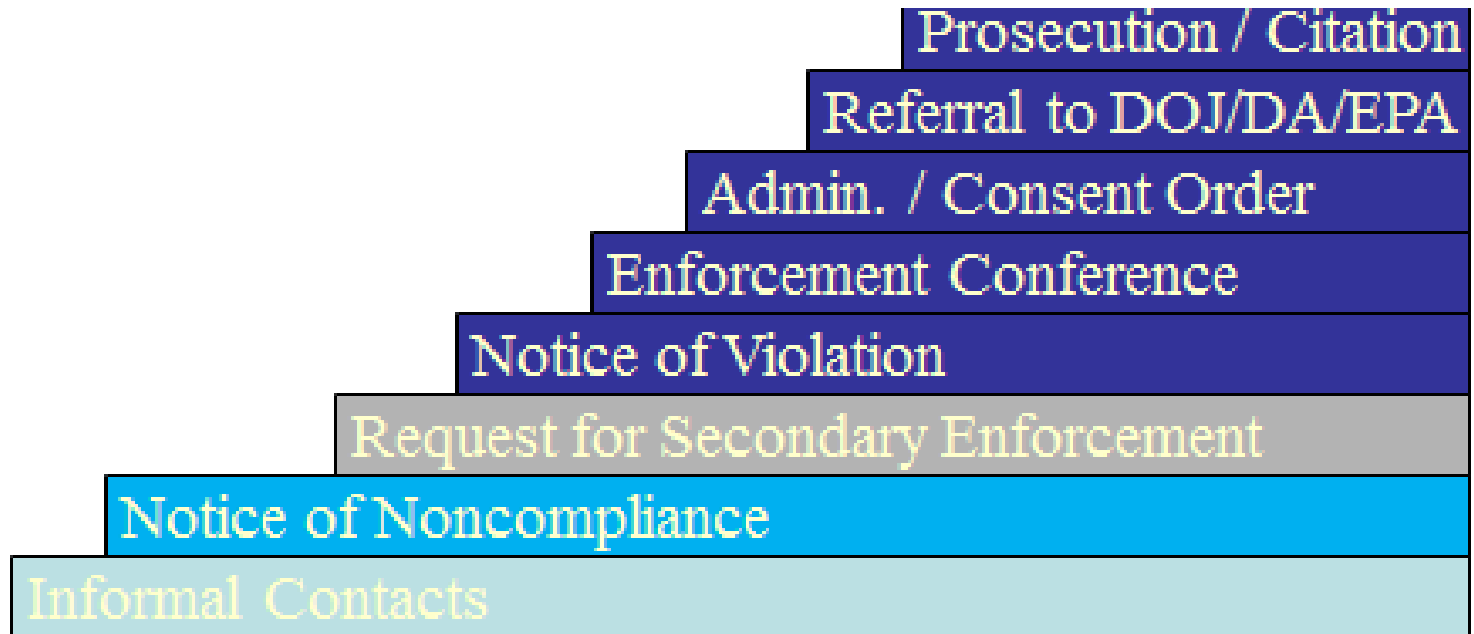


Factors Considered

- Actual or potential impacts to human health or the environment.
- Cause of the violation.
- Number and duration of violations.
- Degree of willful or negligent conduct.
- Compliance history of the facility.
- Preventative or corrective actions taken.
- Other mitigating circumstances.



Stepped Enforcement





Stepped Enforcement

- Tailored to fit the circumstances
- Starts informally, becomes more formal
- A planned series of actions that expand and intensify as the case goes on to increase the motivation toward compliance



Stepped Enforcement – Why?

- It's our job – part of our core work.

We are regulators – we inspect facilities and investigate complaints and identify areas of noncompliance or violations that need to be addressed.
- It works. Data show most violations are resolved voluntarily and there are fewer future violations at facilities.
- It improves consistency within our program.
- It makes the best use of limited field, enforcement and legal resources. Court resources are also strained – voluntary settlement and mediation are encouraged before trial.



Stepped Enforcement – Informal Contacts

- Program Staff
 - Contact with individual/facility via phone or in person
- Documentation
 - Letters
 - Inspection Forms (or alternate documentation – database, Case Activity Report, phone record, etc.)
 - Photographs
 - Samples (when applicable)
- Some informal contacts lead to a NON, some do not.



Notice of Noncompliance (NON)

- Issued by Program Staff
 - Following or in lieu of a more informal contact
 - Letter sent to violator
 - Advises of problems
 - Requests correction
- WMM may issue NONs for:
 - not operating according to code
 - not operating according to approvals
 - not operating according to plan submittals
- Identifies potential for escalated enforcement actions
 - “Failure to respond in a timely manner may result in escalated enforcement actions.”



NON

- Issue when informal contacts do not resolve the area of noncompliance or when the area of noncompliance is significant enough to create a formal record.
 - Degree of noncompliance
 - Repeated noncompliance
 - Didn't return to compliance with lower level of enforcement
 - Need for more formal enforcement than verbal or letter
- If the NON is not successful in resolving the area of noncompliance, a Notice of Violation may be issued – this moves it into Secondary Enforcement.



Secondary Enforcement

Prosecution / Citation

Referral to DOJ/DA/EPA

Admin. / Consent Order

Enforcement Conference

Notice of Violation



Secondary Enforcement

- Supervisor review and approval
- Program Supervisor notifies EE Team Supervisor
- EE Supervisor approval if appropriate
- Enforcement Specialist assigned to draft NOV for staff review.
- Enforcement conference scheduled.
- Referral decision.



WMM Program Data

	NON	NOV
2013	333	32
2014	317	32
2015	311	39
2016 to date	60	9

Solid Waste Only - NONs

FY13 – 61

FY14 – 89

FY15 – 95

FY16 (6 mos.) – 36



DEPARTMENT 2015 Data

Notices of Violation	266
Enforcement Conferences	251
Orders	32
Referrals to WI DOJ	39

*Historically, ~87% of violations resolved w/o referral – this shows the importance of paying attention to NONs & NOVs.

*In 2015, 94% attended Enforcement Conferences



Environmental Enforcement

Questions?