



**Office of Inspector General**  
**Report of Audit**

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**Region 5's Air Enforcement and  
Compliance Assistance Program**

**Audit Report No. E1GAF5-05-0045-6100284**

**September 13, 1996**



**Inspector General Division  
Conducting the Audit:**

**Northern Audit Division  
Chicago, Illinois**

**Region Covered:**

**Region 5**

**Program Offices Involved:**

**Air and Radiation Division**

**Office of Enforcement and Compliance  
Assurance**

**Office of Public Affairs**

**Office of Regional Counsel**



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF THE INSPECTOR GENERAL  
NORTHERN DIVISION  
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September 13, 1996

**MEMORANDUM**

**SUBJECT:** Audit Report No. E1GAF5-05-0045-6100284  
Region 5's Air Enforcement and Compliance Assistance Program

**FROM:** Anthony C. Carrollo  
Divisional Inspector General for Audits  
Northern Division

**TO:** Valdas V. Adamkus  
Regional Administrator  
Region 5

A copy of the subject final report is attached. We appreciate the cooperation we received from your staff in conducting this audit. The open lines of communication with the Region throughout this effort have enabled us to agree upon recommendations that will benefit the program.

This report contains findings and corrective actions Region 5 has proposed to take. The audit report represents the opinion of the Office of Inspector General. Accordingly, the findings described in the audit report do not necessarily represent the final EPA position and are not binding upon EPA in any EPA or Department of Justice enforcement proceeding.

**Action Required**

In responding to the draft report, Region 5 provided corrective actions, including milestone dates, for each of the recommendations. Therefore, we are closing this report in our tracking system. Please track all planned corrective actions in the Management Audit Tracking System.

We have no objections to the further release of this report to the public.

Should you or your staff have any questions, please contact Kimberly O'Lone, Audit Manager, at (312) 886-3186 or Janice Miller, Team Leader, at (312) 886-3084.

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## EXECUTIVE SUMMARY

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The Environmental Protection Agency's (EPA) Region 5 Air and Radiation Division (ARD), and the states we reviewed, each had some strong segments in their enforcement and compliance assistance programs. The ARD and Michigan, for example, assessed the economic benefit that violators gained from noncompliance, when it applied. Also, Region 5 reorganized to emphasize activities that help businesses voluntarily comply with environmental laws, including the Clean Air Act (Act). In line with this, the ARD and some Region 5 states assisted industries, such as dry cleaners and chromium platers, to comply with the Act.

Region 5 and its states could also improve some aspects of their programs. For example, they could help deter air pollution violators by increasing publicity of enforcement actions. Indiana, Illinois, and Wisconsin could benefit from ARD assistance in calculating and collecting the economic benefit component of penalties. Region 5's compliance assistance program needed infrastructure components. Further, EPA's database for air enforcement actions could be improved. Lastly, the ARD and the states could work together to solve enforcement barriers they faced.

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## AGENCY COMMENTS AND ACTIONS

The Regional Administrator, Region 5, has acted or agreed to act to address the findings in our report. The corrective actions include:

1. Developing a compliance assistance program infrastructure, with a clear program direction, priorities, and performance measures.
2. Developing a press release policy, including guidance on which enforcement actions to publicize.
3. Discussing Aerometric Information Retrieval System Facility Subsystem concerns with Headquarters' Office of

Enforcement and Compliance Assurance officials, to begin the process of trying to change the data requirements.

For details on the purpose and background of this report, see page 1. Details on our recommendations and Region 5's actions are at the end of chapters 2 through 6.

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## CHAPTER 1

### Introduction

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#### PURPOSE

The Office of Inspector General (OIG), Northern Audit Division performed an audit of the air enforcement and compliance assistance program at Region 5. Our objectives were to determine:

- if regional and state enforcement programs were designed to deter companies from violations,
- what barriers existed to effective air enforcement at the regional and state levels, and
- if the Environmental Protection Agency (EPA) Headquarters or regions had useful, effective management information systems for tracking enforcement actions.

Our Southern and Western Audit Divisions are conducting similar audits in Regions 6 and 9, respectively. We plan to consolidate the results of all three audits in a separate report in 1997.

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#### BACKGROUND

The Clean Air Act, as amended in 1990 (Act), gives EPA authority to set national standards to protect human health and the environment from emissions that pollute the air. The Act assigns primary responsibility to the states for ensuring adequate air quality. EPA is responsible for issuing regulations in support of the Act.

Emissions regulations apply to two categories of air pollutants, criteria and hazardous. Criteria pollutants are discharged in relatively large quantities by many sources across the country. EPA has set national standards for all six criteria pollutants: ozone, carbon monoxide, sulfur dioxide, nitrogen dioxide, lead, and particulate matter. The standards specify acceptable air pollution concentrations for a geographic area. States are required to meet those standards.

Regulations also apply to hazardous air pollutants, or air toxics. These pollutants come from specific sources, such as auto paint shops, chemical factories, or incinerators. EPA has established emissions standards for some air toxics, such as: asbestos, beryllium, mercury, vinyl chloride, arsenic, radionuclides, and benzene.

The Act defines EPA's air enforcement authority. This includes administrative, civil, and criminal remedies:

- Section 113 (a) provides administrative orders for corrective action to comply, but does not provide for the assessment of penalties. This section is also used if the violator fails to respond to an information request.
- Section 113 (b) allows for the initiation of civil judicial action against certain violators to restore compliance and recover a civil penalty of up to \$25,000 per day per violation.
- Section 113 (c) defines criminal enforcement, including fines and/or prison sentences.
- Section 113 (d) gives EPA the authority to issue administrative penalty orders. These orders may assess penalties of up to \$25,000 per day of violation. They are generally authorized in cases where the penalty sought is not over \$200,000 and the first alleged date of the violation occurred no more than 12 months prior to the initiation of the administrative action.
- Section 113 (d) (3) gives EPA the authority to create a field citation program through implementing regulations. EPA has not promulgated the implementing regulations yet.
- Section 303 gives the EPA Administrator emergency authority to address those situations that present an imminent and substantial endangerment to public health, welfare, and the environment.



The Act also granted EPA information request authority, through Section 114. This gives EPA the right to require any person believed to have information relating to the Act to submit that information to EPA.

States are primarily responsible for enforcement of the Act. The states are expected to perform compliance evaluations and take action against significant violators. The EPA regions have concurrent authority to conduct compliance evaluations and take enforcement actions. States can also pass their own legislation, giving them separate enforcement authority. However, state laws cannot be enforced at the Federal level.

If the EPA region, the state, or local authority learns a company has violated a regulation, it can bring an enforcement action against the company. The regions often identify violations by reviewing monitoring data. The states may also identify violations through inspections. A state inspector visits the company for a scheduled, or unscheduled, inspection. If the inspector finds a violation of the air regulations, the type of action the region or state takes depends upon the nature of the violation. The state must report all Federal violations to the region.

Federal enforcement actions often start with a Notice of Violation (NOV). States have similar notices that generally serve the same purpose. The NOV outlines: the statutory authority supporting the NOV, what rules the company has violated, and the violations. The NOV also has a cover letter that informs the company what the next steps in the enforcement process are. The company is encouraged to meet with regional or state representatives to begin negotiating a settlement.

An important part of the settlement negotiation process, for enforcement actions that will include a penalty, is agreement on the penalty. Stationary source violations are subject to the Clean Air Act Stationary Source Civil Penalty Policy (EPA Penalty Policy). The EPA Penalty Policy outlines complex and detailed penalty calculations. If the company reaches a settlement with the region or state, depending on who had the case lead, the parties enter a

formal agreement. This is a legal agreement that outlines the terms of the settlement. EPA and some states can settle cases administratively or judicially.

EPA's mandate to protect public health and safety depends on effective enforcement. According to EPA's Five Year Strategic Plan, "A strong deterrence-based enforcement program will establish the type of climate that motivates compliance, encourages innovation, and promotes prevention." To accomplish this, enforcement actions must make a strong statement to the regulated community.

There are at least three ways EPA and the states can make such a statement. First, regions and states need to pro-actively seek out industries, particularly small businesses, to assist them in coming into compliance. This pro-active approach is called compliance assistance. Second, enforcement actions that include penalties should make it more expensive for companies to violate the law than to be in compliance. This means that the penalty must recover the economic benefit the violator gained by not complying with the Act. Finally, the enforcement action must be publicized. This will help the regulated community learn that EPA and the states have strong enforcement programs. It will also help inform the public about which companies violate the Act.

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## **SCOPE AND METHODOLOGY**

Our audit focused on EPA Region 5 Air and Radiation Division (ARD) enforcement actions completed between October 1, 1993, and June 30, 1995. This included all air enforcement cases completed at the regional and state levels, except asbestos cases.<sup>1</sup> We performed our audit work, including case file reviews and interviews, at the following locations:

- ARD in Chicago, Illinois;

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<sup>1</sup>We did not include asbestos cases in our sample because they had been reviewed in prior audit work and were not tracked in the same database as other air enforcement cases.

- Indiana Department of Environmental Management (Indiana) in Indianapolis; and
- Michigan Department of Environmental Quality (Michigan) in Lansing.

Prior to our audit, we conducted a survey. Our survey work included case file reviews and interviews at:

- Wisconsin Department of Natural Resources (Wisconsin) in Madison and Milwaukee, and
- Illinois Environmental Protection Agency (Illinois) in Springfield.

Our first objective was to determine if regional and state enforcement programs were designed to deter companies from violations. To accomplish this, we interviewed regional and state personnel from air enforcement, public affairs, and compliance assistance programs. We also reviewed a sample of air enforcement case files at the ARD, Michigan, and Indiana.<sup>2</sup> Through our interviews and case file reviews, we determined whether the ARD and the states:

- implemented any compliance assistance programs,
- had a method of publicizing enforcement actions,
- publicized cases according to that method, and
- recouped the economic benefit component through a penalty.

We summarized our findings for this objective in three separate chapters:

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<sup>2</sup>See exhibit 1 for our sample selection methodology for the audit and the survey. Also see exhibit 2 for the overall summary of penalties for the sample universes.

- Chapter 2, Compliance Assistance Activities Needed Program Infrastructure;
- Chapter 3, Deterring Violators: Some States Needed to Assess the Economic Benefit Component; and
- Chapter 4, Deterring Violators: More Publicity Needed.

Our second objective was to determine what barriers existed to effective air enforcement at the regional and state levels. To accomplish this, we interviewed ARD and state air enforcement personnel. Specifically, at the ARD, Indiana, and Michigan, we discussed:

- what difficulties, or barriers, officials encountered in carrying out their air enforcement programs,
- what the top three barriers to effective air enforcement were, and
- whether the ARD and the states worked together to resolve the barriers.

We conducted file reviews to see if they confirmed the barriers the officials discussed. Through the file reviews, we also identified additional barriers not discussed in the interviews.

Our third objective was to determine if EPA Headquarters or the regions had useful, effective management information systems for tracking enforcement actions. To accomplish this, we interviewed Headquarters, ARD, and state management, air enforcement personnel, and Aerometric Information Retrieval System (AIRS) Facility Subsystem (AFS) staff to determine:

- how they used AFS,
- whether AFS was an effective management information system, and



- what alternative systems they used to track enforcement actions and why.

We did not review AFS to verify its accuracy. We did, however, check the data against information found in the case files. We also compared AFS reports to state reports for the same time period, and followed up on any differences.

We performed our audit in accordance with the Government Auditing Standards issued by the Comptroller General of the United States (1994 Revision). We also reviewed the ARD's 1994 and 1995 Federal Managers' Financial Integrity Act reports. The reports did not identify any material weaknesses, or vulnerabilities, related to air enforcement. We did not detect any material internal control weaknesses during our audit.

We conducted our audit between September 7, 1995, and July 15, 1996. We discussed our position papers with Region 5 officials on June 11, 1996, and July 2, 1996. We received written comments from Michigan on June 27, 1996, and Illinois in a letter dated July 12, 1996. The remaining states did not provide comments on the position papers. Comments to the position papers were addressed in the draft report.

On July 26, 1996, we issued our draft report. The Regional Administrator, Region 5, responded on August 22, 1996. We held an exit conference with Region 5 officials on September 4, 1996. After reviewing the response and conducting the exit conference, we made appropriate changes and finalized the report. The Regional Administrator's response is included as Appendix 1.

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## **PRIOR AUDIT COVERAGE**

Both the OIG and U.S. General Accounting Office (GAO) have issued reports in this area.<sup>3</sup> The OIG issued a report on March 11, 1988, which addressed Region 5's stationary source of air pollution compliance and enforcement program. As part of that audit, the

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<sup>3</sup>See exhibit 3 for a list of the OIG and GAO reports.

OIG reviewed 29 case files of stationary sources and found that 12 of the 18 significant cases were settled with penalties. Four of the 12 cases correctly calculated and documented the penalty amount. Only two of the nine applicable cases recovered the economic benefit.

In September 1989, the OIG issued a report that summarized previous audits on the computation, negotiation, mitigation, and assessment of penalties under all EPA programs. According to this report, many EPA regions and states inadequately calculated penalties, reduced the proposed penalties excessively with little or no documentation, and, in many cases, neglected to recover the economic benefit of noncompliance.

In September 1994, the OIG issued a follow-up report on EPA's mitigation of penalties. The follow-up report concluded that EPA had successfully addressed the findings and recommendations of the original report. Specifically, Region 5 adequately documented penalties, and reductions complied with penalty policies. Region 5 also recovered the economic benefit violators gained by noncompliance, when applicable.

GAO issued a report on September 27, 1990, showing that state and local air enforcement programs assessed penalties in fewer than half of their significant violator cases in fiscal years 1988 and 1989. In June 1991, GAO reported that, for cases concluded in fiscal year 1990 in EPA's air, water, hazardous waste, and toxic substances programs, there was no evidence that EPA collected the economic benefit.

GAO also issued a related report in August 1995. This report addressed EPA data gathering efforts imposed on states. GAO concluded that a draft regulation would have imposed data gathering requirements on the states that exceeded EPA's minimum air pollution program needs. EPA suspended development of the draft regulation.

## **CHAPTER 2**

### **Compliance Assistance Activities Needed Program Infrastructure**

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Region 5 had reorganized, in part, to emphasize compliance assistance, and had conducted some compliance assistance activities. The Region had not yet, however, developed a core program infrastructure. For example, the Region had not set a clear direction, priorities, or performance measures. As a result, ARD officials were not able to clearly communicate the compliance assistance approach to staff. Some air enforcement staff members were unsure of what compliance assistance was or whether the Region supported it. Many wanted training on compliance assistance. The long range success of compliance assistance depends upon development of the program infrastructure and communicating it to staff.

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#### **BACKGROUND**

Compliance assistance is one of the tools, in addition to enforcement, used to achieve compliance. It is an approach that encourages working in partnership and cooperation with companies. Traditional enforcement actions single out individual companies. Compliance assistance, on the other hand, can:

- inform a large number of companies about regulations and what they should do to comply, and
- assist small first time violators to comply while avoiding expensive judicial proceedings.

In March 1995, President Clinton issued the regulatory reform initiative. This initiative instructed EPA to reduce the burden on companies to comply with environmental regulations. The initiative also established: (1) a grace period for small businesses to correct identified violations, and (2) incentives for self-disclosure and correction of violations. It encouraged EPA to work

with small businesses and companies that identified their own violations.

**Region 5 Reorganized  
to Reflect Role of  
Compliance Assistance**

In October 1995, Region 5 reorganized its air enforcement functions to recognize compliance assistance. The reorganization:

- created a new Region 5 Office of Enforcement and Compliance Assurance (Region 5 OECA). This office is the EPA Headquarters' Office of Enforcement and Compliance Assurance (OECA) contact point in Region 5 for all enforcement and compliance assurance matters.
- created the Region 5 Enforcement and Compliance Team. The Region 5 Enforcement Coordinator oversees the team, which includes representatives from all Region 5 media divisions, the Office of Regional Counsel (ORC), Office of Public Affairs (OPA), Office of Strategic Environmental Analysis, and the OIG.
- centralized the air enforcement staff into the ARD's Air Enforcement and Compliance Assurance Branch. Formerly, these staff members were located within three separate air branches.

Region 5 OECA and the Enforcement and Compliance Team set the Region's compliance assistance policies. This includes defining compliance assistance and developing guidelines explaining when using compliance assistance is more appropriate than traditional enforcement. The Air Enforcement and Compliance Assurance Branch carries out both the enforcement and compliance assistance activities for air.

**States Have Active  
Compliance Assistance  
Programs**

State compliance assistance programs vary, but often center on permits and outreach to small businesses. Section 507 of the Act required states to establish small business assistance programs. EPA Headquarters has a small business ombudsman who has some oversight responsibility. EPA's regional offices have a limited oversight role on state compliance assistance programs. See exhibit 4 for examples of two state compliance



assistance programs: (1) the Indiana Five Star Recognition Program for dry cleaners, and (2) the Illinois Clean Break Amnesty Program for small businesses.<sup>4</sup>

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**ARD COMPLIANCE  
ASSISTANCE  
ACTIVITIES**

The ARD has conducted compliance assistance activities, usually educational outreach, in response to new or anticipated regulations. These outreach activities have encompassed many industries: petroleum refineries, dry cleaners, chromium platers, quarries and rock crushers, and incinerators. ARD engineers also provide compliance assistance daily. For example, company representatives often call to ask whether a regulation applies or if installing specific equipment will bring them into compliance. The engineers informally help them comply with regulations.

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<sup>4</sup>We did not evaluate these programs. Our information is based on interviews with state officials and a report state officials prepared.

## **EXAMPLES OF ARD COMPLIANCE ASSISTANCE**

### **Timely Outreach to Dry Cleaners**

ARD staff members led a compliance assistance effort for dry cleaners. Dry cleaners were required to comply with maximum available control technology standards for air toxics, issued in September 1993. Because many dry cleaners are small businesses, it was not cost effective to pursue numerous enforcement actions against them. ARD staff members conducted an education and outreach program shortly after the standards were issued. This included developing brochures and fact sheets mailed to all dry cleaners in Region 5. The outreach is now more active at the state levels.

### **Coordinating Assistance to Chromium Platers to Reduce Air Toxics**

EPA issued maximum available control technology standards for chromium platers in January 1995.<sup>5</sup> Many chromium platers are small businesses. The Air Enforcement and Compliance Assurance Branch chromium platers workgroup served as a liaison between Headquarters and the states to provide information to the businesses. The information included what the standards were and what the businesses needed to do to comply with the standards. The workgroup also helped Ohio and Wisconsin identify chromium platers and helped all Region 5 states determine which companies were subject to the standards.

### **Advance Work to Encourage Reduction of Dioxin from Incinerators**

In anticipation of incinerator regulations that Headquarters will soon issue, ARD staff members are encouraging incinerator owners and operators in Region 5 to test for dioxin, a human health hazard. The regulations will establish maximum dioxin levels. ARD staff members hope they can work with the incinerator owners and operators to reduce the dioxin levels before the regulations are issued.

ARD staff members also participate on the Illinois Medical Waste Accord. The accord members seek to work with all interested parties to reduce medical waste, before it gets to the incinerator. Reducing waste is much more cost effective than trying to add on pollution prevention controls at the incinerator process.

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<sup>5</sup>Chromium platers apply chrome to products such as toasters and car bumpers.

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**REGION 5'S  
PROGRAM NEEDED  
FURTHER  
DEVELOPMENT**

The Region 5 compliance assistance program was evolving. As it changed, there were program infrastructure areas that Region 5 needed to develop further. For example, as of July 1996, the program did not yet have a clear direction or priorities. Also, to evaluate the activities, Region 5 management needed to define performance measures. Finally, ARD management needed to provide training on compliance assistance to Air Enforcement and Compliance Assurance Branch engineers.

The Regional Administrator, Region 5, emphasized the need for goals and performance measures, in his memorandum outlining fiscal year 1996 priorities. He stated, "In particular, we need to do a better job of defining our **GOALS** for each priority and determine how we will **MEASURE** our progress toward achieving success." Enforcement and compliance assurance were included as Region 5 priorities needing such goals and measures.

**More Information  
on Compliance  
Assistance Needed**

In February and again in April 1996, we sent surveys on compliance assistance to 15 of 38 Air Enforcement and Compliance Assurance Branch engineers.<sup>6</sup> The surveys focused on a variety of areas, including:

- the definition of compliance assistance,
- the ARD management position toward it,
- the need for training,
- if the engineers had used or could use compliance assistance in their cases, and
- what barriers existed to its use.

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<sup>6</sup>Thirteen of the 15 randomly selected engineers responded. Eleven responded to the first survey in February. We surveyed all 15 engineers again in April, after the Enforcement and Compliance Team issued a draft compliance assistance policy. Seven engineers responded to the April survey. Of these seven, two had not responded to the first survey.

We concluded, based on the surveys, that some engineers did not know enough about compliance assistance. For example, when we asked what their definition of compliance assistance was, we received a variety of responses. Although there were several good definitions, many engineers did not have complete definitions. One engineer did not even have a definition. The majority of engineers responded that they were basing their definitions on opinion and word-of-mouth, rather than information received from management.

When asked what the ARD's current position was on compliance assistance, most of the engineers thought ARD management supported it. However, three engineers thought the ARD was against compliance assistance, instead leaning more toward enforcement. The remaining engineers either thought ARD management did not have a position toward compliance assistance or did not know what that position was. For example, two engineers responded:

I think Region 5 ARD is trying to move towards it [compliance assistance], given the fact that even the name of the Enforcement Branch became Air Enforcement and Compliance Assurance Branch. I have seen, however, no major changes in our operating procedures.

Generally, I think they think it's a good thing and the wave of the future, but I'm not sure that anyone has figured out exactly what it is, what it means to our programs, and how it should be implemented.

In response to questions on barriers to compliance assistance and what kinds of training would be most beneficial, two survey replies indicated that some engineers wanted more information on compliance assistance:

... knowing exactly what it is and how  
[Headquarters] expects [it] to be used would be  
helpful.

... [training on] what the Region expects of us, how  
they define compliance assistance, examples, etc.

**Compliance Assistance  
Infrastructure Needed**

Region 5 needed to develop an infrastructure for the compliance assistance program. As discussed in the April 1995 report from the National Academy of Public Administration (NAPA), EPA as a whole needed to redesign and improve its management operations to support its new direction.<sup>7</sup> NAPA stated that, among other things, EPA should establish specific environmental goals and develop strategies to attain them. We believe parts of this approach can be applied, on a smaller scale, to Region 5's compliance assistance program.

Because compliance assistance is still a developing program, this is a good opportunity to develop a strong infrastructure. Based in part on the principles NAPA outlined, this means: (1) Region 5 should establish a clear direction for compliance assistance; (2) the Region needs to set priorities; (3) ARD management should communicate the program to staff through training; and (4) after the activities have been implemented, Region 5 needs to evaluate the results.

**Program Direction**

Setting a clear direction involves establishing general guidance, goals, and a strategy. The Enforcement and Compliance Team has begun to take steps to do this; in July 1996, it issued a policy statement on appropriate uses of compliance assistance and enforcement. Further work is needed to set long-term goals and decide what kinds of activities Region 5 will and will not pursue. The Enforcement and Compliance Team also needs to establish a program structure, including how it will interact with other Regional teams that would like to carry out compliance assistance activities.

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<sup>7</sup>Setting Priorities, Getting Results: A New Direction for the Environmental Protection Agency, National Academy of Public Administration, April 1995.

**Setting Priorities** In setting priorities, Region 5 officials first need to establish some general priorities for compliance assistance, based on the program direction. Then, they need to develop more detailed strategies. These should define the key activities and programs Region 5 will undertake in the short term. It is important for Region 5 to consider what the states are already doing in compliance assistance to avoid duplicating their efforts.

**Training** ARD management needs to communicate the infrastructure to enforcement staff through training. Engineers could benefit from training that defines the Regional and ARD role in compliance assistance. Almost all of the engineers responded to our surveys that they had not received training on compliance assistance. Seven indicated that they would like training. Three engineers did not know whether training would be helpful. Usually, these were engineers that did not know whether ARD management supported compliance assistance. Without clear ARD support for compliance assistance, the engineers might not know whether training was necessary.

Training would also help ensure that all staff members received the same information. Staff members could benefit from learning about the success of some Regional and state compliance assistance programs. This would help staff recognize the industries or businesses that could best benefit from compliance assistance.

**Evaluating Results** Finally, Region 5 needs to evaluate the results of its compliance assistance activities. Evaluating the activities and learning from experience should help guide decisions about new priorities. For example, Region 5 officials should consider when compliance assistance to a targeted industry peaks. When this happens, the Region should move on to a new area.

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## CONCLUSION

The compliance assistance activities in Region 5 need program infrastructure and staff members need to learn about it. Staff members must feel confident that management at each level supports and encourages adoption of the program. Early support

and adoption of the program by staff is crucial to the success of the program. The increased focus on compliance assistance makes it very important that the program have infrastructure components such as a clear direction, priorities, and performance measures. Without these elements, the program will not reach its full potential. With these elements, the program will be stronger and more efficient. Also, Region 5 management will be able to objectively measure and report the program accomplishments.

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**RECOMMENDATIONS  
AND  
AGENCY ACTIONS**

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We recommended and the Regional Administrator, Region 5, agreed that the Enforcement and Compliance Team would:

- 2-1. Develop a regional compliance assistance strategy that will incorporate all of the issues discussed in this report, by September 30, 1996.
- 2-2. Provide training on the Region's compliance assistance projects and the strategy to affected regional staff, including ARD, by January 1, 1997.

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**OIG EVALUATION**

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Region 5's actions, when completed, will address our findings and recommendations.

### **CHAPTER 3**

## **Deterring Violators: Some States Needed To Assess The Economic Benefit Component**

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ARD and Michigan staff used penalties, including those based on economic benefit, to deter companies from violations. They assessed the economic benefit component in all but one of the sampled cases to which it applied. Indiana, Illinois, and Wisconsin officials, however, did not usually assess the economic benefit. This occurred because: (1) Indiana and Illinois officials did not have information request authority; (2) Illinois and Wisconsin officials did not have administrative penalty authority; and (3) based on their experience, Illinois officials did not believe the Illinois courts or Pollution Control Board would uphold their assessment of an economic benefit. As a result, if enforcement officials assessed penalties that did not recover the economic benefit component, they allowed violators to gain an advantage by avoiding or delaying the costs of complying with air pollution laws and regulations. Also, if state enforcement actions did not deter companies from violating the Act, the companies were more likely to ignore emission limits and continue polluting the environment.

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#### **DETECTING VIOLATORS BY ASSESSING THE ECONOMIC BENEFIT**

By not complying with the Act, companies can save money, or realize an economic benefit. In many cases, they save money by delaying or avoiding expenses. For example, a company may delay installation of pollution control equipment until EPA or a state takes an enforcement action. In other cases, companies try to avoid expenses by disconnecting pollution control equipment or not hiring enough trained staff to monitor emissions.

Based on EPA's Penalty Policy, all penalties should include two components: economic benefit and gravity. The economic benefit component: (1) is important to "level the playing field" among companies within an industry, and (2) eliminates any economic advantage violators gain through delayed or avoided costs. The gravity component reflects the seriousness of the violation, and



represents: (1) the actual or possible harm resulting from a violation, (2) the importance of the violation to the regulatory scheme, and (3) the size of the violator. For our work, we focused on the economic benefit component, because it is important that companies learn it is better to comply with environmental regulations than to ignore them or wait for EPA or the states to identify their violations. EPA's Penalty Policy provided that "any penalty should, at a minimum, remove any significant economic benefit resulting from noncompliance." The policy allowed more flexibility in assessing the gravity component.

The enforcement staff members should calculate and propose a penalty, then they may negotiate a settlement with the company. Enforcement officials may reduce penalties through negotiations, but the minimum amount collected should be the economic benefit. According to EPA's Penalty Policy, negotiators have the discretion not to seek the economic benefit component where it is less than \$5,000, considering the impact on the violator and the size of the gravity component. The total penalty, the economic benefit and gravity components, also may be mitigated due to litigation risk or the violator's inability to pay. The EPA's small business and self-disclosure policies allow mitigation or elimination of the gravity portion of a civil penalty for qualifying companies. Enforcement officials maintain the right to collect the full amount of any economic benefit associated with a violation.

The economic benefit is a key component of a civil penalty. However, the economic benefit does not apply in state cases involving: (1) regulations that are not Federally enforceable, or (2) non-significant violators. These cases are not subject to EPA's Penalty Policy.

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**ARD AND MICHIGAN  
ASSESSED THE  
ECONOMIC BENEFIT,  
WHILE SOME  
STATES DID NOT**

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As shown in table 1, ARD and Michigan enforcement officials assessed the economic benefit component, when applicable. Indiana and Illinois officials, however, usually did not. Wisconsin enforcement staff did not assess penalties for any of the cases in our sample.

**Table 1: Economic Benefit Assessed<sup>8</sup>**

Economic Benefit Assessed?	ARD	Michigan	Indiana	Illinois	Wisconsin
Yes	5	4	3	3	0
No	1	0	3	3	4

**ARD Assessed the Economic Benefit, When Applicable**

ARD officials assessed the economic benefit component, when applicable. The ARD sample included 10 cases. The economic benefit applied to six. ARD staff collected the economic benefit in five of the six. In the sixth case, the final penalty was not high enough to recover the economic benefit. The case file showed the enforcement officials reduced the penalty in accordance with EPA's Penalty Policy, based on the company's financial condition and ability to pay calculations.

**Michigan Assessed the Economic Benefit, While Other States Usually Did Not**

Michigan enforcement officials assessed the economic benefit component, when applicable. For different reasons, Indiana, Illinois, and Wisconsin officials usually did not. Indiana and Illinois officials were not able to calculate the economic benefit because they did not have information request authority. Illinois and Wisconsin officials also did not have administrative penalty authority. Finally, based on their experience, Illinois officials believed the Illinois courts and the Illinois Pollution Control Board did not support Illinois' assessment and collection of an economic benefit component.<sup>9</sup> Penalties that do not include an economic benefit component do not eliminate the economic advantage companies gain by violating the Act. Without the economic benefit, it continues to be less expensive for a company to violate the law than to comply with it. This reduces the deterrent effect of the penalty. By not assessing penalties with an economic benefit

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<sup>8</sup>The table does not include cases in which the economic benefit was not applicable.

<sup>9</sup>The Illinois Pollution Control Board has authority to conduct hearings about complaints charging violations of the Illinois Environmental Protection Act.

component, enforcement officials may have also allowed violators to gain an advantage over other companies in their industry.

**Michigan**

Michigan enforcement officials supported collecting the economic benefit and they assessed it when applicable. Of the 10 Michigan cases we reviewed, the economic benefit applied in four instances and Michigan staff assessed it in all four. Although Michigan staff did not have information request authority, they required violators to provide economic benefit information as part of the negotiation process. If a company refused to cooperate, Michigan staff would threaten escalated enforcement action or ARD involvement.

**Indiana**

Indiana enforcement officials did not consistently assess the economic benefit component. It applied to six of the 11 sampled cases. Of these six, Indiana staff assessed the economic benefit in three instances. They found it difficult to calculate the economic benefit because they did not have information request authority. Also, Indiana officials did not always collect the full benefit, because they often reduced penalties during settlement negotiations.

Indiana officials were reluctant to ask ARD officials for help in calculating or collecting the economic benefit. They said they thought the ARD would take over the case, instead of simply providing information or assistance. Indiana officials recently asked if the ARD could delegate information request authority to them. ARD officials responded by letter on June 21, 1996, detailing the requirements the state had to meet to receive the delegated authority.

**Illinois**

Illinois officials sometimes collected the economic benefit, but usually did not formally calculate it, when determining an appropriate penalty. They assessed the economic benefit in three of the six sample cases. Illinois enforcement staff found it difficult to obtain information for economic benefit calculations without information request authority. They also did not have administrative penalty authority, thus reducing their control over the final penalty. Illinois officials believed, "The principles of deterrence, restitution and retribution have not been widely

embraced by Illinois courts or the Pollution Control Board.” With information request and administrative penalty authority, it might still be difficult for Illinois officials to assess the economic benefit component. Despite this, Illinois officials, like Indiana, asked whether the ARD could delegate information request authority. In June 1996, ARD officials also sent Illinois a letter explaining the requirements.

Illinois enforcement officials did not have administrative penalty authority but they could assess penalties judicially by referring cases to the Illinois Attorney General's Office. However, there was a backlog of cases in the Attorney General's Office and few referrals were resolved in less than six months. Also, the Attorney General's Office resolved some cases informally, or verbally. Therefore, it was difficult for Illinois enforcement officials to assess penalties without administrative authority.

#### **Wisconsin**

Wisconsin officials did not assess penalties, or the economic benefit component, for any of the cases in our sample. They had trouble collecting penalties because, like Illinois, they did not have administrative penalty authority. Enforcement staff had to go through Wisconsin's Department of Justice to collect penalties from violators. Enforcement officials stated the Wisconsin Department of Justice typically did not accept air enforcement cases, so Wisconsin collected few penalties. Enforcement officials tried to obtain administrative penalty authority from the Wisconsin legislature, but the request was not approved.

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## **CONCLUSION**

Companies sometimes try to save money by not complying with air pollution regulations. To deter companies, enforcement officials must include the economic benefit component in their penalty calculations. ARD officials must encourage Indiana, Illinois, and Wisconsin officials to assess the economic benefit component, so they do not allow companies to gain an advantage over their competitors by violating air pollution regulations. ARD staff should offer to work more closely with Indiana and Illinois officials to help them calculate and assess the economic benefit. They should also work with Wisconsin officials to help them

collect penalties. Working together, the ARD and the states can come closer to ensuring that each enforcement action has the maximum potential to deter companies from violating the Act.

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**RECOMMENDATIONS  
AND  
AGENCY ACTIONS**

We recommended and the Regional Administrator, Region 5, agreed that:

- 3-1. ARD officials will discuss recovery of the economic benefit component with the states and will work through the Region 5 OECA to include the economic benefit in Environmental Performance Partnership Agreement discussions. These discussions are targeted to conclude January 1, 1997.
- 3-2. If Indiana and Illinois officials decide they want delegation of information request authority, ARD officials will process their requests within 60 days. In the meantime, ARD officials will continue to offer and provide assistance to the states for air enforcement penalty calculations.

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**OIG EVALUATION**

Region 5's actions, when completed, will address our findings and recommendations.

## CHAPTER 4

### Deterring Violators: More Publicity Needed

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The ARD, Indiana, and Michigan seldom publicized enforcement actions to deter companies from violating air pollution regulations. The OPA did not issue some press releases because they were not approved timely. Also, other press releases we reviewed did not contain certain information about the violations or their impacts on the community. Indiana and Michigan enforcement officials were reluctant to publicize enforcement actions, because they did not want to draw attention to their programs from state legislators. Without publicity: (1) companies may not have believed the ARD or the states would identify and enforce against violators; and (2) the public may not have pressured companies to come into, or remain in, compliance. The OPA recently took steps that could address some of these concerns.

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#### **DETECTING VIOLATORS THROUGH PUBLICITY**

Publicizing enforcement actions deters violators by increasing the regulated community's awareness of regulations and the consequences of noncompliance. Businesses hope to avoid the costs of noncompliance and prevent damage to their public images. As a former EPA Deputy Administrator said in January 1994, companies want to comply with environmental regulations to protect their public images and maintain customers.

EPA can use public opinion to help bring violators into compliance by strategically publicizing significant enforcement actions. In the November/December 1995 issue of the *Environmental Forum*, the Deputy Assistant Administrator for Enforcement and Compliance Assurance wrote:

... agencies are realizing the potential power of enlisting the public and appropriate segments of the regulated community in ensuring compliance and promoting behavior that goes beyond. The public's role will be to use its right to know as a tool to motivate industry and government.

As citizens learn about violators, they may pressure companies to come into compliance or risk losing customers. The public also may pressure government to enforce regulations and penalize violators. The EPA's Five Year Strategic Plan reports that OECA will improve "public access to compliance information, thereby empowering consumers and communities to make informed choices and to participate more effectively in the regulatory process."

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**PRESS RELEASES  
SELDOM ISSUED  
FOR ENFORCEMENT  
ACTIONS**

In the ARD, Indiana, and Michigan file reviews, we found that officials seldom publicized enforcement actions, although they supported publicity as a deterrent to companies. As shown in table 2, press releases were issued in five of the 31 cases we reviewed. The lengthy approval process may have prevented OPA from issuing some air press releases. State enforcement officials rarely publicized enforcement actions because they did not want to draw state legislators' attention to their programs. While publicity may draw unwanted attention to strong enforcement actions, it may also generate citizens' interest. These citizens may influence legislators to support enforcement activities and help compel companies to come into compliance.

**Table 2: Press Releases Issued**

Press Release Issued?	ARD	Indiana	Michigan	Total
Yes	3	1	1	5
No	7	10	9	26
Total	10	11	10	31

**Publicity for ARD  
Enforcement Actions**

ARD officials supported publicizing enforcement actions. In their opinions, publicity increased public awareness of EPA actions and the regulated community's awareness of requirements and the consequences of noncompliance. Some ARD engineers believed that publicizing enforcement actions prompted companies to come into compliance more quickly. To help publicize enforcement actions, the ARD Director wanted press releases issued at every stage of the enforcement process, including NOVs, administrative penalty orders, and final orders.

Despite ARD management's support for publicizing all enforcement actions, press releases were issued for only three of the 10 cases in our sample. ARD engineers prepared draft press releases for three other cases. However, OPA staff did not issue them. The remaining four cases in the sample did not have draft or issued press releases.

**Lengthy Approval  
Process Prevented  
Issuance of Press  
Releases**

According to an OPA staff member, the lengthy approval processes within the OPA and the ARD prevented releases from being issued timely. OPA officials had not formally defined what a timely press release was, but stated that a release was considered timely if OPA issued it within a few days of the enforcement action. Lack of timely approval limited the significance of a press release and its potential to deter violators.

A press release went through many levels of review before the OPA issued it. First, an ARD engineer prepared a draft press release and submitted it to a Section Chief for review. Then, the Section Chief forwarded the draft to the OPA. An OPA public affairs specialist essentially rewrote the draft and sent it to the editor, along with a standard concurrence form. The public affairs specialist revised the draft, according to the editor's comments, and sent the edited draft back to the ARD engineer.

At least three ARD officials reviewed and commented on the draft, before returning it to the OPA. First, the engineer reviewed the release for technical content and forwarded it to the appropriate Section Chief for approval. Then, the Branch Chief reviewed the release. Next, the Division Director reviewed press releases for



any significant cases or those that included his quotes. Finally, the ARD returned the release to the OPA. The public affairs specialist revised the release according to any comments from the ARD and submitted it to the OPA Section Chief and the OPA Director for approval and issuance. The long review processes in the OPA and the ARD delayed the approval of some press releases.

The OPA did not issue press releases for some of our sample cases because they were not timely. For example, one draft press release was not approved until almost one month after the review process began. On January 6, 1994, an ARD Section Chief sent a draft press release to the OPA. After an OPA official rewrote the press release, she returned it to the ARD. The engineer signed off on it on January 24, 1994, and the ARD Section Chief approved it by January 26, 1994. However, the Branch Chief did not sign it until a week later, on February 2, 1994. The OPA did not issue the press release since it was nearly a month old.

ARD officials did not always allow enough time for approval of press releases. Sometimes, they sent draft press releases to the OPA on the same day or just before they issued the enforcement actions. For example, in the above case, the Section Chief sent the draft press release to the OPA only one day before the administrative penalty order was issued. The Section Chief asked OPA to respond to his memo within 30 days and said the ARD wanted to issue the press release within "a number of days of the issuance of the enforcement action." Because the Section Chief did not give the OPA any lead time, OPA officials could not have issued the press release timely, even if the approval processes were streamlined.

**Evaluation of ARD  
Press Releases**

According to ARD and OPA staff members, press releases are more likely to be picked up by the media if they are relevant to a community. For example, if the OPA issues a press release about a company that is the largest employer in a small community, a local newspaper will likely write a story or at least publish the press release. ARD and OPA staff members agree that press releases are more likely to gain attention if they include a description of the

health impacts on the public or the environment. Press releases should also be easy to read and understand.

Some of the press releases we reviewed did not include clear explanations about the violations or potential effects on the communities. For example, we reviewed one press release that did not explain what opacity violations were, or include details about the impacts of the violations on the community. The press release also did not give the date the ARD and the violator signed the consent agreement and consent order, or explain what these legal documents were. See exhibit 5, example 1 for a copy of the release.

The OPA issued some press releases, on the other hand, that contained: (1) descriptions of the violations, (2) an estimate of the emissions in easy to understand terms, (3) explanations of the impacts on the community, and (4) a quote from the Regional Administrator. For example, an October 20, 1993 release included information about the violations and quantified the violation:

... emissions from the combustion stack at LTV's coal battery have exceeded the allowed limits for particulate matter (smoke, soot). According to stack tests, LTV is emitting particulate matter almost three times over the limit.

The press release also included an explanation of the health risks:

Particulate matter can irritate the human respiratory system. The elderly, children, and people with existing respiratory and cardiovascular ailments are most at risk. In addition, particulate matter can contribute to urban haze and reduce visibility.

See exhibit 5, example 2 for a copy of the release.

**Recent OPA  
Actions**

The OPA has begun taking actions that may address some of our concerns. To begin streamlining the press release approval process, in October 1995, the OPA Director removed herself from the chain of approval. To further improve operations, the OPA Director said that she planned to issue a press release policy for Region 5. The policy would address three main areas: (1) guidelines for deciding which press releases the media was more likely to pick up, (2) time frames for preparing and issuing press releases, and (3) content of press releases. The Director hoped this policy would improve the OPA's efficiency and increase the number of press releases issued. Based on the policy, the program offices would prepare draft press releases for actions that were inherently more newsworthy. This would decrease the number of draft releases forwarded to the OPA and help focus resources on actions the media was more likely to write stories about.

ARD and OPA staff also tried a new process for issuing press releases, to help the press releases gain media attention. Staff members batched some individual press releases by geographic area or industry to increase the likelihood that the media would run stories on them. For example, OPA staff issued a single press release for the ARD enforcement actions against 12 small Michigan auto repair facilities. This release included: (1) a list of the violators, (2) proposed penalties, (3) a description of the regulation, (4) information on potential health risks, and (5) a quote from the ARD Director. A local Michigan newspaper ran a story based on the press release.

**Publicity for Indiana and  
Michigan Enforcement  
Actions**

Indiana and Michigan enforcement officials also supported publicizing enforcement actions. State enforcement officials publicized regulations and enforcement through trade journal articles and presentations at public forums. However, enforcement officials in the two states were reluctant to publicize enforcement actions with press releases because they did not want to draw the attention of state legislators to their programs.

Based on our case file reviews in Indiana and Michigan, the state enforcement staff rarely publicized enforcement actions. As shown in table 2 on page 25, Indiana staff issued a press release for

one of the 11 cases in our sample. In Michigan, officials publicized one of the 10 cases we reviewed. Michigan enforcement officials told us they prefer not to issue press releases for minor violations because they do not want to appear heavy-handed. Publicizing cases for minor violations, according to Michigan officials, "... could lead to additional scrutiny of the program, interference by legislators or others in specific settlement negotiations, or changes in the law to reduce penalty amounts or other enforcement authorities." Michigan officials do publish a 30 day public comment period notice for each consent order they issue.

#### **Alternate Vehicles for Publicity**

Press releases were not the only vehicles for publicizing enforcement actions. ARD and state enforcement staff also reached the regulated community and the public through the Internet and presentations at industry meetings. For example, the ARD had its own "Home Page" on the Internet. Items on the Internet included weekly activity reports, summaries of ARD enforcement actions, and state enforcement agreements. Also, beginning in March 1996, OPA staff placed press releases on the Internet. Having information available through the Internet makes the clarity and readability of ARD press releases even more important because they will be accessible to people with widely varying levels of expertise and knowledge of environmental regulations.

ARD and state staff members also used presentations at industry meetings as another way to deter potential violators. The ARD Section Chiefs thought the presentations were important because they explained: (1) new standards, (2) the impacts of the standards on the industry, and (3) what companies must do to comply. The travel costs and registration fees have forced ARD management to limit the number of meetings staff members attended. ARD has been publishing technical papers in trade journals and placing them on the Internet. This may help mitigate the effects of limited travel funds, while still providing information to the regulated community and individuals.

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## CONCLUSION

Publicizing enforcement actions has the potential to deter violators and turn the public into a growing source of support for enforcement actions. Yet, we found few publicized cases. Limited publicity restricts the potential to deter violators and prevents public awareness of enforcement actions. ARD and OPA officials have begun taking actions that may help to resolve some of our concerns about publicity. We encourage them to continue these efforts.

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## RECOMMENDATIONS AND AGENCY ACTIONS

We recommended and the Regional Administrator, Region 5, agreed that:

- 4-1. The ARD and the OPA will use a streamlined process for reviewing press releases. These offices have already streamlined the review process in response to our draft report. The OPA has also taken a more active role in the initial drafting of press releases to minimize rewrites.
- 4-2. The OPA will develop a regional press release policy by December 31, 1996. A section of the policy will include guidance, developed jointly between the OPA and the Enforcement and Compliance Team, on which enforcement actions to publicize.
- 4-3. ARD officials will discuss publicity and press releases with state officials by January 1, 1997. The Regional Administrator cautioned that some states have different philosophies on publicizing enforcement actions, making uniformity unlikely.

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## OIG EVALUATION

Region 5's actions, when completed, will address our findings and recommendations.

## **CHAPTER 5**

### **ARD Needed to Work with States To Overcome Barriers**

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States faced many barriers to effective air enforcement programs. State officials identified ARD actions as barriers in two areas: limited communication on Federal cases and a lengthy enforcement process. Most of the other barriers were internal to the state programs, such as not using available tools to make enforcement orders stronger, and not providing local agencies with enough oversight. Although state officials seldom cited the ARD as a cause of problems, ARD officials can help to resolve these barriers. The barriers resulted in less effective enforcement programs and generally frustrated state officials.

ARD and state officials told us about the barriers their enforcement programs faced. We discuss below those barriers that were common across states. See exhibit 6 for the ARD and state rankings of their top three barriers to effective enforcement.

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#### **MORE COMMUNICATION ON FEDERAL CASES NEEDED**

ARD staff members needed to increase communication with states on Federal cases. Continuous two-way communication between EPA and the states is important in developing effective region-state partnerships. Because of periodic enforcement conference calls, communication between the ARD and states had improved from previous years, according to state officials. However, while ARD enforcement personnel thought they were communicating adequately with the states, officials from the four states we spoke to were unanimous in saying that they needed more information on Federal cases. ARD officials usually notified the states about Federal actions during the conference calls. The calls by themselves, however, did not provide state officials with timely information. If state officials were not aware of the ARD's planned actions, they could duplicate work or take a stance different from the ARD's.

State officials felt it was important to know the status of Federal cases in their state. It was particularly important for them to know what actions the ARD was planning. For example:

- Indiana and Illinois officials said the ARD could provide more timely information on Federal cases. While the ARD usually notified the states before issuing a NOV, it was often late in the process. Illinois officials said the ARD gave them a one or two day warning before issuing the notices. Indiana officials said that, as a result, the ARD could issue a NOV at the same time the state was preparing to issue one, causing duplicate work.
- Wisconsin officials stated that, on cases they deferred to the ARD, they usually did not hear about progress until ARD officials had made a decision. They also said notice before the ARD issued administrative orders would be helpful, so Wisconsin did not take a different stance. Companies may interpret this as the ARD and Wisconsin working at cross-purposes.
- Michigan officials said ARD personnel could not always provide answers about Federal cases during monthly enforcement conference calls. The ARD usually had one or two people present for these calls. These were staff members that had obtained updates from the ARD engineers. If Michigan officials had a specific question on a Federal case, the appropriate person to answer the question was not usually on the call.

In contrast to the state officials' views, ARD personnel thought, for the most part, that communication with states was adequate. The ARD's Michigan/Wisconsin section chief believed that he and the staff members participating in the conference calls answered all questions posed about Federal cases. If, however, questions about a specific case arose during the call, he invited the appropriate engineer to participate as well. Most of the ARD engineers we surveyed also thought they communicated adequately with the states. Two engineers, however, said they could improve their

communication. One of these engineers said she sent the states copies of any documents generated in her Federal cases, such as NOV's and inspection reports. However, she did not take the initiative to contact the state officials otherwise.

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**ENFORCEMENT  
PROCESSES WERE  
TIME CONSUMING**

The Regional and state enforcement processes needed to be streamlined. Regional and state officials agreed the Region's process was time consuming. The states' processes often ended in delayed enforcement actions that did not meet the requirements in the EPA Timely and Appropriate Guidance. Legal involvement, the need to obtain and verify evidence, a lengthy resolution process, and industry officials' delay tactics, can all result in untimely enforcement actions. Delays allow companies to continue polluting the air. The ARD enforcement actions especially need to be timely, because potential Federal action often gives states leverage they need to negotiate an agreement with a company. It is important for a company to know that, if it does not settle with the state, it will be subject to Federal enforcement action. Quick Federal action will help to reinforce this.

**ARD's Enforcement  
Process Was Slow**

The ARD took a long time to issue enforcement documents for the states, such as NOV's or information requests, and to resolve cases the states deferred to them. Legal involvement and obtaining and verifying evidence contributed to the ARD's slow process. State officials said these delays resulted in less effective enforcement actions.

**Issuing  
Enforcement  
Documents**

The ARD was slow to issue enforcement documents, especially when it needed to coordinate with the ORC. For example, state personnel commented that when they asked the ARD to issue enforcement documents for them, the ARD usually issued information requests more promptly than NOV's. They said the NOV's took longer because the ORC had to sign them. The ARD issued information requests directly. ARD and ORC officials agree they need to streamline the NOV process and have begun to consider ways to improve it.



**Completing  
Enforcement  
Actions**

The ARD was also sometimes slow to complete enforcement actions. ARD officials said this happened because they needed to obtain and verify evidence. Indiana officials said the ARD usually did not act timely on cases Indiana referred to them. Indiana officials said, though, that they typically referred their more complex or problem cases to the ARD. ARD officials agreed that sometimes it was difficult for them to complete state actions. One reason for this was that the ARD could not risk bringing a false or incorrect enforcement action that could damage a company's reputation. Therefore, they had to take their time, to be certain they had gathered accurate evidence before proceeding.

**State Enforcement  
Processes Were  
Not Timely**

States also were not always timely at resolving cases. The processes of resolving a case was lengthy, and industry officials also contributed to delays. Such delays prevented states from meeting the EPA's requirements for timeliness and reduced the effectiveness of the enforcement actions.

**Lengthy  
Resolution Process**

Indiana officials recognized they had difficulty resolving cases timely. An Indiana case manager said the process of resolving a case involved much discussion and could be lengthy, depending on the level of cooperation received from the violator. For example, in a case we reviewed, Indiana proposed an order with a company in November 1993. Indiana did not issue the final order until October 1994, almost a year later. Another Indiana case manager said a previous large backlog of cases had delayed completing some orders. The backlog had decreased, however, shortening the current process.

Wisconsin also had difficulty completing cases within the required time frames, as discussed in chapter 6. Because of the state's timeliness problems, a Wisconsin official asked ARD officials to take over any state case that exceeded the timeliness standard.

**Industry Delays**

Industry officials created delays in enforcement actions by refusing to cooperate with the enforcing agency. A company can also create problems by not responding to information requests or failing to take agreed upon actions. Waiting for companies to

respond or take actions delays the enforcement process. During our file reviews, we noted the following examples:

- Illinois encountered several delays a company's owner created, causing the enforcement action to remain open for over five years. The owner originally refused to allow Illinois inspectors to enter his plant. The inspectors obtained an administrative search warrant and executed it with police assistance. They found several violations, including that the company had uncontrolled emissions. The owner entered a motion to quash the evidence and alleged violations of the Fourth Amendment to the U.S. Constitution regarding unlawful searches and seizures. He also attempted to get a temporary restraining order to prevent Illinois from obtaining a search warrant. The company had been out of compliance since December 1982 for some rules and since 1976 for others. Illinois officials stated that compliance with the emission standards would be easy to achieve, because the owner only needed to install controls on some equipment. Instead, according to Illinois, the owner had been uncooperative and exercised great use of delay tactics.
- It took almost three and a half years for Michigan and a company to reach an agreement, resolving the company's excess emissions. Michigan staff began asking, in May 1991, that the company submit a program showing how it would meet final emission limits under a new Michigan rule. In 1991, 1993, and 1994, company officials told Michigan that they would establish a compliance program. However, the company continued to exceed emission limits. Finally, in October 1994, the company and Michigan agreed on a formal consent order to bring the company into compliance.

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**LIMITED USE OF  
INJUNCTIVE RELIEF  
AND STIPULATED  
PENALTIES**

The enforcement orders states issued to correct violations or assess penalties were not always as strong as possible. For example, Indiana officials did not usually include specific requirements in their orders to prevent violations from recurring, known as injunctive relief. Indiana and Illinois did not consistently include stipulated penalties for noncompliance in their orders.<sup>10</sup> The states did not use these tools because of limited experience and, in some instances, they did not see the need for them. Enforcement orders that do not include injunctive relief and stipulated penalties, however, may not be as effective at bringing companies back into compliance.

We reviewed a sample of the enforcement orders states issued to determine whether they included injunctive relief measures or stipulated penalties. When the orders did not include these items, we evaluated whether the cases needed them. For example, in some cases, injunctive relief requirements were not needed because the company had already come back into compliance.

**Injunctive Relief**

Most state enforcement orders included injunctive relief requirements. As table 3 shows, Michigan and Illinois usually did include such requirements, when they were needed. In Indiana, however, state officials did not include injunctive relief requirements in three of the six orders where they were needed. Because Wisconsin officials had not issued orders for any of the cases we reviewed, we could not tell if they normally included injunctive relief requirements in their orders.

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<sup>10</sup>Stipulated penalties can be automatically assessed against companies that do not comply with the order's requirements.

**Table 3: Use of Injunctive Relief  
in Sampled State Orders**

	Michigan	Illinois	Indiana	Wisconsin
Yes	7	3	3	0
No	1	0	3	0
N/A	2 <sup>a</sup>	3 <sup>a</sup>	5 <sup>a</sup>	12 <sup>b</sup>
Total	10	6	11	12

<sup>a</sup> Injunctive relief was not needed, because the violation had been corrected.

<sup>b</sup> No orders were issued, therefore we could not review them for injunctive relief.

Some Indiana enforcement staff members did not have the experience to identify injunctive relief requirements to prevent violations from recurring. The Indiana Office of Enforcement was formed in 1992 with a small staff. Their focus initially was on developing general policies and procedures. Recently, the Office of Enforcement hired more staff, and Indiana officials stated they now recognize the importance of injunctive relief requirements.

ARD officials recognized that Indiana did not use injunctive relief enough and offered to help resolve this problem. In September 1995, the ARD wrote to Indiana officials identifying concerns over specific settlements that did not include injunctive relief. The letter identified a case where Indiana issued an order with a small penalty and no injunctive relief requirements, although the company had a history of visible emission problems. ARD officials later found additional violations at the same company. In April 1996, the ARD proposed having joint Indiana-EPA inspections. One goal of the proposed inspections was to provide

Indiana's Office of Enforcement staff with field experience, to help in identifying injunctive relief requirements.

### Stipulated Penalties

Although Michigan officials always included stipulated penalties in their orders, other states did not, as shown in table 4. For example, four of the six Illinois orders did not include stipulated penalty provisions. In Indiana, five of the 11 orders we reviewed included stipulated penalties, but the remaining six did not. As mentioned before, Wisconsin did not issue orders for the cases we reviewed, so we could not determine if they used stipulated penalties in their orders.

**Table 4: Use of Stipulated Penalties  
in Sampled State Orders**

	Michigan	Illinois	Indiana	Wisconsin
Yes	10	2	5	0
No	0	4	6	0
N/A	0	0	0	12 <sup>a</sup>
Total	10	6	11	12

<sup>a</sup> No orders were issued, so we could not review these cases for stipulated penalties.

Illinois and Indiana officials did not always see the need for stipulated penalties in their orders. Illinois' typical process for settling enforcement actions was to issue an enforcement order only after a company had come back into compliance and agreed to a process for staying in compliance. Because of this, the state officials did not always need to include stipulated penalties in orders, since they believed the company would not violate the order. An ARD official agreed that Illinois did not usually need the stipulated penalties, but stated that the orders should still include them. As with injunctive relief, Indiana enforcement staff members did not always have the experience to recognize that stipulated penalties were needed. The stipulated penalties could

become very important if a company did not comply with the order, allowing the state to address the situation quickly.

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**STATES MAY NEED  
TO GIVE MORE  
OVERSIGHT TO  
LOCAL AGENCIES**

Michigan and Indiana officials expressed concern about potential weaknesses in some local agency enforcement programs.<sup>11</sup> It appeared that the state agencies may not have overseen the local agencies and, as a result, lacked information about the local programs. Many local agencies were responsible for enforcement programs in areas that did not meet the Act's air quality standards, called nonattainment areas. If their programs have weaknesses, it could have a serious impact on air quality in those areas.

**Wayne County, Michigan**

Michigan had one local agency, in Wayne County (the Detroit metropolitan area). Wayne County did not meet the Act's standards for carbon monoxide. This pollutant can deprive the blood of oxygen, especially affecting people with heart conditions. As a local agency, Wayne County operated separately from Michigan, although the county was under contract with the state for air enforcement. The ARD also provided resources to Wayne County, through an air grant.

Michigan officials were concerned about Wayne County's program. For example, they said the Wayne County inspectors did not always perform quality inspections or adequately document them. Michigan officials also said that Wayne County did not make a good effort to get violators back into compliance. As a result, violations were likely to continue or recur. In the Michigan officials' opinion, industry representatives influenced Wayne County officials too strongly.

The state enforcement officials were also concerned that Wayne County's air enforcement program was not as stringent as the rest of the state. For example, Michigan staff members said General Motors officials complained that they were treated unfairly, compared to Ford Motor Company. Ford had most of its facilities

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<sup>11</sup>Because local agencies were not part of our scope, we did not verify the states' concerns.

in Wayne County, while General Motors had most of its facilities outside the county. General Motors officials said Wayne County personnel allowed Ford to operate with violations that Michigan officials required General Motors to fix. General Motors officials also noted differences between their own facilities in Wayne County and those outside the county.

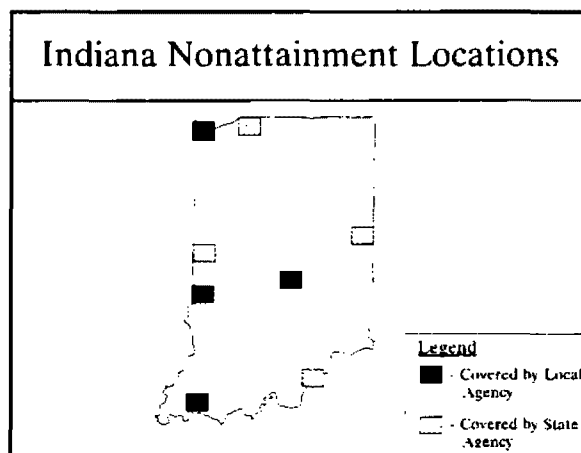
Michigan and the ARD provided resources to Wayne County and had some oversight responsibility for the county's program. However, they had performed limited oversight in the past. This seemed to be changing. In July 1996, Michigan was writing a report from a Wayne County file audit that Michigan and ARD officials performed in September 1995. Michigan had also improved communication with Wayne County. The Wayne County officials attended Michigan staff meetings and were connected to Michigan's electronic mail system.

#### **Indiana's Local Agencies**

Indiana enforcement officials also were concerned about local agency enforcement activities, citing the local agencies as one of their top three barriers to an effective enforcement program. The state officials said they contributed to the problem because they had provided little oversight or control of the local agencies. They also said the local agency officials were sometimes too close to the situations to take adequate enforcement actions.

Indiana delegated authority to several local agencies throughout the state. As shown in figure 1, local agencies were responsible for enforcement in four of the eight nonattainment locations in Indiana. Indiana officials need to ensure these local agencies carry out high quality enforcement programs to help improve the air quality in the nonattainment areas.

Figure 1:



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## CONCLUSION

States faced many barriers that could have a negative affect on their enforcement programs. Most were barriers internal to their own programs, but there were some the ARD can help solve. We recognize that not all barriers to enforcement can be solved. Instead, ARD officials can help states mitigate the barriers as much as possible. We believe that close coordination between the ARD and the states can help overcome the barriers and improve the effectiveness of state enforcement programs.

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## RECOMMENDATIONS AND AGENCY ACTIONS

We recommended and the Regional Administrator, Region 5, agreed that:

- 5-1. The ARD will discuss with state officials their information needs and respond to those needs by December 30, 1996. ARD officials will also (a) begin providing Significant Violator Reports to states on a monthly basis, and (b) be prepared to discuss Federal cases with state officials during periodic conference calls.



- 5-2. ARD and ORC officials will commit to several actions to streamline enforcement activities, such as using abbreviated NOVs and a revised checklist for case preparation. The streamlining will continue through fiscal year 1997.
- 5-3. ARD officials will discuss with state officials the timeliness of enforcement activities during the Environmental Performance Partnership Agreement discussions, to be concluded by January 1, 1997.
- 5-4. ARD officials will discuss with state officials the need for stipulated penalties and injunctive relief during the Environmental Performance Partnership Agreement discussions, to be concluded by January 1, 1997.
- 5-5. ARD will offer states assistance for training and oversight of local agencies and express its willingness to act on referred cases by September 30, 1996.

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## **OIG EVALUATION**

Region 5's actions, when completed, will address our findings and recommendations.

## **CHAPTER 6**

### **ARD Enforcement Data Were Not Complete or Consistent**

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The ARD enforcement data in AFS were not complete or internally consistent, and contained duplicate records. There were multiple causes for the data problems, including that AFS had some design flaws and the ARD and the states tracked enforcement data differently. As a result, ARD management and the states did not use AFS as their own information system and, thus, had less incentive to maintain the data.

Several issues combined to create data problems in AFS. First, AFS was designed as part of a mainframe system that state personnel found difficult to use. Second, maintaining the data in AFS was resource intensive and not all states provided the data electronically or in a timely manner. Third, the ARD and the states applied different data definitions when tracking the enforcement data, so the AFS data were inconsistent. Finally, AFS did not track all the data the ARD and state officials needed, so they developed their own systems.

ARD management communicated their concerns about AFS to Headquarters. The ARD and Headquarters need to resolve concerns about the system to ensure data quality prior to the planned public release of AFS data on the Internet. Also, EPA needs quality data for program decisions and the current method of obtaining that data through AFS is not effective.

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#### **BACKGROUND**

Headquarters designed the AIRS database in stages during the 1980s to be a national repository for air pollution data. AFS was an AIRS enhancement, completed in 1990. The system developers designed AFS to maintain data for emissions, compliance, enforcement, and permits. AFS separated this information between two parts, emission and compliance. The compliance part included enforcement data, the subject of this chapter.

The Office of Air and Radiation established national minimum data requirements for AFS and issued final requirements in December 1993. These data requirements applied to all regions and states. OECA also required AFS data from the regions through the Memorandum of Agreement with each region. Regional personnel were responsible for ensuring that AFS data requirements were met for both state and regional enforcement cases.

Several EPA Headquarters offices used AFS enforcement data. For example, OECA used state and regional AFS data extensively for accountability, targeting, sector analyses, and external reporting purposes. The Headquarters' Office of Information Resources Management also planned to make AFS data available to the public on the Internet.

Headquarters intended for the states to report AFS data to EPA and to use the data internally. However, AFS was part of a mainframe system that was difficult for state personnel to use. Most states found it easier and more meaningful to create and use their own systems. As a result, according to a GAO report, "... most heavy emission states now use their own systems because these systems are more efficient and easier to use."<sup>12</sup>

Our work in the ARD was consistent with GAO's earlier findings. The ARD and Region 5 states did not use the compliance portion of AFS as their own enforcement tracking system. Illinois, Indiana, and Minnesota had upload programs that converted and entered state system data to AFS. Michigan, Ohio, and Wisconsin did not have upload programs to transfer data to AFS electronically and submitted their data on paper to the ARD. ARD staff members then entered data to AFS from the paper reports.

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<sup>12</sup>EPA Data Gathering Efforts Would Have Imposed a Burden on States, GAO/AIMD-95-160, August 1995.

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**DATA WERE  
NOT COMPLETE**

ARD officials told us state AFS data were incomplete for Ohio. It also appeared that some Indiana enforcement actions were missing. For Ohio, ARD personnel stopped entering data to AFS because it was too resource intensive. Ohio had five district offices and 10 local agencies throughout the state. These offices and agencies did not have direct links to AFS or compatible systems that staff members could upload to AFS. As a result, staff members in each office or agency prepared paper reports and sent these reports to the ARD. It took an ARD employee about three weeks each quarter to input all of the Ohio AFS data. Because this was time consuming, in February 1995, ARD management decided the employee should stop inputting the Ohio data. In July 1996, however, at OECA's request, the ARD agreed to input Ohio's missing data by the end of fiscal year 1996.

Indiana may have also had incomplete AFS data. We compared two reports for the same time period and found five records on the Indiana report that were not on AFS. Indiana staff members created the report from Indiana's Enforcement Tracking System and ARD personnel created a report from AFS, both listing cases closed between October 1993 and June 1995. Indiana staff members could not identify whether the five enforcement actions should have been on AFS. After reviewing the Indiana report, an ARD staff member thought Indiana should have reported three of the cases but did not have enough information to evaluate the other two.

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**DATA  
DEFINITIONS VARIED**

Indiana and Michigan applied different definitions than the ARD as to when they considered a case completed. This resulted in timing differences between state and ARD enforcement reports. Also, one ARD section used a different definition than other ARD sections of whether the ARD or state had the lead on an enforcement action. This resulted in inconsistent data in AFS, when compared to other Region 5 states.

**Date Enforcement  
Action Completed**

Twenty-three cases (58 percent of 40 total cases) on the Indiana report were not on the AFS report, due to different definitions. Indiana enforcement staff members considered a case completed when they issued a final order and collected the penalty. ARD staff members used the EPA Timely and Appropriate Guidance definition that considered a case completed when the company returned to compliance. The ARD completed date was usually later than the date of the final order or penalty. These cases were in AFS, but the ARD did not consider them completed yet. Therefore, they did not appear on the AFS report of completed cases. Indiana staff members stopped tracking cases in their database after they considered them complete.

At Michigan, we identified eight cases (26 percent of 31 total cases) that had timing differences. These differences also occurred because, for AFS reporting purposes, Michigan staff members considered a case completed when they entered the final order. However, Michigan officials said that their district office staff members continued monitoring the company to ensure that the company complied with the provisions of the final order and remained in compliance.

**Federal and State Lead**

Some enforcement cases on AFS showed the ARD as having the case lead, when the work on the case instead remained at the state level. This occurred because one of three ARD sections used an AFS data field differently than other ARD sections. At the time of our review, the Michigan/Wisconsin section had begun to apply the EPA Timely and Appropriate Guidance 150 day limit to state enforcement actions, despite specific case circumstances.<sup>13</sup> This resulted in several Wisconsin cases shown as Federal cases, when the state staff actually finished some of them.

A Wisconsin official asked ARD officials to take over any state case that was 150 days old. According to ARD management, the

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<sup>13</sup>The guidance requires that the company will either be in compliance or on a legally-enforceable and expeditious administrative or judicial order, or be subject to a referral to the (state) attorney general or (Federal) Department of Justice. The region may take over the case when it is 90 days old or decide to continue to defer to the state action if it appears the state will soon resolve the case. By day 150, the source shall either be in compliance or addressed.

Wisconsin official hoped this would force state staff members to finish cases faster. At the time of our file review, ARD staff members usually let Wisconsin staff members finish the cases, but showed the case as a Federal lead in AFS. ARD management said they did this because, in the future, they planned to take the cases over, as asked, and not let the state finish them.

Cases shown in AFS as Federal cases, when they were really state cases, resulted in inaccurate AFS data for Wisconsin. As table 5 shows, there were 26 Wisconsin cases listed on AFS as switching from state to Federal lead. The state finished all five sample cases we reviewed. These five cases listed as Federal lead for Wisconsin did not reflect who was really handling the cases. Also, 12 of the 26 cases switched lead exactly on day 150. Other Region 5 states did not have any cases that switched exactly on day 150. This suggests that the ARD's use of a different definition for Wisconsin than for other states distorts the Wisconsin data.

**Table 5: AFS Cases by State Completed  
Between October 1993 and June 1995**

State	Number of Cases		
	Total for State-- State or Federal Lead	Lead Changed from State to Federal	Lead Changed on Day 150
Illinois	59	7	0
Indiana	29	2	0
Michigan	49	7	0
Minnesota	30	1	0
Ohio	18	0	0
Wisconsin	76	26	12
Total	261	43	12

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**POTENTIAL EXISTED  
FOR DUPLICATE  
RECORDS**

Indiana data support personnel did not update AFS timely and this created a potential for duplicate records. Indiana enforcement staff entered data to their own enforcement tracking system. Monthly, an administrative assistant prepared a report of changes to the database and submitted them for entry into the system Indiana personnel uploaded to AFS. After staff entered the data to the Inspection Targeting System, the uploads transferred the data to AFS. However, Indiana data support personnel did not give this task priority. As a result, the uploads to AFS were sporadic and untimely.

The sporadic and untimely uploads created a potential for duplicate records in AFS. The ARD received copies of Indiana enforcement actions. ARD staff members checked for the enforcement actions on AFS and, if they did not find them, they updated AFS with the new information. However, when the Indiana upload occurred, it created duplicate records for the data entered at the ARD. ARD staff members removed the duplicate records, but this was an inefficient use of their resources.

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**REASONS ARD AND  
STATES DID NOT  
USE AFS**

OECA recognized that many regions and states did not use AFS as their own tracking systems and that this created problems for AFS data. OECA officials noted in a Region 4 evaluation report:

Reliance on Regionally developed tracking systems, in lieu of the major national databases, appears to be taking away the incentive for the Region to address data quality problems with national systems.

ARD officials had limited incentives to submit quality data to AFS. Not only did they not use it as their own system, they were not sure how OECA made conclusions using AFS data.

**ARD and States  
Developed And Used  
Their Own Systems**

The ARD and the states developed and used their own information systems, because AFS did not meet their needs. The ARD database provided information that Headquarters' officials did not require for AFS and that ARD staff did not want in a public database, such as *potential* violations. The ARD database included all enforcement actions that ARD staff members were responsible for: stationary sources (tracked in AFS), chlorofluorocarbon (tracked in a separate database), and asbestos (also tracked in a separate database). It was also beneficial to ARD staff members to have a single database to track all ARD enforcement activity.

For reasons similar to those at the ARD, state officials also developed and used their own systems. Michigan officials used their Letter of Violation Log. Indiana officials had two databases they used instead of AFS, one for enforcement data and one for inspection data.

**ARD Questioned  
Usefulness of  
Nationwide Data**

ARD officials questioned the usefulness of AFS data nationwide. Although we only reviewed AFS data for two Region 5 states, Indiana and Michigan, ARD officials stated that AFS data for the other Region 5 states were also flawed. They also said that other regions did not use AFS or did not enter all of their required data. Because ARD officials believed the AFS data were incomplete nationwide, it was difficult for them to see the benefit of entering data to AFS. In the Region 5 Fiscal Year 1995 Accomplishments Report, written in response to the Memorandum of Agreement with OECA, ARD management said:

First, . . . the States and Region 5 have not seen this [AFS and National Asbestos Registry] data put to meaningful use since the advent of these systems. . . . Secondly, the States and Region 5 are concerned that the nature of the data in the databases will result in flawed program decisions.

To make AFS data useful, an ARD official believed that Headquarters' officials should eliminate or at least redefine AFS data requirements. For example, Headquarters' officials needed to



start by defining what data the public needed and then require regions and states to submit only that data.

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## **CONCLUSION**

AFS data for the ARD were not complete or consistent and contained duplicate records. We believe these data problems may be a reflection of design flaws and not having consistent data definitions. Audit work is ongoing in other EPA regions that may confirm this. We plan to address this issue further in a national report, following completion of the other OIG assignments. In the meantime, we encourage ARD officials to discuss their AFS concerns with OECA officials. They can begin the process of defining what air enforcement data EPA really needs and developing new approaches to obtaining and maintaining such data. Until AFS data requirements are changed, the ARD and the states need to correct problems with their data by using the same data definitions. The ARD also needs to encourage states to submit their data electronically and timely. Solving data quality concerns in AFS is particularly important, since EPA plans to make the data available to the public.

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## **RECOMMENDATIONS AND AGENCY ACTIONS**

We recommended and the Regional Administrator, Region 5, agreed that:

- 6-1. By January 1, 1997, Region 5 will review the Timely and Appropriate Guidance with its states.
- 6-2. During the discussions for the state performance agreements, scheduled for completion by January 1, 1997, Region 5 will encourage states to develop, update, and maintain electronic means of transmitting data to the AFS system.
- 6-3. ARD staff will now actively work on significant violators designated as Federal lead, thereby achieving definitional consistency.

- 6-4. Region 5 staff will reiterate its concerns to Headquarters officials at the AFS Workshop in September 1996.

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**OIG EVALUATION**

Region 5's actions, when completed, will address our findings and recommendations.

## SAMPLE SELECTION METHODOLOGY

### AUDIT

As part of our audit of Region 5's air enforcement and compliance assistance program, we reviewed case files at the ARD, Indiana, and Michigan. Because these were not statistical samples, the results cannot be projected to all cases. See table 6 for a summary of the sample selection.

**Table 6: Case File Reviews**

	Universe	Sample Size	Percentage
ARD	36	10	28%
Indiana	40	11	28%
Michigan	31	10	33%

The Air Enforcement and Compliance Assurance Branch Data Manager provided an AFS Quick Look Report of Federal consent agreements and consent orders and decrees issued between October 1, 1993, and June 30, 1995. The Indiana and Michigan reports covered the same time frame. The Indiana report listed the enforcement cases closed and dismissed. Michigan staff provided copies of quarterly memos of closed significant violator cases.

We identified the sample universes by numbering the cases listed on the ARD, Indiana, and Michigan reports. The universes were 36, 40, and 31 cases, respectively. Using the EZQuant random number generator, we produced random numbers for each universe. We reviewed cases corresponding to the random numbers.

## **SURVEY**

Prior to auditing Region 5's air enforcement and compliance assistance program, we conducted a survey to obtain general working information on the program. We used the survey results to determine what further audit work we needed to do.

As part of the survey, we reviewed judgmental samples of case files at Illinois and Wisconsin. Because these were not statistical samples, the results cannot be projected to all cases. See table 7 for a summary of the sample selection. In selecting the samples, we focused on significant violator cases because these cases were Federally enforceable.

**Table 7: Case File Reviews**

	Universe	Sample Size	Percentage
Illinois	16	6	38%
Wisconsin	140 <sup>14</sup>	12	9%

### **Illinois**

Illinois officials provided a list of all enforcement orders entered against significant violators in calendar year 1994. The Illinois universe of significant violators was 16 cases. We reviewed 6 cases, or 38% of the universe.

### **Wisconsin**

Wisconsin officials provided a list of all enforcement actions closed out in calendar year 1994 for the two district offices we visited, the Madison Southern and Milwaukee Southeastern Districts. The sample universe of cases was 140. We reviewed 12 cases, or 9% of the universe. Of the 12, nine cases were completed.

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<sup>14</sup>Wisconsin's universe represented the Southern and Southeastern district offices' cases for calendar year 1994. The universe included 59 cases that Wisconsin officials did not close out for several years, although the companies came back into compliance long before close out. Therefore, the universe was larger than the actual number of cases resolved in 1994.

### SUMMARY OF PENALTIES FOR SAMPLE UNIVERSES

ARD, Michigan, Indiana, and Illinois enforcement officials assessed penalties in nearly all of the cases in their respective universes of case files. Most penalties were below \$50,000. The Wisconsin reports for enforcement cases did not include penalty data. Therefore, we were unable to determine the range of penalties for the Wisconsin universe.

#### ARD

The ARD universe was 36 cases. The penalties in the ARD universe ranged from \$0 to \$2,703,000. The ARD assessed penalties in 32 of the 36 cases.

**Table 8: Range of Penalties for the ARD Universe**

Penalty Range	Number of Cases
\$0 - \$50,000	28
\$50,001 - \$100,000	3
Over \$100,000	5

#### Michigan

The Michigan universe was 31 cases. The penalties in the Michigan universe ranged from \$0 to \$532,000. Michigan officials assessed penalties in 28 of the 31 cases.

**Table 9: Range of Penalties for Michigan Universe**

Penalty Range	Number of Cases
\$0 - \$50,000	23
\$50,001 - \$100,000	4
Over \$100,000	4

### Indiana

The Indiana universe was 40 cases. The penalties in the Indiana universe ranged from \$0 to \$572,000. Indiana officials assessed penalties in 39 of the 40 cases.

**Table 10: Range of Penalties for Indiana Universe**

Penalty Range	Number of Cases
\$0 - \$50,000	34
\$50,001 - \$100,000	3
Over \$100,000	3

### Illinois

The Illinois universe was 16 cases. The penalties in the Illinois universe ranged from \$0 to \$1,300,000. Illinois officials assessed penalties in 15 of the 16 cases.

**Table 11: Range of Penalties for Illinois Universe**

Penalty Range	Number of Cases
\$0 - \$50,000	14
\$50,001 - \$100,000	1
Over \$100,000	1

## OIG AND GAO REPORTS

### OIG

Review of Region 5's Stationary Source of Air Pollution Compliance and Enforcement Program (EPA-IG E1K67-05-0449-80743, March 11, 1988).

Capping Report on the Computation, Negotiation, Mitigation, and Assessment of Penalties Under EPA Programs (EPA-IG E1G8E9-05-0087-9100485, September 27, 1989).

Follow-up Review on EPA's Mitigation of Penalties (EPA-IG E1GMG4-05-6009-4400107, September 15, 1994).

### GAO

Air Pollution: Improvements Needed in Detecting and Preventing Violations (GAO/RCED-90-155, September 27, 1990).

Environmental Enforcement: Penalties May Not Recover Economic Benefits Gained by Violators (GAO/RCED-91-166, June 17, 1991).

Air Pollution: EPA Data Gathering Efforts Would Have Imposed a Burden on States (GAO/AIMD-95-160, August 7, 1995).

## STATE COMPLIANCE ASSISTANCE ACTIVITIES

Within Region 5, two of the four states we visited, Indiana and Illinois, had broad reaching programs to small businesses. The Indiana state legislature and an Illinois Governor's task force authorized the states to pursue these programs. The programs were extensions of small business assistance programs already established under the Act. The small business programs maintained contact with local chambers of commerce and small business development centers to help distribute information to the regulated community. These compliance assistance efforts took those existing small business assistance programs one step further. Not only did the state programs provide information, they now provided businesses the opportunity to come forward and learn how to bring their operations into compliance with environmental regulations.

### INDIANA FIVE STAR RECOGNITION PROGRAM

Indiana developed a compliance assistance program for dry cleaners. The program started with a grant to the Indiana Dry Cleaning and Laundry Association. The association developed a manual that included all regulations (EPA, Occupational Safety and Health Administration, and Department of Transportation) affecting dry cleaners. After the dry cleaner industry was aware of the regulations, through distribution of the manual, Indiana staff members encouraged owners and operators to apply for certification under the Indiana Five Star Recognition Program.

The program had five levels, ranging from five stars, the most environmentally friendly dry cleaning process, to one star programs that met and exceeded the minimum applicable regulations. To qualify for five stars, a dry cleaner had to do the majority of their cleaning using wet processes. These processes do not use perchloroethylene (perc), a toxic chemical subject to National Emission Standards for Hazardous Air Pollutants. New technology reduces dry cleaner reliance on perc. However, many dry cleaners are still using older equipment that uses perc.

Indiana staff hoped that dry cleaner owners and operators would see the Five Star Program as an opportunity to market themselves as environmentally friendly to their customers. When the five star designation is awarded, Indiana issues a press release and holds a press conference. The Indiana Department of Environmental Management Commissioner or Deputy Commissioner also awards a plaque. Dry cleaners can use these as marketing tools.



Indiana's Five Star Recognition Program created competition in Evansville, Indiana, over which dry cleaner was the most environmentally friendly. There were two major dry cleaners in Evansville. Both applied for and were awarded the five star designation. The two five star dry cleaners competed over where the press conferences would be and whose would be first. The local news media attended the press conferences, along with the Mayor.

Indiana officials believed their program was a success. As of March 1996, Indiana had awarded 114 star designations, representing about 14 percent of Indiana's 800 dry cleaners.<sup>15</sup> Dry cleaner associations from four other states were considering obtaining the Indiana dry cleaner manual. About 15 additional states were considering adopting an incentive program similar to Indiana's program.

Indiana officials have not asked Region 5 officials to take a position on the Indiana Five Star Program nor have Region 5 officials evaluated it. Therefore, they do not have a position on it.

#### **ILLINOIS CLEAN BREAK AMNESTY PROGRAM**

Illinois piloted a program offering amnesty to small businesses that identified violations and entered a compliance agreement.<sup>16</sup> The Governor of Illinois created a Small Business Environmental Task Force. The task force reported that the small business community was afraid of not complying with environmental regulations because they did not know which applied to their businesses. As a result, the Illinois Environmental Protection Agency and others (such as the Illinois Department of Commerce and Community Affairs and the Rockford Area Chamber of Commerce) developed a pilot amnesty program. The pilot program was limited to small businesses located in two counties. It started with educational outreach and then offered amnesty, if the participating company entered a compliance agreement.

The program promised anonymity to the company until they signed a compliance agreement. Illinois staff members hoped that anonymity and amnesty would encourage participation and

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<sup>15</sup>The star designations were: 28 Five Star, 32 Four Star, 52 Three Star, 1 Two Star, and 1 One Star.

<sup>16</sup>The amnesty meant that Illinois would not assess or collect any penalties for the violations brought forth, nor would they refer the violator to enforcement officials.

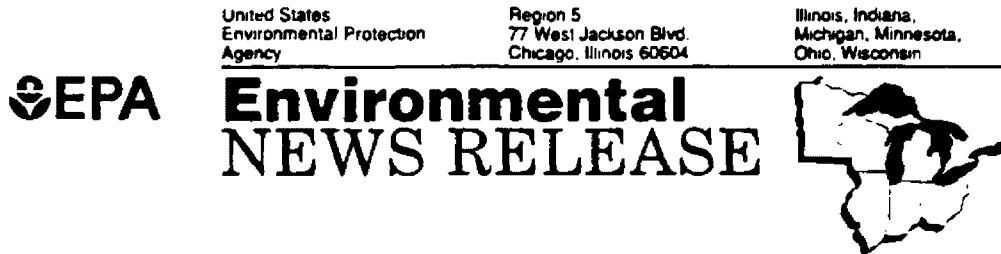
trust of Illinois environmental officials. One hundred and five companies expressed interest in participating. In the end, 42 of the eligible companies decided to enter compliance agreements. Compliance agreements included: (1) the violations, (2) the steps and a time line to achieve compliance, and (3) an Illinois commitment not to refer the client for enforcement action (amnesty).

Illinois personnel estimated that, had they referred the amnesty violators for enforcement actions, they could have assessed \$482,000 in penalties. Illinois could have viewed the penalties as a missed opportunity. However, according to Illinois officials, they would have had to identify all 42 companies and the violations through the course of their regular work. It is not likely that they would have found all of the violators (all small businesses) and all of the violations without the amnesty program.

Illinois staff members evaluated the pilot program, interviewed participants, and decided the program was a success. As a result, Illinois offered the program throughout the state for the printing industry and auto body and repair shops.

As of July 1996, OECA officials were reviewing Region 5's proposed position on the Illinois Clean Break amnesty program. Region 5 officials generally supported the program. However, they were concerned that the program may not have a mechanism in place to follow-up with companies that did not take advantage of the state offered amnesty and compliance assistance.

**EXAMPLE 1: REGION 5 PRESS RELEASE**



Technical Contact: Emmett Keegan  
(312) 886-0678

Legal Contact: Jeffrey Cox  
(312) 353-3112

Media Contact: Anne Rowan  
(312) 886-7875

For Immediate Release: March 24, 1994

No. 94-MO51

**EPA, EAST CHICAGO REACH AGREEMENT ON INCINERATOR VIOLATIONS**

U.S. Environmental Protection Agency (EPA) Region 5 has recently signed a consent agreement and consent order with the City of East Chicago, IN, to resolve Clean Air Act violations at the East Chicago Municipal Incinerator.

The order requires the permanent shutdown of the incinerator to resolve EPA's two outstanding notices of violation. (The facility was closed on November 11, 1993.)

EPA cited the facility in February 1992 for violating the emission limit for opacity. In August 1993, EPA cited the city for additional opacity violations and for failing to respond in a timely, complete manner to an EPA request for information.

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EXAMPLE 2: REGION 5 PRESS RELEASE



United States  
Environmental Protection  
Agency

Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604

Illinois, Indiana,  
Michigan, Minnesota,  
Ohio, Wisconsin

**Environmental  
NEWS RELEASE**



Technical Contact: Denny Dart  
(312) 886-1426

Legal Contact: Patricia Cosgrove  
(312) 886-6722

Media Contact: Anne Rowan  
(312) 886-7857

For Immediate Release: October 20, 1993

No. 93-M222

**EPA CITES LTV STEEL FOR AIR VIOLATIONS**

U.S. Environmental Protection Agency (EPA) Region 5 has cited LTV Steel Co. for air violations at its Southeast Chicago facility at 116th Street and Burley Avenue.

EPA alleges in a notice of violation that the emissions from the combustion stack at LTV's coal battery have exceeded the allowed limits for particulate matter (smoke, soot). According to stack tests, LTV is emitting particulate matter almost three times over the limit.

"EPA is committed to improving environmental conditions in Southeast Chicago, an area long-plagued by pollution," said Regional Administrator Valdas V. Adamkus. "No community should have to bear disproportionate risks--everyone is entitled to clean air, water, and land."

- more -

- 2 -

EPA can issue an administrative penalty order or bring a civil action for violations of the Clean Air Act. LTV has requested a meeting with EPA to discuss the allegations.

Particulate matter can irritate the human respiratory system. The elderly, children, and people with existing respiratory and cardiovascular ailments are most at risk. In addition, particulate matter can contribute to urban haze and reduce visibility.

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## TOP BARRIERS TO EFFECTIVE AIR ENFORCEMENT

As part of our audit, we discussed barriers that prevented the states and the ARD from having effective air enforcement programs. During our survey, we met with Illinois and Wisconsin air enforcement officials. Based on this work, we selected identifying barriers to effective enforcement as one of our audit objectives. During our audit fieldwork, we asked Indiana and Michigan officials about their barriers. We performed similar work in the ARD, including surveying a sample of ARD engineers. Table 12 shows the top three barriers to effective enforcement, as the ARD and the states ranked them.

**Table 12: Top Three Barriers  
To Effective Air Enforcement Programs**

Barrier	ARD	Indiana	Michigan
1	Detecting Violations	Unsupported Enforcement Actions	Limited Resources
2	Slow Enforcement Process	Weak State Rules	Untimely Permits
3	Political Climate	Local Agencies	Political Climate

### ARD BARRIERS

In January 1996, an ARD official identified the following three barriers to air enforcement.

#### 1. Detecting Violations

Violators first must be found for enforcement officials to bring enforcement actions and deter the regulated community. The companies must believe that the ARD or the state will find them if they violate the law. According to an ARD official, the best way to find violations is through continuous emission monitoring. The monitoring involves having machines constantly measure the pollutants a company releases. The Act required enhanced monitoring using continuous emission monitors, but industry pressure has been eroding the effectiveness of the requirement. For example, the ARD official said only one half of all Region 5 refinery emission points had continuous emission monitors. The ARD or the states must inspect the remaining points to find

violations. Continuous emission monitors put the burden of identifying the violation on the company. Without the monitors, the burden is on EPA and the states to find the violations.

## **2. Slow Enforcement Process**

See chapter 5.

## **3. Political Climate**

An ARD official also said the current national political climate affected the air enforcement program. He thought the regulated community recognized that they could exert influence over regulations and the enforcement process. Representatives of many companies called or wrote their Congressional representatives after the EPA issued an enforcement action against them. Doing this delays the process and takes the negotiations to a higher level. For example, the ARD had brought an enforcement action against a state university. Shortly after that, a United States Senator and congressional staff met with the EPA Administrator. As a result, negotiations were elevated to a higher level, reducing the ARD's control and influence over the negotiations.

Some ARD engineers agreed the political climate was a barrier. They said companies believed they were better off meeting with Congress or EPA Headquarters, rather than dealing with the ARD enforcement staff.

## **INDIANA BARRIERS**

In September 1995, Indiana's Acting Director for the Office of Enforcement and Acting Chief for the Air Enforcement Section identified barriers.

### **1. Unsupported Enforcement Actions**

Indiana officials did not feel they had strong support for enforcement actions. This included the state Attorney General's Office and the ARD not acting on cases.<sup>17</sup> It also included a lack of state support for commissioner's orders.

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<sup>17</sup>According to Indiana officials, the ARD did not usually act timely on cases Indiana referred to them. See chapter 5.

The Indiana enforcement officials said they did not get adequate support from the state Attorney General's Office. However, they were hopeful this would improve because the Attorney General's Office had a new Environmental Branch director. As of February 1996, the relationship had begun to improve. The attorneys from both the Attorney General's Office and Indiana began having monthly coordination meetings. Because Indiana officials had not received cooperation from the Attorney General's Office in the past, they seldom referred cases to them. Instead, Indiana officials tried to settle cases administratively.

Finally, Indiana officials said the Administrative Law Judges and the Indiana Air Pollution Control Board rarely sided with Indiana when a company disputed a commissioner's order. This made Indiana try to settle cases administratively, thus avoiding the Administrative Law Judge and Pollution Control Board's involvement.

## **2. Weak State Rules**

The Indiana officials said the state's rules were ambiguous, making them difficult to enforce. They believed poorly written rules were a result of having rule writers that did not obtain input from the technical staff. They also acknowledged that it was difficult to write rules to fit all situations and scenarios. To help solve this problem, Indiana began getting industry representatives involved in the rule writing process.

## **3. Local Agencies**

The Indiana officials said they needed to provide better oversight of the local agencies. They also said that the ARD could help them, particularly in training the local inspectors. See chapter 5.

## **MICHIGAN BARRIERS**

Michigan's Compliance and Enforcement Section Supervisor and Enforcement Unit Chief identified the following three barriers, in September 1995.

### **1. Limited Resources**

Michigan faced limited compliance resources. Michigan officials said that there were not enough resources available to identify and take enforcement actions on all violations. The



officials noted that, although their resources for compliance and enforcement had increased in recent years, the increases were for the permitting program, not inspections.

## **2. Untimely Permits**

Michigan officials said the state's permit process was too time consuming and a backlog existed. This delayed enforcement actions when a permit needed to be issued to resolve a violation. During our file reviews, we found the following examples:

- A company installed and operated a spray booth without a permit. Michigan identified the violation in April 1983. However, Michigan personnel did not act until May 1990. At that point, they began a dialogue with the company that lasted five years. The original permit application the company submitted in July 1990 was not complete. However, it was not until January 1992 that Michigan permitting staff wrote to company representatives asking for more information. The company representatives requested a time extension and failed to respond to requests for information. This continued until Michigan enforcement personnel threatened EPA involvement. That persuaded the company representatives to settle quickly. The Michigan permitting staff finally issued the permit in September 1994. In March 1995, the enforcement action was completed.
- Michigan sent a letter of violation to a company, in August 1992, stating that the company had installed and operated paint spray booths without a permit. In November 1992, the company submitted a permit application. Part way through the permitting process, in April 1993, the company decided to change the activities that it needed the permit for. As a result, the permitting staff put the permit on hold until the company made its changes, in January 1994. Michigan permitting staff finally issued the permit in April 1995, almost three years after the state notified the company it needed the permit. Michigan enforcement officials then resolved the case the week after the permit was issued.

## **3. Political Climate**

The political climate affected the enforcement program as a whole and specific cases at Michigan. For example, as discussed in chapter 4, Michigan personnel did not publicize every enforcement action because they did not want their enforcement program to appear heavy handed. Publicizing cases for minor violations, according to Michigan officials, "... could lead

to additional scrutiny of the program, interference by legislators or others in specific settlement negotiations, or changes in the law to reduce penalty amounts or other enforcement authorities." Direct political involvement made it difficult for Michigan officials to settle some cases. For example, in an enforcement action against one company, a copper mine located in the upper peninsula of Michigan, local politicians became involved. The company was exceeding its permitted emission limits. In 1992, the EPA identified this company as the top polluter of toxics in the state. According to a newspaper article, local politicians tried to convince the Michigan Attorney General's Office not to enter a lawsuit against the company. The local politicians also urged individuals to write the Attorney General and their state legislators protesting the lawsuit. They were very concerned that the lawsuit would cause the mine to close, affecting more than 1,000 employees. This made it difficult for Michigan staff to pursue the enforcement action. Eventually, the ARD and others became involved and reduced the case's political effect on Michigan.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

MEMORANDUM

DATE: AUG 22 1996

SUBJECT: Draft Audit Report No. E1GAF5-05-0045-xxxxxx  
Region 5's Air Enforcement and Compliance  
Assistance Program

FROM: *for Michelle D. Jordan*  
Valdas V. Adamkus  
Regional Administrator

TO: Anthony C. Carrollo  
Divisional Inspector General for Audits  
Northern Division

Thank you for the opportunity to review and comment on Draft  
Audit Report No. E1GAF5-05-0045-xxxxxx, Region 5's Air  
Enforcement and Compliance Assistance Program. The attached  
represents a coordinated response.

*Michelle D. Jordan*  
*for* Valdas V. Adamkus

Attachment

The following represents a coordinated response to the draft audit report entitled "Region 5's Air Enforcement and Compliance Assistance Program", Report No. E1GAF5-05-0045. This response has been coordinated with Region 5's Office of Public Affairs, Office of Regional Counsel, and Office of Enforcement and Compliance Assurance, as appropriate. To the extent that the above entities have submitted comments in response to earlier drafts, those comments will not be repeated here. Following is our specific response to Chapters 2-6 and their associated recommendations.

#### Chapter 2

Generally, we concur with the thoughts expressed in this chapter and the recommendations. Specifically, in response to Recommendation 1, Region 5's Enforcement and Compliance Assurance Team commits to have in place, by September 1, 1996, a Regional Compliance Assistance Strategy which will put in place elements of infrastructure which will routinize assistance provided in conjunction with new regulations and actively market policies encouraging voluntary compliance. Additionally, the strategy will contain a specific plan for compliance assistance projects which will be conducted during FY '97. These projects will provide a clear near-term direction for the region's activities and include associated performance measures. Based on the success of these initial projects, annual development of compliance assistance projects will occur. In response to Recommendations 2 and 3, the Enforcement and Compliance Assurance Team commits to provide training to affected regional staff generally on the role of compliance assistance in the region's activities and specifically on the Regional Compliance Assistance Strategy. The Air and Radiation Division's affected management and staff will be full participants in that training. This training will be conducted by January 1, 1997.

#### Chapter 3

Generally, we concur with the main themes and the recommendations expressed in this chapter. However, we must point out that although the concept of recovering the economic benefit is solid, there may be a number of valid methods for calculating this value. EPA's Civil Penalty Policy, itself, can yield a number of vastly different results based on judgements made concerning a similar set of facts. Specifically, in response to Recommendation 1, the Air and Radiation Division commits to include a discussion of recovery of economic benefit in state enforcement agreement/MOA talks. We will also work through Region 5's Office of Enforcement and Compliance Assurance to seek inclusion of this element in EnPPA discussions. Many of these discussions have begun as of this writing. Our target date for concluding these discussions is January 1, 1997. With respect to Recommendation 2, it is not clear at this point whether the states of Illinois and Indiana wish to have 114 authority delegated for the purpose of being able to secure information to enable economic benefit penalty determinations. Should these states decide that they would like to take this delegation, the Air and Radiation Division commits to processing their request within 60 days. For the time being, the Air and Radiation Division will continue to offer and provide assistance relating to penalty calculations to all Region 5 states in support of their enforcement cases.

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Chapter 4

We concur with the main theme of Chapter 4 and also with the recommendations. Specifically for Recommendation 1, in addition to the streamlining implemented during fiscal year 1996, in the Office of Public Affairs, beginning in Fiscal year 1996, the Air and Radiation Division limited formal sign-off on draft press releases to the section chief level. Additionally, the Office of Public Affairs has taken a more active role in the initial drafting of press releases, for the purpose of minimizing rewrites.

With respect to Recommendation 2, the Office of Public Affairs is currently developing a Regional press release policy, which will be broadly distributed in the Regional office. A major section of this policy will include guidance, developed jointly between the Office of Public Affairs and the Regional Enforcement and Compliance Team, on which enforcement actions to publicize. Having such a policy in place should result in more consistent issuance of press releases on appropriate enforcement cases. The policy also will include guidance on deciding when an action is newsworthy, guidelines on timeliness, and guidance on the inclusion of environmental impact. The Regional press release policy will be completed and distributed in the first quarter of FY 1997. Concerning Recommendation 3, the Air and Radiation Division commits to discuss publicizing press releases during the fiscal year 1997 cycle of state enforcement agreements/MOAs and also to raise the issue to the Region's Office of Enforcement and Compliance Assurance for possible inclusion in EnPPA discussions. It should be noted that past practices in the states, as well as deep philosophical differences on the desirability of publicizing enforcement activities make uniformity here unlikely.

Chapter 5

We concur with the general themes of this chapter and with the recommendations. Concerning Recommendation 1, the Air and Radiation Division will commit to the following actions:

- By October 1, 1996, we will contact each of our states to determine, specifically, what information they feel they are not receiving in a timely fashion. We will complete any warranted changes resulting from those calls no later than December 30, 1996.
- We will provide the Significant Violators Report to states on a monthly basis. This report contains information on cases at all stages.
- We will conduct conference calls every 4-6 weeks with our states and will be prepared to discuss Federal lead cases at the call or will initiate a follow-up call to provide supplemental information.

For Recommendation 2, the Air and Radiation Division, in conjunction with the Office of Regional Counsel will continue the evaluation of the enforcement process during fiscal year 1997, with the intent of implementing measures which will streamline our activities. Specifically,

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we will commit to the following:

- We will initiate discussions with the Department of Justice for the purpose of exploring ways to streamline the referral process, by August 31, 1996.
- We will revise our enforcement checklist for the purpose of improving initial case preparation, thereby obviating the need for remedial information gathering. This will be completed by September 30, 1996.
- We will expand the use of abbreviated Notices of Violation.
- We will discuss with the Office of Regional Counsel, the continuation of the pilot case review panel, which facilitates case planning. This will occur by September 30, 1996.
- We will encourage the Region to follow-up on the package of enforcement delegations which was sent to EPA Headquarters on September 28, 1995 and is still awaiting their action. These delegations were intended to shorten the signature chain for various enforcement actions.

Concerning Recommendation 3 and 4, the Air and Radiation Division will commit to include discussions of timeliness of enforcement activities, as well as, the need for stipulated penalties and injunctive relief in the fiscal year 1997 cycle of state agreement/MOA discussions. We will also raise these items to Region 5's Office of Enforcement and Compliance Assurance for possible inclusion in the EnPPA discussions. For Recommendation 5, we will reiterate our offer to our states to assist them in any training or oversight activity directed at their local agencies, and also express our willingness to consider action for cases referred to us. We will communicate this to the states by September 30, 1996.

Chapter 6

Generally, we concur with the main themes of this chapter and the associated recommendations. Specifically, in response to Recommendation 1, by January 1, 1997, we will review the Timely and Appropriate Guidance with our states. Concerning Recommendation 2, during the fiscal year 1997 cycle of state performance agreements/MOAs we will encourage all of our states to develop, update and maintain electronic means of transmitting data to the AFS system. For Recommendation 3, it is now the case that significant violators designated as Federal lead are, in fact, actively being worked on by Air and Radiation Division staff, thereby achieving the desired definitional consistency. This does not necessarily mean, however, that all state activity has ceased. For Recommendation 4, we have engaged in many discussions over the past year with headquarters regarding their data needs and implementing systems. We will reiterate our concerns at the upcoming AFS Workshop which will be conducted September 17-19, 1996.

## ABBREVIATIONS

Act	Clean Air Act, as amended in 1990
AFS	Aerometric Information Retrieval System Facility Subsystem
AIRS	Aerometric Information Retrieval System
ARD	Air and Radiation Division
EPA	Environmental Protection Agency
EPA Penalty Policy	Environmental Protection Agency Stationary Source Civil Penalty Policy
GAO	General Accounting Office
Illinois	Illinois Environmental Protection Agency
Indiana	Indiana Department of Environmental Management
Michigan	Michigan Department of Environmental Quality
NAPA	National Academy of Public Administration
NOV	Notice of Violation
OECA	Headquarters' Office of Enforcement and Compliance Assurance
OIG	Office of Inspector General
OPA	Office of Public Affairs
ORC	Office of Regional Counsel

Perc	Perchloroethylene
Region 5 OECA	Region 5 Office of Enforcement and Compliance Assurance
Wisconsin	Wisconsin Department of Natural Resources



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