

MEMORANDUM

To: CalEPA Staff



From: Yana Garcia
Secretary for Environmental Protection
California Environmental Protection Agency

Date: April 13, 2023

Subject: Environmental Enforcement Priorities

The mission of the California Environmental Protection Agency (CalEPA) is to restore, protect, and enhance the environment. Every Californian deserves to live, work, and recreate in a clean and safe environment. Robust enforcement is essential to achieving that goal. Disadvantaged communities in California continue to suffer disproportionately from pollution burdens. To address these longstanding, complex problems, CalEPA's enforcement work must be equity-centered and solution-oriented. This memo establishes three pillars that should guide the enforcement work occurring throughout CalEPA: (1) equity-centered enforcement; (2) cross-agency coordination and collaboration; and (3) utilization of all available enforcement tools.

Equity-Centered Enforcement

Some communities in California continue to be particularly vulnerable to and impacted by pollution. Ensuring compliance in these communities is of the utmost importance and must be a priority throughout CalEPA's enforcement programs. To fully integrate equity into enforcement efforts, CalEPA's BDOs should exercise enforcement discretion in a manner that prioritizes overburdened communities; focus on solving problems identified by residents in overburdened communities; and increase communication about enforcement matters to enhance transparency.

To pursue enforcement that is solution oriented and centered around the needs of overburdened communities, CalEPA will dedicate Environmental Justice Task Force resources to enhanced, sustained engagement with Identifying Violations Affecting Neighborhoods (IVAN) networks and other community-led forums that are focused on environmental violations. This solution-oriented engagement will allow us to work across governmental silos to share information, identify community priorities, and remedy the problems that are most pressing for residents.

To facilitate more transparent communication, CalEPA recently released a guidance for sharing enforcement information with communities. CalEPA's BDO enforcement staff are encouraged to consult the guidance and share as much information as possible with residents in communities impacted by environmental violations.

Cross-Agency Collaboration and Coordination

Effective, wholistic environmental enforcement requires collaboration and coordination with local, state, and federal enforcement partners. Collaboration should be baked into the enforcement workstreams at CalEPA's BDOs, occurring daily and not as an afterthought. Efforts to enhance collaboration should include strengthening relationships with local enforcement partners like Certified Unified Program Agencies, Agricultural Commissioners, Air Districts, and Local Enforcement Agencies, as well as local prosecutors and counsel; creating strategic partnerships with sister state agencies and the Attorney General's Office; and coordinating and collaborating with federal partners.

To enhance collaborations, CalEPA will continue to prioritize implementation of its Memorandum of Understanding with USEPA Region 9 focused on improved enforcement in overburdened communities. Beyond close coordination with USEPA, the solution-oriented efforts embodied in the MOU and described in the CalEPA-USEPA Region 9 2023 Environmental Justice Enforcement Action Plan will require collaboration and partnership by CalEPA's BDOs with each other and also with outside state and local agencies.

Utilization of All Enforcement Tools

There are a wide variety of enforcement tools available to help ensure CalEPA's enforcement programs are consistent, effective, coordinated, and equitable. CalEPA urges its BDOs to consider the full suite of available tools when proceeding with enforcement to maximize our effectiveness.

Key enforcement approaches that CalEPA's BDOs should regularly utilize include incorporating community-based science and real-time monitoring data, traditional ecological knowledge, and participatory research in information gathering efforts that support enforcement actions; referring matters for criminal prosecution when necessary to punish and deter significant environmental violations; utilizing the CalEPA complaint system by thoroughly investigating all complaints and following up with complainants; and expanding training and cross-training opportunities.

Additionally, CalEPA's BDOs should prioritize integration of supplemental environmental projects (SEPs) into settlements to address environmental harms suffered by communities. When pursuing SEPs, CalEPA encourages enforcement staff to consult with impacted communities to ensure investments are designed to address residents' needs. Consultation is particularly important when settlements resolve or relate to concerns raised in IVAN networks and other community-led enforcement forums, as these community partners are likely to have knowledge and expertise that can assist in selection or formulation of effective SEP concepts.

Even with the use of all available tools, enforcement sometimes fails to remedy communities' pollution-related concerns. Land-use decisions can create situations where fully compliant facilities still burden communities and our legal requirements can fall short. To enable a truly forward-leaning enforcement program, CalEPA urges the BDOs to document instances where our enforcement tools are inadequate to remedy community concerns, pursue creative near-term solutions, and investigate opportunities to strengthen enforcement tools to close gaps.

Conclusion

Enforcement of environmental laws is essential for protecting public health and the environment, creating a level playing field for businesses, and giving meaning to our precedent-setting environmental laws. By pursuing solution-oriented enforcement that is equity-centered, collaborative, and comprehensive, we can also work towards a California where pollution burdens do not disproportionately impact disadvantaged communities and where all people are able to live, work, and recreate in a clean and safe environment.