

ENVIRONMENTAL JUSTICE ENFORCEMENT ACTION PLAN

2024/2025

2024/2025 Environmental Justice Enforcement Action Plan

Memorandum of Understanding on Collaborative Efforts on Enforcement and Compliance Assurance in Overburdened Communities

Summary

On September 10, 2021, U.S. EPA Region 9 (USEPA) and California EPA (CalEPA) entered into a Memorandum of Understanding (MOU) on Collaborative Efforts on Enforcement and Compliance Assurance in Overburdened Communities. The MOU set a strategic direction and formalized a partnership between the state and federal government to focus on three areas: strategic targeting of inspections, enforcement actions, and community engagement.

After months of robust discussions with residents and advocates in overburdened communities across the state, USEPA and CalEPA finalized the 2023 Environmental Justice Enforcement Action Plan in November 2022. The Action Plan focused on three areas: (1) enhanced, sustained community engagement; (2) creation of a Rapid Response Task Force; and (3) development of tools for coordinated enforcement engagement. USEPA and CalEPA implemented the Action Plan throughout 2023, building relationships with pilot communities and experimenting with new enforcement approaches.

In December 2023, USEPA and CalEPA met with community stakeholders to gather feedback on implementation of the 2023 Action Plan. Stakeholders provided helpful insights and feedback, which helped the agencies understand what aspects of MOU implementation are working well and which should be improved. Considering feedback from community partners, USEPA and CalEPA created this new Action Plan to guide the agencies' civil and criminal enforcement approaches through 2025. Focal areas under the 2024/2025 Environmental Justice Enforcement Action Plan include:

- A renewed commitment to enhanced, sustained engagement with the five community forums focused on environmental violations that were piloted under the 2023 Action Plan.
- Institutionalization of the Rapid Response Task Force.
- Increased transparency and access to environmental compliance information.
- Strengthened connections, including enhanced opportunities for information sharing across communities and improved communication among program areas within agencies.

USEPA and CalEPA are committed to an iterative approach to conducting community-centered enforcement and will adapt our implementation of the 2024/2025 Action Plan in response to additional feedback. At the conclusion of the Action Plan, USEPA and CalEPA will again meet with community groups to gather input regarding the direction of future work under the MOU.

Enhanced, Sustained Community Engagement

A foundation of USEPA and CalEPA's efforts to improve environmental enforcement in overburdened communities is ensuring enforcement is responsive to community concerns. In recognition of this community-centered enforcement approach and the agencies' desire to build and grow community relationships, USEPA and CalEPA are renewing their commitment to enhanced engagement with the five community forums focused on environmental violations that were piloted during implementation of the 2023 Action Plan. These efforts are focused in:

- ❖ Los Angeles
- ❖ Fresno County
- ❖ Kern County
- ❖ Eastern Coachella Valley
- ❖ Bayview-Hunter's Point (San Francisco)



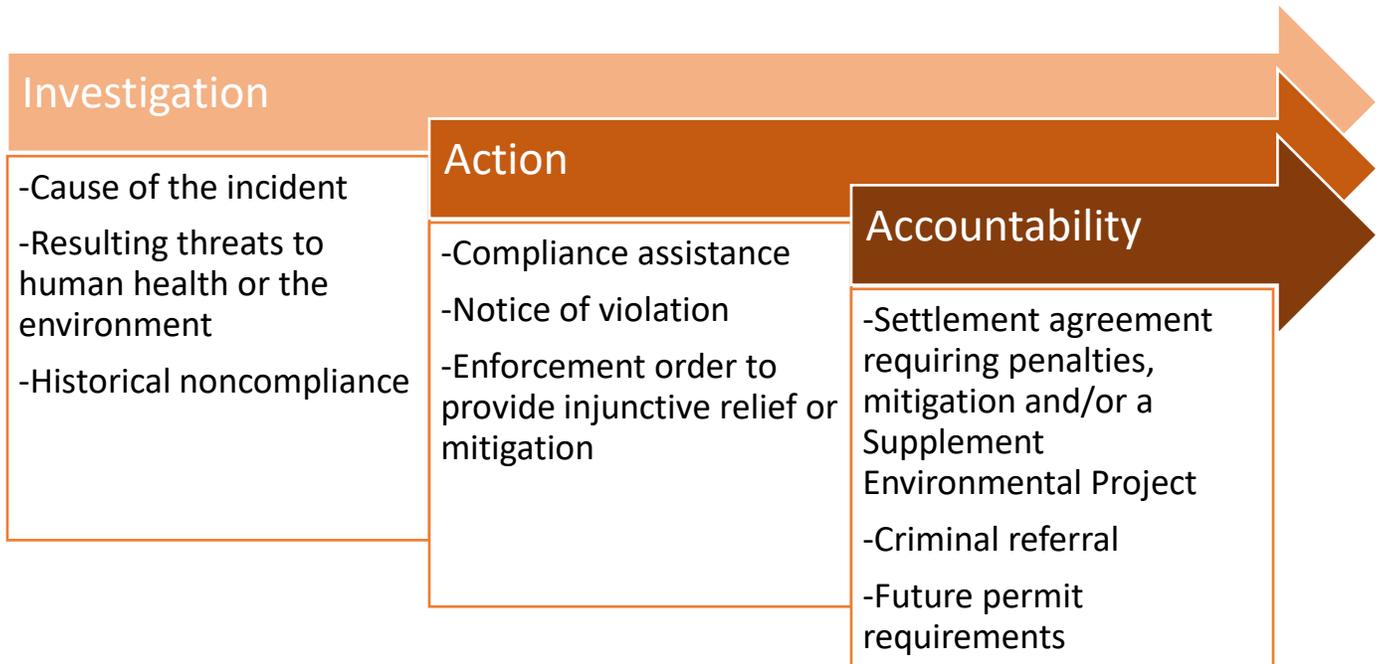
Through partnerships in each of these areas, regulators start with a community-first approach to strategic targeting and enforcement. USEPA and CalEPA attend monthly meetings to understand community concerns, follow up on all complaints, work across media (e.g., air, soil, water) and levels of government to seek solutions, and regularly communicate with the forum's participants regarding their progress and any challenges. USEPA and CalEPA may assess all civil and criminal tools at their disposal to determine the most appropriate actions to hold facilities accountable or refer them to the most appropriate authority.

In the first quarter of 2024, USEPA and CalEPA will coordinate with community partners to identify each community's highest priority environmental enforcement concerns. The agencies will use these priorities to focus their enforcement engagement, while also continuing to address new concerns as they emerge. By focusing on the top challenges identified by each partner community and pursuing investigations and resolutions that are tailored to addressing those challenges, the agencies seek to achieve results that tangibly benefit residents and the environment.

Rapid Response Task Force

On August 9, 2023, a fire was reported at Radius Recycling (formerly known as Schnitzer Steel) in Oakland. City firefighters promptly responded and were able to contain and neutralize the emergency. By the next day, fire crews were beginning to demobilize from the site, but the community was left with a host of questions about any persisting environmental threats from the incident and a lingering fear that, without significant regulator intervention, another fire could happen again at any time.

In response, USEPA and CalEPA set up its first Rapid Response Task Force (RRTF) to coordinate and expedite investigations, negotiate corrective actions, and demand accountability for environmental non-compliance. The RRTF also compiled and consolidated information and distributed it to regulators and to the public. The Radius Recycling RRTF served as the prototype for USEPA/CalEPA’s new Rapid Response Task Force tool. Elements and focus areas for an RRTF may include:



As part of this Action Plan, USEPA and CalEPA will stand up new Rapid Response Task Forces in overburdened communities in response to acute incidents of noncompliance or harm to human health or the environment. Either the USEPA Region 9 Enforcement and Compliance Assurance Division Director or the CalEPA Deputy Secretary for Law Enforcement and General Counsel may request establishment of a RRTF. The RRTF will be established immediately upon consent from both agencies.

Access to Compliance Information

Free sharing of environmental compliance information is the cornerstone of transparency between regulators and community members. Communities should be able to access compliance information easily, without having to be experts in navigating a multitude of federal and state databases. Accordingly, the Action Plan focuses on global and local improvements to support stronger information sharing.

Online Data Accessibility

USEPA consolidates environmental compliance data received by the agency into one public-facing database: [Enforcement History and Compliance History Online](#) (“ECHO”). CalEPA’s Boards and Departments maintain several additional databases with compliance and enforcement information, and many local agencies like Air Pollution Control Districts maintain additional, independent data systems. In California, there is not a single database that presents all environmental compliance and enforcement information, which can make it difficult for regulators and members of the public to obtain a comprehensive understanding of a facility or site.

As a step towards addressing this problem, USEPA and CalEPA will collaborate to create a public-facing crosswalk that describes all relevant databases and the compliance and enforcement information that can be obtained through those databases.

USEPA and CalEPA will also coordinate with residents and advocates in overburdened communities to provide trainings on how to use key databases to obtain compliance and enforcement information. The agencies will use the collaborate efforts to understand any shortcomings in their databases and will seek improvements to ensure community members can obtain desired information.

Finally, USEPA and CalEPA will work to ensure compliance and enforcement information is shared across local, state, and federal databases, as appropriate.

Activity Logs

The Activity Log tool was developed in the 2023 Action Plan to compile compliance, monitoring, and enforcement information from all relevant federal, state, and local environmental regulators at a single facility of concern and present that information through a single hand out. While Activity Logs are designed to be public facing, they also have the benefit of facilitating internal coordination and information sharing among regulators. The process of compiling Activity Logs serves as a call to action for regulatory agencies that may not have recently engaged with the focal facility.

This Action Plan renews USEPA and CalEPA's commitment to the Activity Log tool as a mechanism to share outwardly and coordinate internally. The agencies will also test new presentation formats with community groups to optimize the flow and value of information being presented through Activity Logs.

Cultivating Connections

USEPA and CalEPA's ability to respond to community concerns is greatly bolstered by the community's capacity for identifying and bringing environmental issues forward. Providing community groups with resources to better understand, communicate, and elevate issues is critical to the success of regulators.

Statewide Community Group Meetings

During a meeting regarding implementation of the 2023 Action Plan, USEPA and CalEPA received consistent feedback from community leaders regarding the benefits of meeting more frequently with the statewide group of community partners to discuss issues and efforts, learn from successes and failures, and build relationships.

In light of this feedback, USEPA and CalEPA are committing to host semi-annual meetings to discuss progress under the Action Plan and facilitate the sharing of information across communities. The agencies may consider conducting one or more of these meetings in-person or hybrid to encourage more meaningful connections across groups.

Multimedia Inspections

Effective inter-agency coordination is essential for conducting multimedia inspections. Under the 2023 Action Plan, USEPA and CalEPA developed a framework to guide such inspections, with a focus on improving

agency coordination in inspection preparation and execution and enhancing transparency and communication regarding inspection results.

USEPA and CalEPA will use the framework as a guide when conducting multimedia inspections pursued under this Action Plan. The agencies will refine and improve the approaches outlined in the framework as they learn from its implementation and seek to maximize the benefits of multimedia inspections for overburdened communities.

Partnering Protocols

In some instances, it may be most efficient for one agency to take a primary role in maintaining a relationship with a particular community to ensure responsiveness to a discrete issue or focal area. In this situation, rather than having all potentially relevant agencies engaged in every discussion, the lead agency can engage directly with community partners and bring in additional agencies when appropriate.



Alameda Corridor

As part of USEPA's national priority enforcement initiatives, the Agency has committed to identifying an Environmental Justice focus area within each region with at least three Environmental Justice supplemental indices scoring above the 95th percentile. Region 9 has selected the Mid Alameda Corridor area in Los Angeles, a 35 square mile area with nearly half a million residents.

USEPA will reach out to environmental activists, groups, and AB 617 communities in the area to receive input on challenges and investigate specific facilities or areas of concern. USEPA will serve as lead but partner with relevant state and local partners, as

appropriate.

West Oakland

The California Air Resources Board (CARB) has entered into a partnership agreement with West Oakland Environmental Indicators Project to address air quality impacts from mobile sources. Through this partnership, CARB will take the lead in investigating and communicating with local advocates and liaise back to USEPA, CalEPA, the Bay Area Quality Management District, and other regulators, as appropriate.

Beyond Enforcement

While the MOU and Action Plan focus narrowly on enforcement programs, there are problems that cannot be solved through regulatory compliance alone. Enforcement staff can play a critical role as liaisons to the rest of their organizations, facilitating access to financial, technical, and regulatory decision makers. As part of the Action Plan, USEPA and CalEPA enforcement staff will explore ways to improve communication between partner communities and agency staff that focus on:

Environmental Justice Funding

The federal Inflation Reduction Act provided approximately \$3 billion in funding for financial and technical assistance to carry out environmental and climate justice activities to benefit underserved and overburdened communities. CalEPA's Environmental Justice Action Grants program and several programs spearheaded by

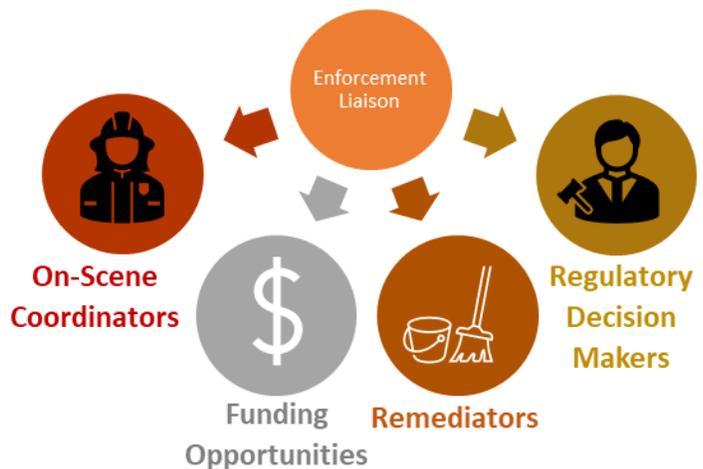
CalEPA's Boards and Departments also seek to increase funding for efforts to address environmental concerns in overburdened communities. While working with community partners, USEPA and CalEPA staff will collaborate with partners in Environmental and Climate Justice programs to see if funding and assistance opportunities may be available.

Infrastructure Funding

USEPA and California administer core infrastructure grant and loan programs which may be available to help resolve community challenges, especially related to deficiencies with utilities or service providers. Enforcement program staff may serve to facilitate conversation with internal partners on funding solutions.

Site Remediation and Reclamation

USEPA's Superfund Program and California's Department of Toxic Substances Control's Site Mitigation and Restoration Program work with responsible parties or on orphan sites to clean up contaminated land. Some of these sites may be close to regulated facilities or present cumulative impacts on already overburdened communities. Enforcement program staff may help coordinate with their restoration counterparts on communicating community challenges or potential overlapping impacts.



Emergency Response

When compliance is assessed after an emergency response incident, which may be the case with a Rapid Response Task Force, or in instances when emergency response resources may be necessary, enforcement staff will pursue enhanced coordination with On-Scene Coordinators and other emergency response personnel.

Enforcement staff will seek information that emergency response personnel acquire during the response effort to better inform compliance investigations or potential enforcement, and will also facilitate communication between emergency response personnel and community members.

Permitting and Rulemaking Authorities

While enforcement programs assess compliance with existing rules and permits, compliance histories may inform ongoing or future permitting or regulatory efforts, and communication among enforcement, regulatory, and permitting staff is essential. Moreover, for community members interested in understanding a facility or site in their neighborhood, agencies' failure to integrate enforcement, permitting, and regulatory information can leave residents with an incomplete picture. To help ensure effective communication within agencies and to provide residents with a wholistic understanding of agency activities at facilities, enforcement staff will directly share community concerns with staff working on permitting and regulatory efforts that impact priority enforcement facilities or sites.

Continuous Improvement

To be responsive to community concerns, it is critical that regulators adapt to evolving circumstances and embrace a philosophy of continuous improvement. No two communities or challenges are the same and, likewise, neither are the regulators. Being flexible, resilient, and willing to change course based on feedback from impacted community members may lead to deviations from the Action Plan, but will ultimately ensure the Plan's success.

Training

Environmental Justice cannot be embraced only by senior leaders or staff champions, but must be understood and practiced by inspectors and other staff throughout all levels of the organizations. Accordingly, USEPA and CalEPA will offer training for inspectors on how to imbed Environmental Justice into their routine work and how to engage should they be called upon in the efforts outlined throughout the plan. Additionally, the agencies will:

- Include Environmental Justice and community engagement in USEPA's Basic Inspector Training.
- Provide community engagement training for California Agriculture Commissioners.
- Provide community engagement training to US EPA, Cal EPA, and other state inspectors. Offer one training each in Northern and Southern California.
- Reach out to community partners to develop at least two community-specific trainings to fulfill local informational needs associated with compliance monitoring or enforcement.

Beta Testing

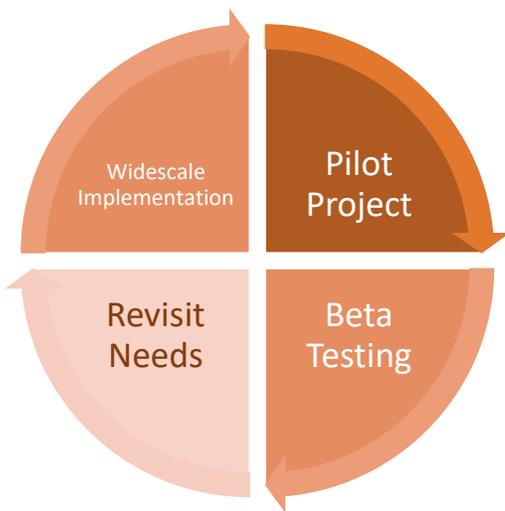
Although this is the second Action Plan under the MOU and several partnerships and tools have been carried over, USEPA and CalEPA recognize that the approaches and focus areas adopted throughout the document are still under development. While the first Action Plan included many "pilot" efforts, several of these, such as Enhanced Sustained Community Engagement, Rapid Response Task Force, and Activity Logs, have transitioned into a "Beta testing" stage, meaning they are being adopted by the agencies as effective tools with a recognition that the products will be continually improved upon as they become more widely utilized.

USEPA and CalEPA will evaluate whether these efforts are meeting their intended objectives to help inform whether they may be appropriate for larger-scale implementation or whether they need to be reworked and reexamined.

Evaluating Success

The people in the best position to define and evaluate the success of this Action Plan are the community members it serves. Each community partner will be encouraged to help develop and define specific results or outcomes they would like to see over the duration

of the Action Plan. Through regular participation in community meetings as well as the semi-annual statewide community group check-in meetings, USEPA and CalEPA will seek feedback on successes and opportunities for improvement.



Towards the end of 2025, USEPA and CalEPA will convene a meeting to gather comprehensive feedback on the 2024/2025 Action Plan before considering appropriate next steps and development of any future Action Plan under the MOU.