

# Strategic Civil-Criminal Enforcement Policy: U.S. Environmental Protection Agency April 17th Memorandum



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The United States Environmental Protection Agency (“EPA”) issued an April 17th memorandum addressing:

Strategic Civil-Criminal Enforcement Policy (“Memorandum”)

The Memorandum was transmitted from EPA Administrator for Enforcement and Compliance Assurance David M. Uhlmann to the following agency personnel:

- Regional Counsels and Deputies
- Enforcement and Compliance Assurance Division Directors and Deputies
- OECA Office Directors and Deputies
- OCEFT Special Agents in Charge and Assistant Special Agents in Charge

The stated purpose of the Memorandum is to:

- Encourage a strong partnership between the civil and criminal enforcement offices
- Formalize a policy that requires coordination of civil and criminal enforcement
- Promote collaborative strategic planning so that EPA exercises enforcement discretion fairly and consistently

The Memorandum opines that EPA has “in recent years”:

- Improved communication/coordination between civil and criminal enforcement offices
- Improved case screening and more consistent enforcement responses across regions
- Increased collaboration between offices so that criminal enforcement participates in the development of national initiatives/regional planning
- Managed more closely parallel proceedings to prevent enforcement delays

The policy described by the Memorandum requires the following measures:

- Increased collaboration between the civil and criminal enforcement programs on the development and implementation of EPA’s national and regional priorities, including the National Enforcement and Compliance Initiatives (NECIs) and regional strategic plans;
- Enhanced case screening to promote fairness and consistency and robust discussion of what enforcement option should be utilized to address violations, including whether parallel proceedings should be initiated, and continued coordination throughout each enforcement action to ensure those initial case choices protect public health and the environment;

- Improved case management through enhanced tracking of case screening that promotes information sharing about violations and ensures ready access to compliance histories and case developments, while maintaining enforcement confidentiality; and
- Updated training programs to ensure effective partnership between civil and criminal enforcement offices that include the requirements of this Policy, factors to consider in deciding whether to pursue criminal, civil, or administrative enforcement, and best practices for managing information sharing and parallel proceedings to prevent case delays.

An appendix to the Memorandum provides factors to consider for civil-criminal enforcement screening and engagement that include:

- How significant are the violations?
- What type of culpability is involved?
- What is the compliance history for the alleged violator?
- How would you characterize the sophistication and company size of the alleged violator?
- Does the matter involve a national or regional strategic priority?

A copy of the Memorandum can be downloaded [here](#).