

Forward for *EPA Compliance and Enforcement Answer Book 2013*

Environmental regulation and enforcement over the past thirty years has evolved from a barely significant effort undertaken primarily by a few federal agencies into a vast nationwide network of federal and state agencies. In the early years, most violations were not addressed. Drums of hazardous waste were abandoned, there were discharges of dangerous pollutants directly into waters, and harmful pesticides were routinely applied with little regard to their effects on human health and our ecosystem. The federal enforcement docket was primarily composed of straightforward and often significantly harmful matters. In the ensuing years, enforcement actions have become more effective, with increased government resources directed towards compliance and enforcement, the use of improved investigative techniques, and an enhanced public awareness and interest in protecting the environment.

As the U.S. Environmental Protection Agency enforcement program has developed and state enforcement programs have been created, civil and criminal enforcement of environmental matters has become routine, and blatant violations have become the exception rather than the rule. Today, matters being investigated and prosecuted involve more subtle and complex violations of environmental laws and regulations. For example, toxic materials and other pollutants are less likely to be discovered because they are most often discharged into sanitary sewer systems from inside a facility rather than being dumped directly into a storm sewer or other water body. Instead of disposal of hazardous wastes by burial or abandonment, illegal treatment and long-term storage is used to dispose of, or hide, hazardous wastes. Under the Clean Air Act, complex cases involving New Source Review, Prevention of Significant Deterioration, Air Toxics, New Source Performance Standards, and mobile source regulations are being emphasized instead of the common asbestos “rip and strip” cases which were more commonly the focus of investigations of the past.

Times have changed and environmental enforcement programs have evolved into a large government machine that can be on point and effective—or misguided and injurious, with results devastating to the targeted businesses and individuals. In either case, the government utilizes a wide range of resources to investigate enforcement matters, including inspectors, criminal investigators, regulatory experts, sampling technicians, chemists, agency enforcement attorneys, and civil and criminal prosecutors. Companies and corporate officials, often finding themselves at the mercy of government personnel and an unpredictable timetable, need their own resources to respond effectively.

This *EPA Compliance and Enforcement Answer Book* is an outstanding resource for corporate and outside counsel to better represent clients confronted with such environmental enforcement issues and liability. It is practical, comprehensive, informative, well-organized, and easy to read. The book uniquely covers a range of subjects related to the inner workings of the EPA that only former Agency enforcement attorneys can provide. It offers guidance on how to prepare for and weather government investigations.

The authors have extensive experience with EPA civil and criminal enforcement programs, state regulatory agencies, and the U.S. Department of Justice. Their experience, coupled with successful careers in the private sector, led to this unique guidebook. This work is not one of theory but practical application of information and processes for the benefit of the reader.

Often, the government has the upper hand with its teams of investigators, technical personnel, and lawyers assigned to enforcement actions. They operate from a government playbook and, if left

unchallenged, will move in their own direction using their own timetable. Companies and corporate executives being investigated need their own team of experts and an understanding of how the government operates in order to level the playing field. The *EPA Compliance and Enforcement Answer Book* provides comprehensive insider information and a road map to assist counsel in representing their clients.

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