



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

June 21, 2021

MEMORANDUM

SUBJECT: Strengthening Environmental Justice Through Criminal Enforcement

FROM: Lawrence E. Starfield
Acting Assistant Administrator

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STARFIELD** Digitally signed by
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Date: 2021.06.21
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TO: Senior Managers and Special Agents, Office of Criminal Enforcement, Forensics
and Training

Regional Criminal Enforcement Counsels, Offices of Regional Counsel

In his message to employees on Wednesday, April 7, 2021, the Administrator directed all EPA offices to “strengthen enforcement of violations of cornerstone environmental statutes” in communities overburdened by pollution.¹ This memorandum sets out steps to advance these environmental justice (EJ) goals via the criminal enforcement work performed by the Office of Enforcement and Compliance Assurance’s (OECA’s) Office of Criminal Enforcement, Forensics and Training (OCEFT) and the Regional Criminal Enforcement Counsels (RCECs), with technical assistance from their colleagues in other EPA offices.²

The criminal enforcement program can further environmental justice by strengthening tools for the detection of environmental crimes in overburdened communities, improving outreach to the victims of such crimes, and ensuring that our investigations are structured to provide maximum assistance to the Department of Justice (DOJ) in its exercise of prosecutorial discretion and pursuit of remedies that will guarantee adequate protection for those communities.

Strengthened Detection of Environmental Crimes in Overburdened Communities

Consistent with OECA’s policy on civil and criminal enforcement coordination,³ civil and criminal staff should maintain regular and open communications regarding increased facility inspections in overburdened communities.⁴ Effective civil-criminal coordination and case screening will ensure that

¹ [Administrator Michael S. Regan, Message to EPA Employees on Commitment to Environmental Justice](#) (Apr. 7, 2021).

² This memorandum complements the April 30, 2021, memorandum, [Strengthening Enforcement in Communities with Environmental Justice Concerns](#), setting out steps to advance EJ goals through civil regulatory enforcement. An additional memo will be issued on EJ considerations in the cleanup enforcement program.

³ See [Civil-Criminal Enforcement Coordination Policy](#) (Apr. 22, 2019).

⁴ Increased inspections are discussed in the April 30, 2021, memorandum. See footnote 2, above.

criminal case teams are apprised of violations involving potentially criminal conduct, increasing EPA's criminal investigative efforts in communities with EJ concerns.

OCEFT has used EPA's EJSCREEN mapping tool and other resources for over 20 years to identify the criminal investigations involving offenses that impact overburdened communities. To enhance EJ screening, case teams should use crime victim data and other relevant information to ensure the proper identification of individuals harmed by potential criminal violations in overburdened communities.

Cases with EJ concerns should be tracked in the OCEFT case management system, and the impact of pollution on vulnerable communities should be reviewed regularly to inform ongoing investigative resource investments.

Improving Outreach to Crime Victims

EPA has partnered with DOJ to improve attention and support to the victims of environmental crimes, creating the *Environmental Crime Victims Assistance Program*. These efforts have spotlighted the fact that many environmental crime victims live in communities with EJ concerns. Additional barriers to early identification and notification of crime victims exist in these communities, which may result in a delay of, or failure to access, services to which victims of crimes are legally entitled.

OCEFT has helped develop an Environmental Justice Workgroup comprised of staff from OCEFT, RCECs, EPA's Office of Environmental Justice (OEJ), and DOJ's Environment and Natural Resources Division, who are working to further integrate crime victim and environmental justice considerations into every environmental criminal investigation and prosecution. Workgroup members are updating the current OCEFT EJ directive to include the enhanced screening of relevant information on all criminal cases in communities with EJ concerns and the sharing of that information with the Regional EJ Coordinators.

The EJ Workgroup will conduct additional training for EPA and DOJ staff on the use of EPA's EJSCREEN mapping tool and the identification of crime victims. Training is also planned for OEJ and the Regional EJ Coordinators on the criminal enforcement process, and we will enhance the coordination between criminal investigators and regional EJ staff.

In addition, OCEFT is looking at creative ways to conduct direct outreach to potential crime victims in overburdened communities using a social media platform that can disseminate information relating to pollution, victims' services, and the status of criminal enforcement cases directly to the households harmed by alleged criminal conduct. This tool will enable criminal program staff to contact communities directly impacted by pollution and to share information and resources available to assist victims and the community.

Successful engagement with victims and communities will not only fulfill the requirements of federal crime victim statutes but also strengthen EPA's criminal enforcement outcomes by providing courts with first-person accounts describing the harms inflicted by environmental crimes.

Enhancing the Remedies Sought in Environmental Crime Cases

EPA's enforcement work is critical to protecting human health and the environment. It is important that our investigations are structured to ensure that prosecutions will generate remedies that yield meaningful

protection for communities and address the harm caused by criminal offenses. Working with our DOJ and other case team partners, we will strive to:

- Prevent subsequent pollution crimes in communities, which means that punishment for environmental crimes must be sufficient to achieve the goal of deterrence. EPA personnel should therefore investigate cases not only to determine and prove elements of the crimes' commission, but also to equip prosecutors to advocate for the appropriate application of federal Sentencing Guidelines.
- Seek conditions of probation or supervised release whenever necessary to ensure compliance and provide communities with sufficient information to be assured that illegal pollution is not recurring. Criminal enforcement case teams should therefore be prepared to urge prosecutors to seek sentences imposing advanced monitoring, audits and/or court-appointed monitors, and electronically and publicly reported compliance data, especially in corporate prosecutions involving ongoing businesses.⁵
- Seek restitution and/or community service to redress harm from the offense. These should be standard components of a criminal sentence where defendants have sufficient financial means. EPA's investigations should therefore include a full accounting of the gain or loss from the offense, along with the defendants' ability to pay restitution, fines, and fund community service projects to remediate harm.
 - OCEFT's EJ Workgroup should develop guidance for agency attorneys and prosecutors to ensure restitution, community service payments, and other court-ordered projects supporting overburdened communities are considered in all cases identified as having EJ concerns.
 - The EJ Workgroup has also been tasked to create a compendium of documents that attorneys can use as models when advocating for restitution and community service.

Conclusion

The actions described here will enhance efforts to detect potential offenses impacting vulnerable communities, improve the identification of and assistance to crime victims, and pursue case results that will provide communities with increased protection from illegal pollution and enhanced remedies for past harms. With your help, EPA can achieve these important results. I appreciate your support in this vital effort.

cc: Acting Regional Administrators
Enforcement and Compliance Assurance Division Directors and Deputies
Regional Counsels and Deputies
OECA Office Directors and Deputies
Regional EJ Coordinators

⁵ A more detailed discussion of such tools is contained in the April 26, 2021, memorandum, [Using All Appropriate Injunctive Relief Tools in Civil Enforcement Settlements](#).