

# Ohio EPA Enforcement Response/Priorities and Updates

Marcus Glasgow, Chief, DERIE and  
Todd Anderson, Chief Legal Counsel



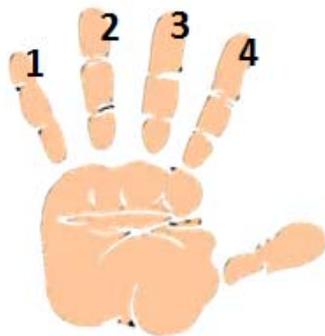
# Enforcement/Compliance Process

## Steps in the Enforcement/Compliance Process

1. Inspection (Air, Solid Waste, Hazardous Waste, Surface Water, Drinking and Groundwater)
2. Notice of Violation, Inspection Letter, Resolution of Violation, Letter of Compliance
3. Significant Violations Found?
4. Enforcement Referral From District to Central Office

# What Happens if Significant Violations Found?

- An Enforcement Referral to Central Office
- Review of Enforcement Referral by District and Division Enforcement/Compliance Staff, DERIE and Legal
- Enforcement Committee Meetings
- Recommendation to Director



# Types of Enforcement/Compliance Recommendations

- Nothing
- Chief's Warning Letter
- Director's Warning Letter
- Director's Final Findings and Orders (Consensual/Unilateral/Emergency)
- Referral to Ohio Attorney General

# Director's Final Findings and Orders

- Referred to as “DFF&Os”
- Usually Consensual
  - Invitation to Negotiate
  - Proposed Civil Penalty
  - Injunctive Relief



# Director's Final Findings and Orders continued

- Civil Penalty Proposed?
  - Each Program Has Civil Penalty Policy
  - Proposed Penalties Consistent with Dayton Malleable Court Decision
  - Negotiable
  - Supplemental Environmental Projects (“SEPs”)
  - Ability to Pay Analysis

# DFF&Os – Injunctive Relief

Injunctive Relief?

Examples: Submit Closure Plan, Submit Permit Application, Submit Report, Operate in Accordance with Permit, etc.

# Final DFF&Os

- Parties (Ohio EPA and Respondent) Agree on Resolution of Violations
- Both Parties Sign DFF&Os
- Waiver of Right to Appeal
- Agreed-Upon Schedule to Satisfy Civil Penalty and Injunctive Relief
- Enforceable if Violated

# Director's Unilateral Findings and Orders

- Referred to as Unilateral “DFF&Os”
- Not Consensual
  - Direct the regulated entity to perform specific actions to bring property/facility into environmental compliance
  - Do not generally contain a demand for a civil penalty
  - Are considered a Final Action of the Director of Ohio EPA and can therefore be appealed to Environmental Review Appeals Commission



# What if Parties Can't Agree?

- Director Has Options if Parties Can't Agree on Resolution Through Consensual DFF&Os
  - Referral to Attorney General
  - Unilateral DFF&Os

# Referral to Attorney General

- Ohio EPA may refer Enforcement Matter to the Ohio Attorney General, Environmental Enforcement Section
- The AGO will typically send Invitation to Negotiate Letter Before Initiating Lawsuit
- Agreement Reached?
  - Complaint and Consent Order Filed with Court of Common Pleas



# Referral to Attorney General, continued

- Agreement Not Reached?
  - Complaint Filed
  - Discovery
  - Trial
  - Court Order to Address Noncompliance

