



907: Top 10 Environmental Enforcement Actions—Are You Prepared?

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**Top 10 Environmental Enforcement
Actions - Are You Prepared #907**

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**Top 10 Environmental Enforcement
Actions
#10**

**Storm Water Permitting (Big Box Initiatives) /
Wet Weather Construction**

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Storm Water Permitting (Big Box Initiatives) /Construction

Reason for Concern: EPA has made “wet weather” a national priority again this year, and will be focusing compliance/enforcement resources on construction site non-compliance - EPA has also instituted expedited enforcement settlements to provide for quicker and more actions

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Examples of Construction Site Problems- Improper Entrance/Exit





Examples- Eroded Slope



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Inlet Protection Failure



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Environmental Impacts

- Discharge of pollutants like sediment, debris, and chemicals into waters of the United States.
- Polluted stormwater runoff can harm or kill fish and other wildlife. Sedimentation can destroy aquatic habitat and high volumes of runoff can cause stream bank erosion

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Top 10 Environmental Enforcement Actions #9

Air Toxics Priority
(MACT & Asbestos)

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Air Toxics Priority

- Environmental Problem
 - Air pollutants known or suspected to cause cancer or other serious health effects
 - Caused by emissions from a wide variety of sources including industrial and utility operations
 - Approximately 2500 MACT-affected facilities nationwide
 - Potential public exposure to toxic air emissions
- Environmental Requirements
 - 1990 Clean Air Act
 - Congress directed EPA to address a list of 189 Air Toxics or Hazardous Air Pollutants (HAPs) by establishing Maximum Achievable Control Technology (MACT) standards for every HAP
 - EPA has issued 88 standards
 - Sector specific requirements for complying with regulatory standards

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Air Toxics Priority

- Compliance Concerns
 - Certain MACT categories have high rates of noncompliance
 - Excessive HAP emissions may result in harm to human health and the environment
 - Many MACT-affected sources are located in minority and low-income communities and may disproportionately and adversely impact these communities
 - Extensive compliance assistance has failed to achieve desired outcomes

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Air Toxics Priority

Goals

- Protecting public health and the environment by addressing harmful excess emissions in sectors with high rates of noncompliance
 - Wood Furniture (R1)
 - Printing and Publishing (R1)
 - Gasoline Distribution (R2)
 - Petroleum Refining (R2, R5, R6)
 - Mineral Wool Production (R3)
 - Flexible Foam (R3)
 - Secondary Aluminum (R5, R7)
 - Ship Building and Repair (R4)
 - Natural Gas Transmission (R8)
 - Pharmaceuticals (R5)
 - Oil and Gas Production (R8, R10)
 - Pulp and Paper (R10)

Proactive Measures for Compliance

- Understand compliance responsibilities through EPA's Compliance Assistance Centers (<http://cfpub.epa.gov/clearinghouse/>)
- Look for opportunities for Industry Wide "Compliance" Collaboration
- Take Advantage of EPA's Self-Disclosure policy (<http://www.epa.gov/compliance/incentives/programs/index.html>)
 - Audit Systematically
 - Correct Effectively
 - Disclose Promptly
- Use EPA's Enforcement and Compliance History Online (ECHO) website to verify compliance status (<http://www.epa.gov/echo/>)

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Asbestos – AHERA Compliance

"Enforcement Alert" -- September, 2004; Volume 7, Number 1

EPA inspected 5 schools in Puerto Rico in 2002-03

- Widespread compliance failures
- Children exposed to residual asbestos dust
- Children conducted removal without protective eqpt.
- Resulted in \$5.6 million penalty in early 2004

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Asbestos – Illegal Removal Actions

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TITLE	RELEASE DATE
EPA "Enforcement Alert" Focuses on Asbestos in Schools	09/01/2004
EPA Cites Sargent Enterprises for Late Notification of Asbestos Removal at Bucks Co., Pa. School	08/26/2004
U.S. EPA fines Santa Barbara construction company for asbestos violations	08/19/2004
California Real Estate Developer Sentenced for Illegal Asbestos Removal in Idaho	08/18/2004
PacifiCorp to clean up contamination in downtown SLC	08/16/2004
Two Wisconsin Men Sentenced for Illegal Asbestos Removal	07/21/2004
New York Industrial Park Owner Pleads Guilty to Illegal Asbestos Removal	07/14/2004
Two West Virginia Residents Sentenced in Asbestos Case	07/14/2004
President of Ohio Company Indicted for Illegal Asbestos Removal	06/16/2004
New Hampshire Man Pleads Guilty and is Sentenced for Illegal Asbestos Removal	06/02/2004
Administrative Law Judge Penalizes Contractor \$45,040 for Asbestos Removal at Wheeling, W. Va.	06/01/2004
Two Wisconsin Men Convicted in Illegal Asbestos Removal Case	05/19/2004
Former Connecticut Economic Development Director Convicted of Asbestos Charges	04/14/2004
Former New York Asbestos Contracting Firm and Owners	04/07/2004
Chicago Warehouse Owner Pleads Guilty to Illegal Asbestos Removal	03/10/2004
Four Individuals Plead Guilty in New York State Asbestos Case	03/03/2004
EPA Settlement Will Bring Puerto Rico Schools into Compliance With Asbestos Regulations	02/27/2004
Asbestos Abatement Supervisor Pleads Guilty in False Training Certificate Case	02/12/2004
EPA settles asbestos case with Pacific Rim Partners, LLC, Company to pay \$104,425	02/09/2004

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Asbestos – Illegal Removal Actions

Avoiding unscrupulous contractors

- **Strong contract process – RFP, T&Cs**
- **Check credentials**
- **Review workplans**
- **Audit contractor's equipment**
- **Audit jobsite**
- **Don't be afraid to throw contractor off the jobsite**

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Top 10 Environmental Enforcement Actions

#8

Implementation of Risk Plans

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Implementation of Risk Plans

- Section 112(r) of the Clean Air Act requires risk management plans to prevent and mitigate accidental releases of hazardous substances**
- Regulations requires full updating of plans once every 5 years**

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Top 10 Environmental Enforcement Actions #7

RCRA Waste Management

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RCRA Waste Management

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RCRA Waste Management

- From FY 2004 USEPA Office of Enforcement and Compliance Assurance (OECA) Memorandum of Agreement Guidance (7/24/2003):
- *Priority Activity*
- “ Generally, RCRA Permit Evader-related concerns (e.g., historical violations) include but are not limited to:
 - 1. failing to make proper hazardous waste determinations;
 - 2. operating hazardous waste treatment units without appropriate permits; and
 - 3. illegal or unsafe disposal of hazardous wastes”

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RCRA Waste Management

From FY 2004 USEPA Office of Enforcement and Compliance Assurance (OECA) Memorandum of Agreement Guidance (7/24/2003):

“... [R]egions (and states where appropriate) should focus their facility screening, compliance monitoring, and enforcement resources on those companies (including federal facilities) that are evading the RCRA regulatory system. This will ensure that illegal treatment and recycling practices are eliminated and will ensure the equitable treatment of those facilities that have complied with RCRA. As a result, human health and the environment will be protected from exposures to hazardous contaminants released as a result of illegal practices.”

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RCRA Waste Management

“Industrial practices and processes of concern include:

- Illegal hazardous waste recycling operations (e.g., “sham recycling”)
- Illegal dilution of hazardous wastes and other practices that circumvent hazardous waste determination requirements;
- Illegal treatment of hazardous wastes containing lead and other pollutants;
- Illegal disposal of hazardous wastes containing lead and other pollutants in illegal RCRA units;
- Misidentification of hazardous wastes (e.g., relying on outdated or non-representative test results); and
- Companies that have sought to take advantage of various exceptions or exemptions to RCRA Subtitle C but failed to meet the terms of such exceptions

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RCRA Waste Management

Basis of RCRA Enforcement Concerns

- From FY 2000 through midyear 2003, compliance assurance and enforcement activities provide evidence of continued noncompliance by operators with RCRA requirements.
- Of approximately 165 federal inspections that occurred at foundries during this timeframe, **38%** of these facilities were determined to be in violation of RCRA requirements.
- Noncomplying operators and facilities financially undercut competing firms, jeopardizing the economic prosperity of compliant firms.

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RCRA Waste Management

USEPA Enforcement Approaches

While compliance monitoring and formal enforcement actions serve as deterrents, USEPA also believes that it is important to utilize other approaches and tools:

- USEPA/HQ will seek to **identify compliance assistance/outreach and compliance incentive opportunities**, e.g., use of supplemental environmental projects that reduce emissions or discharges associated with “persistent, bio-accumulative and toxic” wastes (PBT) and other priority chemicals being emitted or released.
- Where appropriate, issuance of **RCRA §7003 and other emergency orders to address upsets and episodic releases** or emissions will also be considered.

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RCRA Waste Management

- “Waste” is broadly defined as unwanted material left over from manufacturing processes or refuse from various human activities.
- Nearly everything we do leaves behind some kind of waste.
- Industrial and manufacturing processes create solid and hazardous waste.
- Wastes and contaminated lands are particularly important to environmental health because they can expose people and land to harmful materials if not properly managed.

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Top 10 Environmental Enforcement Actions #6

Managing Facility Changes Under Air
Regulations

Title V Compliance Certification & Deviation
Record Keeping

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Title V Certification and Record Keeping

- ◆ **Must be submitted every 6 months**
 - ◆ certify truth, accuracy, and completeness
 - ◆ must be based on reasonable inquiry
 - ◆ describe method used to determine compliance
- ◆ **Must list every compliance requirement and every noncompliance during the period**
 - ◆ monitoring, inspections, preventive maintenance, training, record keeping, reporting
 - ◆ must report things such as missed baghouse pressure drop reading
 - ◆ report also includes pollution control malfunctions, monitor malfunctions
- ◆ **Must be signed by the plant manager, who is personally responsible for its contents**
- ◆ **Significant civil and criminal penalties for submitting false reports**

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Title V Certification and Record Keeping

- ◆ **Any application form, report, or compliance certification . . . shall contain certification by a responsible official of truth, accuracy, and completeness.**
This certification and any other certification required [pursuant to Title V of the Federal Clean Air Act] shall state that, **based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.**
- ◆ The Federal Clean Air (as well as comparable state laws and requirements) include provisions that can lead to either (or both) civil and criminal penalties (up to 2 years imprisonment) in the event a false certification is filed or determined to have been filed.
- ◆ Penalties of up to \$25,000 per day per violation for violation of any requirement or prohibition of an applicable implementation plan or permit may be imposed under the Clean Air Act.

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Title V Certification and Record Keeping

◆ **What is Deviation Reporting?**

Deviation reporting is simply “minimum required reporting” under the Title V Operating Permits program. This reporting is required regardless of any permitting requirements that currently exist in the various federally enforceable rules.


The goal of deviation reporting is to allow the company, citizens, and the regulatory agencies to know when situations that potentially indicate noncompliance occur and what was done to solve those situations.

◆ **What is a Deviation?**

“Any indication of noncompliance with a term or condition of the permit”

- ◆ Federal and State regulations cited in the permit
- ◆ Emission limits and monitoring, recordkeeping, reporting requirements
- ◆ Terms and conditions of any major NSR permits
- ◆ Terms and conditions of any minor NSR authorizations (when incorporated into the permit)

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Title V Certification and Record Keeping

◆ **What is a Deviation?**

“Any other credible evidence or information”

- ◆ Title V sources may not ignore “obvious relevant information”
- ◆ Information or knowledge that the permittee has, whether that information or knowledge is required to be collected by the permit or not
- ◆ Non-reference test methods or other information that is “readily available” and already being utilized
- ◆ Examples: engineering calculations, indirect emissions estimates, direct measurements

◆ **Elements of a Deviation Report (see 40 CFR 70.6(a)(3))**

- ◆ All instances of deviations from permit requirements must be clearly identified
 - emission unit
 - applicable requirement for which the deviation occurred
- ◆ Probable cause of the deviation
 - monitoring method used to assess compliance
 - sampling/monitoring/recordkeeping frequency
- ◆ Corrective action or preventative measures taken
 - total number of times that a deviation has occurred
- ◆ Examples: engineering calculations, indirect emissions estimates, direct measurements

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Title V Certification and Record Keeping

- ◆ **Diligence Process for Semiannual Deviation Reports & Annual Compliance Certification**
 - ◆ List & Track NSR Permit Requirements, Critical Permit Representations
 - ◆ Existing Environmental Reports (NSPS, HON, CEMS)
 - ◆ List & Track All Federal Requirements
 - ◆ List & Track All State Requirements
 - ◆ Environmental Incident Reporting System
 - ◆ Self Audits (Regulation Driven or Equipment Driven)
 - ◆ Management of Change System
 - ◆ Work Practices & Event-driven activities in Procedures
 - ◆ Checklists (plugs & caps, degreaser lids, SSMP)

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Title V Certification and Record Keeping

COMPLIANCE CERTIFICATION

- ◆ **Certification of Continuous Compliance (40 CFR 70.6(c)(5)(iii)(C))**
- ◆ **Scope of Reasonable Inquiry**
- ◆ **Reasonable Inquiry**

“I certify that I am the Responsible Official and that, based on information and belief formed after reasonable inquiry, the statements and information herein attached are true, accurate and complete.”

- ◆ **Prepared at the Responsible Official's direction by qualified personnel who gather and evaluate compliance data**
- ◆ **Prior to signature, the Responsible Official must inquire into the truth, accuracy and completeness of the compliance certification with the persons who prepared it, e.g., “Paper Trail”, “Face-to-face certification meetings”**

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Top 10 Environmental Enforcement Actions #5

**Spill Prevention Control and Countermeasure
(SPCC) Plans**

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Spill Prevention Control and Countermeasure (SPCC) Plans

- Section 311 of the Clean Water Act requires plans for preventing, preparing for, and responding to oil spills that occur in waters of the U.S.
- Applies to non-transportation related facilities that have large oil storage capacity that could discharge into a U.S. water

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SPCC Plans

- Each SPCC plan must include:
 - Facility design, operation, and maintenance procedures established to prevent spills;
 - Control measures to prevent a spill from reaching a water of the U.S.;
 - Countermeasures to contain, clean up, and mitigate the effects of a spill
 - Plans must be certified by licensed engineer

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Environmental Concerns

- There are thousands of facilities that are subject to SPCC; each site may contain significant quantities of oil that can impair U.S. waters
- Historically not been a significant enforcement priority
- EPA is using expedited settlements to handle SPCC enforcement (Region VI)

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**Top 10 Environmental Enforcement
Actions
#4**

Chemical Management
TSCA & EPCRA

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TSCA – Section 8(e)

“Any person who manufactures, processes, or distributes in commerce a chemical substance or mixture and who obtains information which reasonably supports the conclusion that such substance or mixture presents a substantial risk of injury to health or the environment shall immediately inform the Administrator of such information unless such person has actual knowledge that the Administrator has already been informed of such information.”

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TSCA – Section 8(e)

DuPont Enforcement Action (Docket # TSCA-HQ-2004-0016)

- “Washington Works Facility” in West Virginia
- Perfluorooctanoic acid (PFOA) – used in Teflon related products
- 1981 data on transplacental mobility of PFOA
- Data produced as part of Discovery in 2000 – reaches EPA in 2001
- Action filed by EPA July 8, 2004
- Penalty as yet unspecified

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TSCA – Section 8(e)

Takeaways:

- New Product Introduction is the easy part
- Systematic review of “new” data for old products
 - Medical and IH organizations are critical
 - Remain Vigilant – data can be unexpected
 - Integrate into audit process

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EPCRA – TRI Reporting

TRI = Toxics Release Inventory

- **Required by Section 313 of EPCRA**
- **Enacted in 1986 following Bhopal, India release**
- **Annual reports of toxic releases/management**
- **July 1 filing deadline**

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EPCRA – TRI Reporting

March, 2002 OECA alert re: July, 2002 deadline

- **2000-01: 600+ late filers**
- **2002-03: Region II 60+ cases w/ \$500+K penalties**

February, 2004 Enforcement Alert

- **100's of enforcement actions for late filing**

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EPCRA – TRI Reporting

Ensuring Compliance:

- **Nuts and Bolts compliance**
- **Establish a rhythm**
 - **Compliance calendar**
 - **E-mail notification**
 - **Target early completion**
- **Actively monitor progress**
- **Copies to corporate – check off**

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Top 10 Environmental Enforcement Actions

#3

Hazardous Material Transportation

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Hazardous Material Transportation

● HAZMAT Enforcement Risk

- Driven by ValueJet Accident and Homeland Security
- 200,000 Enforcement Actions 1993-2002 (GAO, 2004)
- Most Frequent DOT/FAA Penalty – Hazmat Shipments
 - \$25,000/per violation; each shipment can trigger 10+ allegations
 - Average Penalty Assessment in FAA So. Region \$70,000
 - \$60,000 Proposed Fine of Revlon for 3 oz. Of Perfume!
- Priority for DOJ Criminal Enforcement
 - Recently Approved Enhanced Sentencing for Hazmat Cases
 - 10/1/03 \$6MM Hazmat Criminal Penalty Against Emery Air
- Leaking Packages, Impoundment by Shipper and Failures To Declare Hazmat Trigger Most Enforcement Cases

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Hazardous Material Transportation

● Mitigating HAZMAT Enforcement Risk

- Recognize Resources Required for Hazmat Compliance
 - Requires Training Certifications for Hazmat Employees
 - Detailed Paperwork Identifying Hazmat
 - Specific Packaging, Labeling, Marking and Shipping Rules
- Employ Quality Control Processes to Avoid Escapes
 - Error Proof Shipping by Making Shipments Nonhazardous
 - Audit Shipping Practices to Identify Biggest Risks
 - Standardize Processes – e.g. Adopt Shipping Templates
 - Develop a Hazmat Center of Excellence or Hotline

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Hazardous Material Transportation

- What to Do if the FAA Comes Calling
 - Get Out in Front of FAA and Investigate Internally
 - Liability is Strict, but Penalties Depend on Knowledge
 - Use FAA Hazmat Enforcement Policies to Your Advantage
 - Request Enforcement File
 - Be Proactive and Stress Corrective Actions
 - Consider Participation in FAA Industry Groups
 - Consider other Pro-Active Customer Interfaces
 - Because FAA is understaffed and less experienced than EPA or other Regulators Tends to Be Less Flexible
 - New FAA Whistle-blowing Requirements Effective 1/1/05
Provide an Opportunity to Educate Customers

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Top 10 Environmental Enforcement Actions

#2

Financials
Financial Assurance & SCE Filings

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Financial Assurance & SEC Filings

GAO Report - July 2004

ENVIRONMENTAL DISCLOSURE

SEC Should Explore Ways to Improve Tracking and Transparency of Information

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Financial Assurance & SEC Filings

Purpose of GAO Study

- To help investors make informed decisions, the Securities and Exchange Commission (SEC) enforces federal securities laws requiring companies to disclose all information that would be considered important or "material" to a reasonable investor, including information on environmental risks and liabilities, in reports filed with the SEC.
- The GAO Study released in July 2004 addressed (1) key stakeholders' views on how well SEC has defined the requirements for environmental disclosure, (2) the extent to which companies are disclosing such information in their SEC filings, (3) the adequacy of SEC's efforts to monitor and enforce compliance with disclosure requirements, and (4) experts' suggestions for increasing and improving environmental disclosure.

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Financial Assurance & SEC Filings

GAO Study Recommendations & SEC Reaction

- The GAO recommends that the SEC should:
 1. take steps to improve the tracking and transparency of information related to its reviews of companies' filings, and
 2. work with the U.S. Environmental Protection Agency to explore ways to take better advantage of EPA data relevant to environmental disclosure.
- The SEC has indicated its agreement with these recommendations and has taken action by making comment letters and company responses available on its Web site.

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Financial Assurance & SEC Filings

Principal Requirements and Guidance Applicable to the Disclosure of Environmental Information in SEC Filings

- Key stakeholders disagree about how well SEC has defined the disclosure requirements for environmental information.
 - Some investor organizations and researchers believe that current requirements allow too much flexibility and are too narrow in scope to capture important environmental information.
 - Stakeholders preparing and filing reports with the SEC believe that the scope of the current requirements and guidance is adequate and that companies need flexibility to accommodate their individual circumstances.

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Financial Assurance & SEC Filings

GAO Study: Key Findings

- Key stakeholders disagree about how well SEC has defined the disclosure requirements for environmental information.
 - Some investor organizations and researchers believe that current requirements allow too much flexibility and are too narrow in scope to capture important environmental information.
 - Stakeholders preparing and filing reports with the SEC believe that the scope of the current requirements and guidance is adequate and that companies need flexibility to accommodate their individual circumstances.

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Financial Assurance & SEC Filings

Principal Requirements and Guidance Applicable to Disclosure of Environmental Information in SEC Filings

Issue date	Document
1972	Securities and Exchange Commission, <i>Regulation S-X: Form and Content of and Requirements for Financial Statements, Securities Act of 1933, Securities Exchange Act of 1934, Public Utility Holding Company Act of 1935, Investment Company Act of 1940, Investment Advisers Act of 1940 and Energy Policy and Conservation Act of 1975</i> , 37 Fed. Reg. 14592, codified at 17 C.F.R. Part 210.b
1975	Financial Accounting Standards Board, <i>Statement of Financial Accounting Standards No. 5: Accounting for Contingencies</i> , Norwalk, CT: 1975.
1976	Financial Accounting Standards Board, <i>Interpretation No. 14: Reasonable Estimation of the Amount of a Loss: An Interpretation of FASB Statement No. 5</i> , Norwalk, CT: 1976.
1982	Securities and Exchange Commission, <i>Regulation S-K: Standard Instructions for Filing Forms under Securities Act of 1933, Securities Exchange Act of 1934 and Energy Policy and Conservation Act of 1975</i> , 47 Fed. Reg. 11401, codified at 17 C.F.R. Part 229.c
1989	Securities and Exchange Commission, <i>SEC Interpretation: Management's Discussion and Analysis of Financial Condition and Results of Operations; Certain Investment Company Disclosures [Release Nos. 33-6835; 34-26831; IC-16961; FR-36]</i> , 54 Fed. Reg. 22427.

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Financial Assurance & SEC Filings

- 1990 Financial Accounting Standards Board, *Emerging Issues Task Force 90-8: Capitalization of Costs to Treat Environmental Contamination*, Norwalk, CT: 1990.
- 1992 Financial Accounting Standards Board, *Interpretation No. 39: Offsetting of Amounts Related to Certain Contracts: An Interpretation of Accounting Principles Board (APB) Opinion No. 10 and Financial Accounting Standards Board Statement No. 105*, Norwalk, CT: 1992.
- 1993 Financial Accounting Standards Board, *Emerging Issues Task Force 93-5: Accounting for Environmental Liabilities*, Norwalk, CT: 1993.
- 1993 Securities and Exchange Commission, *Staff Accounting Bulletin No. 92, Topic 5.Y: Accounting Disclosures Relating to Loss Contingencies*, 58 Fed. Reg. 32843. *Staff Accounting Bulletin No. 103* (listed below) amended SAB 92.
- 1994 American Institute of Certified Public Accountants, *Statement of Position 94-6: Disclosure of Certain Significant Risks and Uncertainties*, New York, NY: 1994.
- 1996 American Institute of Certified Public Accountants, *Statement of Position 96-1: Environmental Remediation Liabilities*, New York, NY: 1996.
- 1999 Securities and Exchange Commission, *Staff Accounting Bulletin No. 99: Materiality*, 64 Fed. Reg. 45150.

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Financial Assurance & SEC Filings

- 2001 Financial Accounting Standards Board, *Statement of Financial Accounting Standards No. 143: Accounting for Asset Retirement Obligations*, Norwalk, CT: 2001.
- 2001 Financial Accounting Standards Board, *Statement of Financial Accounting Standards No. 144: Accounting for the Impairment or Disposal of Long-Lived Assets*, Norwalk, CT: 2001.
- 2001 Securities and Exchange Commission, *Action: Cautionary Advice Regarding Disclosure About Critical Accounting Policies [Release Nos. 33-8040; 34-45149; FR-60]*, 66 Fed. Reg. 65013.
- 2002 Securities and Exchange Commission, *Commission Statement about Management's Discussion and Analysis of Financial Condition and Results of Operations [Release Nos. 33-8056; 34-45321; FR-61]*, 67 Fed. Reg. 3746.
- 2003 Securities and Exchange Commission, *Commission Guidance Regarding Management's Discussion and Analysis of Financial Condition and Results of Operations [Release Nos. 33-8350; 34-48960; FR-72]*, 68 Fed. Reg. 75056.
- 2003 Securities and Exchange Commission, *Staff Accounting Bulletin No. 103: Update of Codification of Staff Accounting Bulletins*, 68 Fed. Reg. 26840.

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Top 10 Environmental Enforcement Actions
#1

Un-permitted Activities
NSR/PSD & Mineral Processing Facilities

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Un-permitted Activities NSR/PSD

- Refineries still subject to enforcement of PSD/NSR regulations; EPA has goal of reaching 100% of industry
- Power plants remain a focus
- Industrial boilers are potentially the next area of focus for major modifications

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Mineral Processing Priority

- Environmental Problem
 - Mineral Processing and Mining Sectors generate more toxic and corrosive waste than any other industrial sector
 - Groundwater, soil and surface water contamination due to waste management practices
 - Financial failures due to expensive cleanup costs
 - Possible Creation of Mega Superfund sites due to inadequate financial assurance
- Environmental Regulations
 - RCRA and applicable Regulations
 - 40 CFR Parts 260-271
 - "Bevill Exclusion"
 - Land Disposal Restrictions
 - Characteristic Waste
 - Ignitable
 - Corrosive
 - Reactive
 - Toxic
 - Listed Waste
 - Sham Recycling
 - Speculative Accumulation

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Environmental Problems



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Mineral Processing Priority

● Compliance Concerns

- Failure to Perform Waste Identification
- Improper Storage of Wastes
- Sham Recycling
- Improper Management of Waste Impoundments

● Universe

- 500 Facilities
 - 40% within One Mile of Residential Area
 - 140 Facilities Generate 118 Potentially Hazardous Waste Streams
 - Majority of Mineral Processing Facilities in South

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Mineral Processing Priority

● Goals of Priority

- Ensuring Compliance of High-Risk Facilities
 - Environmental Justice Communities
 - Financial Instability
 - Non-Complying Facilities
- Changing Facility Management Practices
- Abating Existing Harms and Significant Threats through Injunctive Relief
- Encouraging Supplemental Environmental Projects as Appropriate

● Proactive Measures for Compliance

- Understand compliance responsibilities through EPA's Compliance Assistance Centers (<http://cfpub.epa.gov/clearinghouse/>)
- Look for opportunities for Industry Wide "Compliance" Collaboration
- Review EPA's Enforcement Alert for Mineral Processing (<http://www.epa.gov/compliance/resources/newsletters/civil/enfalert/mineral.pdf>)
- Take Advantage of EPA's Self-Disclosure policy (<http://www.epa.gov/compliance/incentives/programs/index.html>)
 - Audit Systematically
 - Correct Effectively
 - Disclose Promptly
- Use EPA's Enforcement and Compliance History Online (ECHO) website to verify compliance status (<http://www.epa.gov/echo/>)

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