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

August 24, 2009

OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE

MEMORANDUM

SUBJECT: Guidance on Determining and Tracking Substantial Noncompliance with CERCLA Enforcement Instruments in CERCLIS

FROM: Elliott J. Gilberg, Acting Director /s/
Office of Site Remediation Enforcement

David J. Kling, Director /s/
Federal Facilities Enforcement Office

TO: Regional Superfund Division Directors, Regions I - X
Regional Counsel, Regions I – X

This guidance describes a system for tracking substantial noncompliance (SNC) with Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) enforcement instruments in the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS). The guidance describes the scope of compliance tracking in CERCLIS, defines and provides examples of "substantial noncompliance" with CERCLA enforcement instruments, and identifies the nature and frequency of reporting.

Introduction

The CERCLA compliance tracking module in CERCLIS will be used to track instances of substantial noncompliance with CERCLA enforcement instruments.[1] This tracking system will help EPA prioritize the most serious violations and ensure a timely and appropriate enforcement response to them. In addition, the compliance tracking system will help EPA identify and analyze regional and national trends in addressing substantial noncompliance.

This document is intended solely as internal guidance for EPA personnel concerning compliance tracking for work planning purposes. Nothing in this guidance is intended to limit EPA's ability to respond to violations of enforcement instruments or take enforcement action under CERCLA or any other statute. Similarly, no determination of compliance status made pursuant to this guidance is intended to limit EPA's ability to respond to violations or take enforcement action under CERCLA or any other statute. In particular, compliance status determinations based on

1 The term "enforcement instrument" is used in this document to encompass settlements (*e.g.*, consent decrees and administrative orders on consent), unilateral administrative orders, and federal facility agreements.

incomplete or erroneous information will not limit EPA's ability to respond to violations or take enforcement action in light of current information.

The compliance tracking process described in this guidance does not change what constitutes a violation of an enforcement instrument and does not alter available or expected EPA responses to violations. In particular, those violations that are not serious enough to constitute SNC may still require an enforcement response. The Regions are expected to document violations of enforcement instruments and work with the violators to ensure a return to compliance without regard to whether the violations constitute SNC.

Focus of Compliance Tracking in CERCLIS

The focus of compliance tracking in CERCLIS is CERCLA enforcement instruments that include work obligations[2] such as remedial investigations, feasibility studies, remedial designs, remedial actions, and removals. The Regions should regularly review all such active instruments as described in this guidance to determine whether they are in SNC. The CERCLA compliance tracking system addresses compliance with all work-related elements of these enforcement instruments, including, for example, reporting requirements, submission of adequate work plans, provision of financial assurance, implementation of institutional controls, and collection of data for five-year reviews. The compliance tracking system also applies to administrative orders enforcing section 104(e) information requests and access orders. The CERCLA compliance tracking system does not apply to enforcement instruments entered into or issued under any non-CERCLA authority.

Obligations under CERCLA enforcement instruments to make payments to EPA are not tracked in CERCLIS. Payment obligations are tracked using EPA's Integrated Financial Management System (IFMS). Tracking compliance with payment obligations in both systems would be inefficient and might result in data inconsistencies between the CERCLIS and IFMS databases. Consequently, compliance with enforcement instruments that contain payment obligations, but not work obligations, is not tracked in CERCLIS. Enforcement instruments that will not be tracked in CERCLIS for this reason include most *de minimis*, cost recovery, and cashout settlements.

Although payment obligations are tracked in IFMS rather than CERCLIS, failure to make required payments may constitute SNC with an enforcement instrument. The Regions are expected to take appropriate enforcement action in response to failure to make payments. However, failure to make payments should not be considered when making SNC determinations for entry into the CERCLIS compliance tracking module, as CERCLIS covers only work

2 The term "work obligations" is used in this document to encompass all non-payment obligations contained in a CERCLA enforcement instrument.

ED_002345C_00015802-00002

obligations. Some enforcement instruments include both work and payment obligations, which will be tracked separately in the CERCLIS compliance tracking module and the IFMS accounts receivable system. Examples of enforcement instruments tracked in both systems include an RD/RA consent decree that includes both work obligations and obligations to pay EPA oversight costs; and a cost recovery consent decree that includes obligations to provide access and implement institutional controls in addition to payment obligations.

Instruments Tracked in the CERCLA Compliance Tracking System

The compliance status of all CERCLA enforcement instruments containing work obligations will be tracked in CERCLIS.[3] Many work obligations under such enforcement instruments are contained in documents that are incorporated into the enforcement instrument, such as records of decision, statements of work, and work plans for designing and implementing the remedy. When a Region is reviewing an enforcement instrument to determine whether it is in SNC, the Region should review both the enforcement instrument and these other documents in order to determine whether a party performing work is complying with its work obligations.

Parties performing work under CERCLA enforcement instruments are commonly obligated to perform tasks after construction of a remedy is complete. For example, parties may be required to provide reports to EPA on the operation of the remedy, institute land use controls, collect and provide data for five-year reviews, and retain records relating to their work. Such work obligations are subject to this guidance, and noncompliance with these obligations can be a basis for an SNC determination.

Categories of CERCLA enforcement instruments for which compliance status will be tracked include:

<u>Work Performed at Non-federal Facilities</u>

The primary focus of the compliance tracking system is enforcement instruments that require parties to perform work. Many, but not all, of these enforcement instruments are based on EPA model work agreements, including the following:[4]

- Remedial Investigation/Feasibility Study Administrative Order on Consent (AOC);
- Remedial Design AOC;
- Remedial Design/Remedial Action (RD/RA) Consent Decree (CD);

---

3 Appendix C of the *Superfund Program Implementation Manual* (SPIM) will be revised (in the 2011 update) to include more detailed CERCLIS reporting requirements consistent with this guidance.

4 As described above, this guidance applies to all CERCLA enforcement instruments containing work obligations. Consequently, enforcement instruments that are not based on model agreements or language, but do contain work obligations, are also tracked in the compliance tracking system. For example, UAOs for RI/FS are tracked, although there is currently no model language for such orders.

ED_002345C_00015802-00003

- RD/RA Unilateral Administrative Order (UAO);
- Removal AOC;
- Removal UAO;
- Bona Fide Prospective Purchaser Removal Agreement; and
- Good Samaritan Removal Agreement.

Work Performed at Federal Facilities

The primary enforcement instrument used at federal facilities is an Interagency Agreement, otherwise known as a Federal Facility Agreement (FFA), which generally addresses the clean-up process for an entire facility. At some federal facility National Priorities List sites, EPA enters into enforceable agreements with non-federal parties to perform a portion of the cleanup. These are commonly known as "privatization agreements." Privatization agreements are typically contained in administrative orders on consent. Privatization agreements may be among multiple parties, such as EPA, the federal facility, and a non-federal party. This guidance also applies to privatization agreements. When there is more than one enforcement instrument in place at a federal facility, an independent SNC determination should be made for each enforcement instrument. For example, at a site with both an FFA and a privatization agreement, the Region should make two independent SNC determinations, one relating to any violations of the privatization agreement by parties to that agreement and the other relating to any violations of the FFA by the federal agency.

Access and Information Gathering Obligations

For the purposes of this guidance, all obligations under CERCLA enforcement instruments to provide site access or information about a site are considered work obligations. All access obligations are tracked in the CERCLA compliance tracking system, whether in enforcement instruments addressing access alone or broader enforcement instruments that address access along with other obligations.

Section 104(e) information requests are not tracked as enforcement instruments in the CERCLA compliance tracking system. However, when information request recipients do not comply and EPA issues an enforcement order, that enforcement instrument is tracked in the compliance tracking system. Similarly, when DOJ pursues a civil action that results in a CD requiring compliance with the information request, that enforcement instrument is tracked in the compliance tracking system.

Access and information requirements are often incorporated in other enforcement instruments or may be in separate enforcement instruments, which are often based on EPA model documents, including the following:

- Unilateral Administrative Order Directing Compliance with Request for Access; and
- Section 104(e) Unilateral Administrative Order for Information Requests.

ED_002345C_00015802-00004

Defining Substantial Noncompliance

The purpose of the SNC definition is to separate active CERCLA enforcement instruments into two categories for purposes of the CERCLIS compliance tracking process: (1) those that have only less significant violations or no violations at all ("Not in SNC"); and (2) those that have more significant violations that rise above the threshold set by the definition ("In SNC"). The resulting compliance tracking process helps prioritize violations, serves as a management tool for both the Regions and Headquarters, and provides a better understanding of how frequently SNC occurs and how it is addressed.

The compliance tracking process and associated SNC definition do not change what constitutes a violation or the available responses to violations. What constitutes a violation of an enforcement instrument and EPA's options for responding to violations are determined by the CERCLA statute and the terms of the settlement or order that has been violated. In addition, a number of EPA guidance documents address expectations and techniques for addressing noncompliance with CERCLA enforcement instruments. These include:

- *Transmittal of Sample Documents for Compliance Monitoring* (OSRE, July 1, 1996);
- *Guidance on the Use of Stipulated Penalties in Hazardous Waste Consent Decrees* (OECM, September 21, 1987); and
- *Interim Policy on Settlement of CERCLA Section 106(b)(1) Penalty Claims and Section 107(c)(3) Punitive Damages Claims for Noncompliance with Administrative Orders* (OECA, September 30, 1997).

This guidance supplements those prior guidance documents, which remain in effect.

SNC determinations are made with respect to enforcement instruments rather than with respect to individual parties to those enforcement instruments. The tracking system does not track whether every party to an enforcement instrument is individually compliant, as such individual tracking would impose a much greater resource burden on the Regions.[5] Consequently, the existence of noncompliant parties (*e.g.*, recalcitrant UAO recipients) will not result in a finding of SNC where compliant parties are performing the work as contemplated in the instrument. That the CERCLA compliance tracking process makes SNC determinations at the instrument level, rather than for each PRP subject to the instrument, does not imply that the Agency is willing to overlook individual noncompliance. The Regions are encouraged to pursue enforcement action against such noncompliant parties as appropriate.

SNC determinations are based on the significance of the noncompliance without regard for what remedies are available to address the noncompliance. In particular, it is not relevant to an SNC determination whether the noncompliance can be cured. In some instances, the only available remedy may be the imposition of stipulated penalties or statutory penalties.

5 Regions may wish to note the status of noncompliant parties in the comment field for the enforcement instrument.

ED_002345C_00015802-00005

Definition of Substantial Noncompliance for CERCLA Enforcement Instruments

Substantial Noncompliance with a CERCLA settlement, order, or federal facility agreement is noncompliance that falls within any of the following categories:

1. **Significant deviation from the terms of the enforcement instrument.**
   A determination of significant deviation may be based on one or more of the following factors:
   - importance of the requirement violated and the extent of the violation;
   - impact on site conditions or the affected community;
   - impact on the quality or timeliness of response activities;
   - harm to the integrity of the enforcement process; and
   - impact on site costs or the level of oversight required.

   Examples include:
   -Delayed or poor performance that has a substantial impact on the quality or timeliness of response activities.
   -Missed deadline for a major deliverable (*e.g.*, draft RI/FS, contractor on board)
   -Failure to take appropriate action to prevent, abate, or minimize a release or threat of release occurring during work performance that presents an immediate threat to public health or welfare or the environment.
   -Failure to provide adequate financial assurance.
   -Denial or significant restriction of access required under an access order.
   -False, inaccurate, or incomplete reporting of information concerning the site or cleanup.
   -Noncompliance with institutional control provisions that has a substantial impact on the protectiveness of the response action.

2. **Chronic violations.**
   A determination that multiple violations cumulatively constitute a pattern of chronic violation may be based on one or more of the following factors:
   - importance of the requirements violated and the extent of the violations;
   - impact on site conditions or the affected community;
   - impact on the quality or timeliness of response activities;
   - harm to the integrity of the enforcement process; and
   - impact on site costs or the level of oversight required.

   Examples include:
   -Continual resistance to complying with the terms of the enforcement instrument.
   -A pattern of violations of escalating frequency or significance.
   -Multiple misses or delays in submitting reports or in performing work requirements.
   -Submission of multiple incomplete or inaccurate deliverables.
   -Repeated failure to effectively address EPA comments on inadequate deliverables.

3. **Other**
   Noncompliance not encompassed within the preceding criteria, but which the Region deems substantial. A written description of the circumstances constituting substantial noncompliance should be prepared.

ED_002345C_00015802-00006

Application of the SNC Definition to Federal Facilities

The SNC definition applies equally to enforcement instruments at federal and non-federal facilities. However, because an FFA addresses the cleanup process for an entire facility, the scope of work obligations addressed by an SNC determination under an FFA is often much broader than the scope of an SNC determination under an enforcement instrument at a non-federal facility, which more often addresses work to be performed at a single operable unit (OU). Although FFAs typically address a number of OUs within the facility, when making an SNC determination the Region should focus on the nature of the noncompliance and not primarily on the question of how many OUs are involved. While a pattern of noncompliance may involve more than one OU, noncompliance relating to only one OU can be the basis for an SNC determination even if the majority of OUs are progressing satisfactorily. Conversely, where a Region identifies only one OU out of several OUs at a federal facility as noncompliant, the Region may make a "Not in SNC" determination.

When there is more than one enforcement instrument in place at a federal facility, an independent SNC determination should be made for each enforcement instrument. For example, when a federal agency enters into an early transfer/privatized cleanup agreement based on a transfer of real property owned by the United States pursuant to CERCLA section 120(h)(3)(C), the transferee may agree to accept primary responsibility for the cleanup of the real property under an AOC. The transferee's obligations under the AOC are enforceable and the AOC is subject to SNC determinations under this guidance. If the transferee defaults, or if further response actions, beyond the scope of the privatization agreement, are found to be necessary after the date of transfer, such response actions will be considered a work obligation of the federal agency, subject to SNC determinations under this guidance.

Substantial Noncompliance Examples

Attachment A provides detailed examples of violations (or sets of violations) that constitute SNC. The examples in Attachment A supplement the brief examples provided in the SNC definition. Neither set of examples is meant to be comprehensive. When site-specific questions arise about what constitutes SNC, appropriate OSRE or FFEO personnel should be consulted.

Nature and Frequency of Reporting

Regions should update the compliance status of all open enforcement instruments in CERCLIS on a quarterly basis. These updates should use the compliance status values outlined and described in Attachment B, which match the available selections in CERCLIS. The compliance status values indicate whether an enforcement instrument is in SNC and, if so, the status of EPA's response to that SNC. The basis for SNC determinations and EPA actions taken to address the noncompliance should be documented in the site file.

CERCLIS has been modified to provide alternative data entry screens that facilitate compliance status updates by presenting the compliance status values for multiple enforcement instruments

ED_002345C_00015802-00007

on a single screen, where they can be reviewed and adjusted quickly. Should Regions wish to provide additional details and comments regarding the compliance status of enforcement instruments, they can access the full compliance status information and the compliance history of an enforcement instrument by "double clicking" on it. Once all actions addressed by an enforcement instrument are "Construction Complete" and the operable unit(s) at which those actions were completed is in either the Operations and Maintenance phase or the Long Term Remedial Action phase, the frequency of compliance status reporting can be reduced to annually.

Once a Region makes an initial "Not in SNC" determination for an access-only enforcement instrument, further compliance determinations will not be required, as initial compliance with an access agreement typically continues throughout the Superfund evaluation and remediation process. If a subsequent limitation or denial of access occurs, the Region should make an "In SNC" determination, after which regular compliance determinations for the access instrument will be required until the Region once again determines that the instrument is "Not in SNC."

Regions should incorporate into their CERCLIS data control plans provisions to ensure routine and consistent tracking of compliance with active enforcement instruments in a manner consistent with this guidance. Region 5 has created and placed in ReportLink several reports that facilitate the process of updating the compliance status of enforcement instruments (*e.g.*, a report that shows the compliance status of open enforcement instruments sorted by RPM). OSRE and Region 5 will work together to update those reports consistent with this guidance and make the reports available to other Regions. Compliance status information for enforcement instruments will generally not be disclosed to the public, as compliance status determinations include information about planned enforcement actions that is enforcement confidential.

Closed Enforcement Instruments

This guidance addresses compliance tracking of "open" CERCLA enforcement instruments. It does not apply to instruments that have been "closed" after all non-payment obligations have been completed. These "closed" instruments should be designated as such using the compliance status value "Work Under Order/Settlement Completed" (WOSC), indicating that all non-payment obligations are complete. When appropriate, the "Closed Order or Settlement" (subaction type of "IO") milestone in CERCLIS should also be used, indicating that all obligations under the enforcement instrument (*i.e.*, both work obligations and payment obligations) are complete.

Conclusion

If you have questions regarding the tracking of compliance in CERCLIS, please contact Bruce Pumphrey at 202-564-4222. If you have questions regarding the definition of "substantial noncompliance," please contact Steve Keim at 202-564-6073. If you have questions specific to federal facilities, please contact Greg Snyder at 202-564-4271.

ED_002345C_00015802-00008

This memorandum is intended solely for the guidance of employees of EPA and creates no substantive rights for any person. It is not a regulation and does not impose legal obligations. EPA will apply this guidance only to the extent appropriate based on the facts.

Attachments

cc: Superfund Program Branch Chiefs, Region I – X
Superfund ORC Branch Chiefs, Region I – X
Information Management Coordinators, Regions I – X
Bruce Gelber, DOJ
Karen Dworkin, DOJ
Leslie Allen, DOJ
John Reeder, FFRRO
Debbie Dietrich, OEM
Carolyn Copper, OIG
Jim Woolford, OSRTI
Patricia Gowland, OSRTI
Debbie Bishop, Superfund Lead Region Coordinator

ED_002345C_00015802-00009

Attachment A
Substantial Noncompliance Examples

The following detailed examples of violations (or sets of violations) that constitute substantial noncompliance (SNC) supplement the brief examples provided in the SNC definition. Neither set of examples is meant to be comprehensive. When site-specific questions arise about what constitutes SNC, appropriate OSRE or FFEO personnel should be consulted.

Failure to Comply with Sampling and Planning Requirements

The XYZ Corp. removed from the site several drums that were located in an abandoned warehouse on-site and were subject to the order. Based on its knowledge about past operations at the site, EPA reasonably believed the drums may have contained hazardous substances. The order required that the drums be sampled and that their contents and the drums themselves be disposed of off-site in compliance with section 121(d)(3) of CERCLA. Prior to such sampling and removal, XYZ was also required to submit to EPA for approval a removal action plan and a health and safety plan. XYZ arranged for the removal of the drums, but did not comply with any of the order's sampling or planning requirements.

- XYZ significantly deviated from the terms of the order by failing to sample the contents of the drums and removing the drums without preparing a removal action plan or health and safety plan.
- These violations harmed the integrity of the enforcement process by bypassing required EPA review of the cleanup process and the failure to plan appropriately for the removal of the drums detracted from the quality of response activities.

Failure to Complete Remedy Implementation

ABC Co. was operating under a UAO that required it to implement the site remedy as set forth in a ROD, which included operation of a soil vapor extraction (SVE) system. ABC shut down the SVE system, failed to conduct a soil gas investigation following the shutdown of the system, and refused to resume operation of the SVE system after EPA found high residual contaminant levels in the subsurface. ABC also failed to conduct a supplemental groundwater investigation in the deeper aquifer of the source area.

- ABC significantly deviated from the terms of the order by failing to conduct the soil gas investigation, refusing to resume SVE operation, and failing to conduct the supplemental groundwater investigation.
- These violations harmed both the quality and timeliness of response activities, and also harmed the integrity of the enforcement process by failing to gather data required to determine the steps required to fully implement the ROD.

ED_002345C_00015802-00010

Failure to Implement ROD Addressing Uncontrolled Groundwater Plume

The Bronze facility is in a rural area surrounded by an agricultural community that uses groundwater from private wells for drinking water as well as for irrigation of crops. The facility has contaminated soil and groundwater. Pursuant to an FFA, separate RODs are in place for the soil and groundwater. The soil remedy is well underway. However, the groundwater ROD, which required containment of the groundwater to prevent migration of the groundwater plume beyond the facility property, has not been implemented. Because the plume was not contained, it has migrated beyond the facility property and threatens private drinking water and irrigation wells in the local community.

- The facility has significantly deviated from the terms of the enforcement instrument by failing to implement the groundwater ROD.
- This violation has delayed the response, worsened site conditions by allowing further migration, and affected the community by putting both drinking water and irrigation water supplies at risk.

Failure to Fully Cooperate

EPA ordered Anytown Municipal Landfill (AML) to conduct additional work under an existing UAO. AML undertook some of the work, including connecting nearby residents to the municipal water supply system, but did not do the work required to fully identify the source, nature, and extent of contamination in the area around the landfill and continued to argue that the additional work was not needed. This pattern continued over several years. To avoid further delay in fully understanding newly identified contamination, EPA hired a contractor to test wells in the area and undertook an effort to summarize data for the site in an electronic repository after AML refused to perform this task.

- AML's incomplete compliance and continuing refusal to do the work necessary to determine the nature and extent of the contamination constituted a pattern of chronic violation.
- These violations harmed the timeliness of response activities by delaying investigations that were central to designing an appropriate cleanup and harmed the integrity of the enforcement process by failing to gather data required to determine the steps required to fully implement the ROD.

Failure to Comply with Monitoring Requirements

The Teal facility is in a suburban location surrounded by homes and light commercial development. The facility failed to conduct required long-term monitoring at several groundwater operable units. This sampling is critical to determining whether the groundwater remedies are protective. Without the sampling, there is no way to determine whether contaminated groundwater may adversely affect the surrounding community.

ED_002345C_00015802-00011

- The facility significantly deviated from the terms of the FFA by failing to conduct required long-term monitoring at the groundwater operable units.
- These violations harmed the integrity of the enforcement process by failing to collect data needed to determine whether the remedy has been effective and whether further work is required under the enforcement instrument.

Denial of Access

An owner/operator PRP subject to an EPA access order denied access to EPA for sampling and remedial design activities. EPA sent the PRI A-2 ing letter and subsequent negotiations temporarily resolved the noncompliance. However, within a few months the PRP again denied EPA access to the site.

- The owner/operator twice significantly deviated from the terms of the access order by denying EPA access to the site. Each violation independently constituted a significant deviation that meets the SNC definition and the two violations cumulatively also constituted a pattern of chronic violation that meets the SNC definition.
- These violations harmed the timeliness of response activities by preventing sampling and remedial design activities on the PRP's property.

Failure to Implement Institutional Controls

The Indigo facility is in a remote, sparsely populated location. The facility has soil contamination and a landfill with a soil cover. To prevent damage to the soil cap and exposure to contamination, the remedial design for the landfill required that the base, within 90 days of finalization of the remedial design, complete the following actions: (1) install warning signs around the landfill; and (2) update its Base Master Plan and GIS system to include the location of the landfill and land use restrictions preventing digging or disturbance of the cap. These actions were not completed and as a result the environmental office approved plans to construct a storage building, a parking lot, and a road on the cap. These projects were completed by facility personnel.

- The facility has significantly deviated from the terms of the FFA by failing to implement the institutional controls.
- This lack of timeliness has resulted in a serious impact on the site and possible exposed base personnel to hazardous substances.

ED_002345C_00015802-00012

Failure to Notify EPA of Plans to File Contribution Litigation

Five major PRPs were cleaning up a co-disposal landfill pursuant to an RD/RA CD. Consistent with the terms of the model RD/RA CD, this particular CD obligated the PRPs to notify the United States at least 60 days prior to filing any suit for matters relating to the site. Without giving EPA any prior notification, the PRPs filed contribution claims against hundreds of local businesses. As a result, these businesses collectively incurred significant legal fees in addressing these claims.

- The five major PRPs failed to give EPA the required notice, thus depriving EPA of the opportunity to negotiate *de minimis* settlements or take other appropriate action with these other parties.
- This violation harmed the integrity of the enforcement process by undercutting EPA's prerogative to decide whether to pursue additional parties and, if so, when.

Failure to Retain Records

PRP Generic Products Company (GPC) negotiated a settlement wherein it would receive special account monies from EPA to conduct certain removal measures at a mining-contaminated site. Consistent with the terms of the model AOC, GPC was required to preserve and retain any records relating to the performance of the work for ten years after EPA certified its completion. Notwithstanding this obligation, GPC discarded such records shortly after completion of the removal. Meanwhile, EPA pursued several late-identified PRPs, seeking to recover the response costs incurred by GPC (but paid for by EPA with special account monies). GPC's failure to preserve the necessary records hindered EPA's enforcement efforts.

- GPC significantly deviated from the terms of the order by failing to preserve and retain the records documenting the performance of the work.
- This violation harmed the integrity of the enforcement process by undermining EPA's attempts to pursue additional PRPs. It also potentially had the indirect effect of delaying response activities, as the cost recovery proceeds lost as a result of GPC's noncompliance were not available to spend on further work.

ED_002345C_00015802-00013

Attachment B
Summary of CERCLIS Compliance Status Values

Compliance Status Reviewed - Not In SNC (SRNF)	The Region has completed its review of PRP compliance with work obligations under the enforcement instrument and has determined, based on available information, that it is not in substantial noncompliance (SNC). This value should also be used when an enforcement instrument was previously found to be in SNC and is no longer in SNC.
In SNC - Informal Action Planned (IIAP)	The enforcement instrument is in SNC as to work obligations and the Region is planning to take an informal enforcement action such as a phone call, a warning letter, or a warning e-mail.
In SNC - Informal Action Taken (IIAT)	The enforcement instrument is in SNC as to work obligations and the Region has taken an informal enforcement action such as a phone call, a warning letter, or a warning e-mail.
In SNC - Formal Action Planned (IFAP)	The enforcement instrument is in SNC as to work obligations and the Region is planning to take a formal enforcement action by invoking the penalty or other formal mechanisms outlined in the enforcement instrument.
In SNC - Formal Action Taken (IFAT)	The enforcement instrument is in SNC as to work obligations and the Region has taken a formal enforcement action by invoking the penalty or other formal mechanisms outlined in the enforcement instrument.
In SNC – Informal Action Taken and Compliance Accomplished (IIAC)	The enforcement instrument was in SNC as to work obligations and the Region took informal enforcement action, with the result that the instrument was no longer in SNC by the end of the quarter. Use only where SNC was identified and resolved in a single quarter.
In SNC – Formal Action Taken and Compliance Accomplished (IFAC)	The enforcement instrument was in SNC as to work obligations and the Region took formal enforcement action, with the result that the instrument was no longer in SNC by the end of the quarter. Use only where SNC was identified and resolved in a single quarter.
In SNC - In Dispute Resolution (IIDR)	Should be used in lieu of "In SNC - Formal Action Taken" when the formal dispute resolution provisions of the enforcement instrument have been invoked with respect to work obligations.
In SNC - Referred to DOJ (IDOJ)	Noncompliance has been addressed by referral to the Department of Justice. This also includes instances where a case is sent to DOJ to file a bankruptcy proof of claim when a PRP who was performing work has entered bankruptcy. This level of specificity is required to allow Headquarters to track whether DOJ is taking action in accordance with the IAG. This value should be used in lieu of "In SNC – Formal Action Taken."
In SNC – Fund Takeover (IFTO)	Noncompliance has been addressed by fund takeover of the work addressed by the enforcement instrument.
Decision Not to Pursue Violations (DNPV)	The Region decided not to pursue violations. Primarily for use when no work remedy is available and the Region decides not to pursue penalties.
Work Under Order/Settlement Completed (WOSC)	All of the work obligations under the enforcement instrument have been completed to the satisfaction of EPA.