



# Federal Water Quality Enforcement and Integrated Planning

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## Overview

- Increase in Enforcement (focus on SSO reduction)
- Details of EPA interest in Collections System operations and WWTPs
- Tools to: 1) Be prepared for EPA scrutiny; and 2) Address comprehensive water needs.



## Uncle Sam comes to visit

- Surprise visit, and asks for a tour.
- Stays much longer than expected...



## EPA's Jurisdictional "Hooks"

### EPA Authority from CWA:

- Discharges to "waters of the United States"
- Duty to properly "operate and maintain" collections system (found in standard NPDES permit language)



## Waters of the US

### Statutory Jurisdiction:

- Regulate discharges into “waters of the United States”
- Provides a boundary to EPA’s statutory authority



## Operation and Maintenance

- Inherent ambiguity of term.
- SSOs as evidence of “failure to operate and maintain” collections system.
- SSO performance as indicative of operational failures.

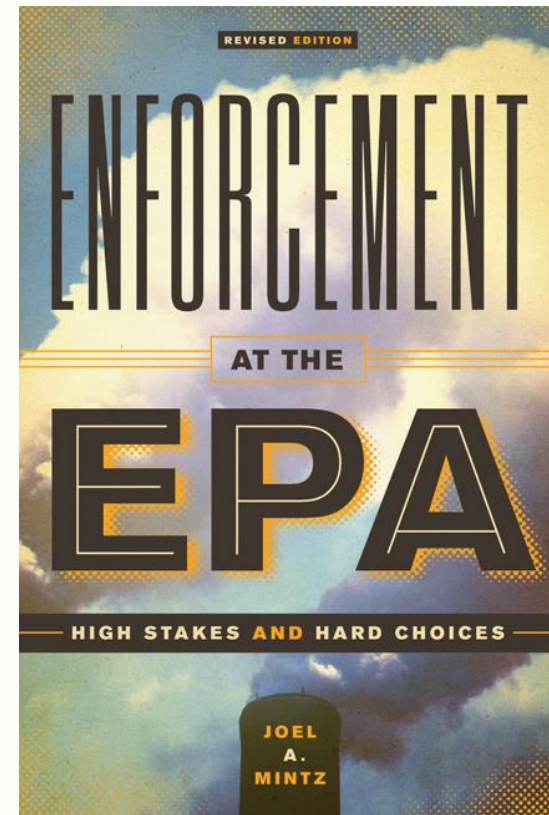


## Enforcement Framework

- EPA and the Department of Justice typically rely on a permittee's self-reported violations of permit conditions as basis for enforcement.
- Enforcement typically takes the form of a negotiated consent decree.
  - wastewater system upgrades (collections system and WWTPs)
  - new maintenance and repair protocol
  - enhanced documentation procedures related to identifying and reporting SSOs, among other requirements.

## Enforcement Framework

- Consent decrees – Negotiation
  - DOJ often assumes lead role.
  - SSOs viewed as serious violations of the CWA.
- Consent decrees – Penalties
  - Stipulated penalties for future violations.
  - One-time civil penalty for past violations.
- Consent decrees – Remedies
  - Comprehensive and EXPENSIVE.





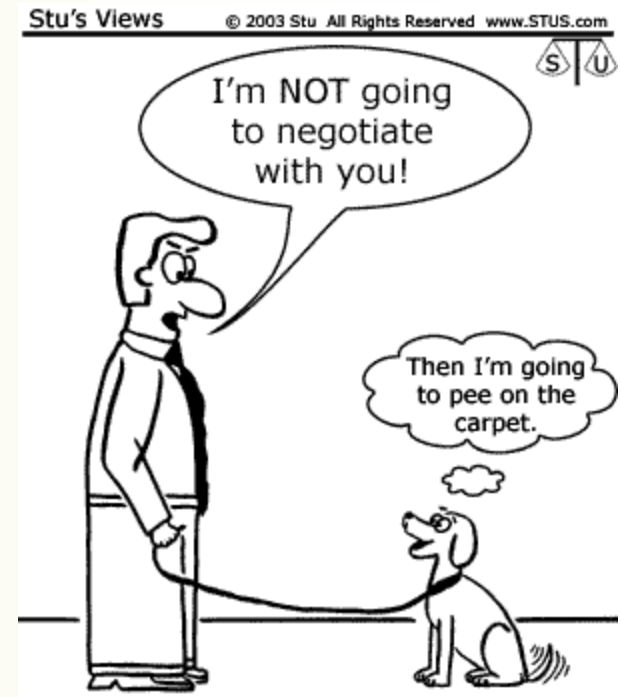
## Responding to Enforcement

- Initial response
  - Document programs and successes of those programs
  - Identify common goals and show progress on those goals
- Educate Management
  - Identify need for additional technical and legal assistance
  - Develop a response strategy



## Responding to Enforcement

- Educate EPA and/or TCEQ
  - on successes of programs, established goals, and suggested path forward
- *Plan for lengthy negotiations and significant technical evaluations*
- Understand the enforcement process



## Tools

- Evaluate current SSO trends and effluent excursion trends
- Evaluation of SOPs/written manuals
- Review existing CIP priorities



## Compliance and Enforcement Avoidance

- Review documentation on systems management, including review of:
  - Manuals
  - SOPs
  - Training
- Don't rely solely on internal knowledge



**STANDARD  
OPERATING  
PROCEDURE**

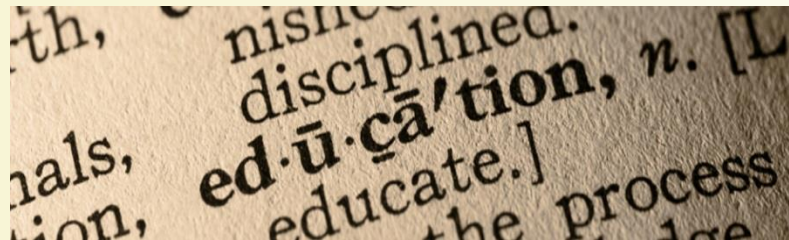
## Planning Ahead: Options

- Review spill history/effluent violations
- Self-Audit of existing practices and capital commitments
- Review/Develop a comprehensive CIP, that is supported by:
  - Inspection, cleaning, and risk-based assessments
- Capacity assessment



## Planning Ahead

- Get Management's buy-in on:
  - Financial commitment
  - Public Relations
  - Consumer education



## Integrated Planning

### Concept:

- Comprehensive CWA implementation strategy that factors in financial impact
- U.S. Conference of Mayors has backed Integrated Planning for the flexibility it provides



## Integrated Planning: “Overarching Principles”

- Maintain standards to protect public health
- Allow communities to balance CWA requirements to address their most pressing needs
- Community is responsible for developing plan
- Beneficial results:
  - Timing of compliance
  - Prioritization of all CWA projects





## Integrated Planning: “Guiding Principles”

1. Reflect State requirements and input
2. Use existing flexibility in CWA and its regulations
3. Analyze alternatives to use funds most efficiently
4. Evaluate and incorporate sustainable tech (green tech), when appropriate
5. Evaluate and address community impacts
6. Ensure that technology-based and core requirements are met timely
7. Have a financial strategy in place and include fee structure, when necessary
8. Allow stakeholder input in development of plan

## Integrated Planning: Elements

- Define Scope
- Plan Specifics
- Implementation
- Permits
- Enforcement



## Conclusions

- Enforcement on the rise
- Costs of Enforcement
- Proactive, not reactive
- Tools:
  - Self-audit
  - Assessment of immediate threats
  - Examining CIPs/existing documentation
  - Liability Assessment
  - Integrated Planning



## Questions



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