



Policy Memorandum

To:	RCSU Staff
From:	Kirsten King,
Subject:	SBAP Compliance Assistance Enforcement policy
Date:	July 22, 2004

EPA provides two options for enforcement- compliance assistance interaction:

- Small Business Assistance Programs (SBAPs) may offer small businesses a limited correction period for violations detected during compliance assistance. Small businesses may have up to 90 days to receive compliance assistance from the SBAPs, with the possibility of an additional 90 days to correct any violations discovered under the program. After that time, violations would be subject to existing enforcement policies.
- SBAPs may offer compliance assistance on a confidential basis. Under this option, the state retains the ability to investigate and/or take enforcement actions at any time for violations discovered independently from the Section 507 program. Under the *Small Business Compliance Policy*, small businesses that receive confidential assistance from the SBAP may receive a correction period if the small business voluntarily discloses the violation to the appropriate regulatory agency.

In order to align with compliance assistance programs across CDPHE, the Air Division will establish the following policy:

1. Small businesses will be allowed 90 days to correct any compliance problems identified by SBAP. SBAP personnel may grant an additional 90 days if the company has shown significant improvement during the first 90 days, but requires additional time to resolve all the identified issues.
2. If enforcement inspects a source during the 90 or 180-day period, the problems will be turned over to SBAP for resolution during the 90 or 180 day period, unless the Division determines that there is an imminent threat to public health or the environment.
3. Enforcement will have access to SBAP information on businesses on the enforcement inspection list.
4. If SBAP identifies a source and that source is not inspected by enforcement during the 90 to 180-day period but the source makes no attempts during this time period to correct non-compliance issues, SBAP will have the option to inform enforcement regarding non-compliance issues at this facility. Traditional fees and penalties will be charged to out of compliance facilities following the grace period. If a non-compliant source does not correct non-compliance issues appropriate fees and penalties may be charged in arrears.

This policy is a variation on option 2 provided by EPA and the Hazardous Waste Division's policy on addressing sources in their GAP program.

The Division realizes that compliance assistance does not serve the same purpose as inspections and enforcement. Where inspections and enforcement conduct in depth reviews of a source's compliance with all regulations, compliance assistance:

- ❑ Assists small businesses in determining applicable requirements, completing appropriate paperwork, and in receiving permits in a timely and efficient manner;
- ❑ Provides mechanisms for informing small businesses of their obligations including mechanisms for referring sources to qualified auditors or, at the option of the Division, for providing audits of the operations of such sources to determine compliance.
- ❑ Assists small businesses with pollution prevention and accidental release detection and prevention; and
- ❑ Provides information concerning alternative technologies, process changes, products, and methods of operation that may help reduce air pollution.

SBAP/Enforcement interaction

1. Enforcement will have access to SBAP information on businesses on the enforcement inspection list or other businesses as deemed necessary.
2. At the end of the 90 or 180-day period SBAP will update Enforcement on the compliance status of the source.
3. SBAP will work with enforcement to resolve non-compliance issues as quickly and efficiently as possible.
4. If requested by the business, SBAP/SBO will act as a liaison for the business to assist in the settlement of non-compliance issues that may lead to enforcement actions (compliance advisories, compliance orders, etc.).