



## Cooperative Enforcement and Compliance

## Workgroup

The Cooperative Enforcement and Compliance Workgroup was created under the Border XXI Program to strengthen compliance and enforcement of environmental regulations in the United States-Mexico border region. Environmental enforcement and compliance are recognized as essential for preventing transboundary problems and for ensuring that each country's environmental goals are realized. The workgroup was created with the understanding that each government would enforce its own environmental laws within its respective legal framework, using its own resources. However, neighboring countries may support environmental compliance and enforcement efforts by providing and sharing technical and regulatory information.

Activities conducted by the workgroup include the following:

- Efforts to detect, target, and take effective enforcement action against environmental violators
- Training and technical support to build capacity in all phases of environmental enforcement and compliance programs
- Promotion of voluntary compliance through environmental audits and pollution prevention programs
- Creation of a border-wide network of regional subgroups to enhance local enforcement and cooperation among agencies in both countries



### Participants

The U.S. Environmental Protection Agency (EPA) and Mexico's Attorney General for Environmental Protection (PROFEPA – Procuraduría Federal de Protección al Ambiente) are the lead agencies involved in implementing workgroup activities. The workgroup also works closely with the U.S. Department of Justice (DOJ), United States and Mexican Customs officials, and various state and local agencies. The North American Working Group on Environmental Enforcement under the North American Commission for Environmental Cooperation (a trilateral group created under the North American Free Trade Agreement) also works with the workgroup to improve enforcement and compliance. The Cooperative Enforcement and Compliance Workgroup partnerships are intended to enhance environmental compliance by establishing networks of communication among agencies in both countries.

### The Border XXI Program

The Border XXI Program (Border XXI) is an innovative binational effort between the United States and Mexico to protect the natural resources and environment of the border region. The mission of Border XXI is to achieve a clean environment, protect public health and natural resources, and encourage sustainable development along the U.S.-Mexico border.

Border XXI is implemented through nine binational workgroups. The nine workgroups under the Border XXI Program are

- 1 water,
- 2 air,
- 3 hazardous and solid waste,
- 4 pollution prevention,
- 5 contingency planning and emergency response,
- 6 cooperative enforcement and compliance,
- 7 environmental information resources,

# Cooperative Enforcement and Compliance Workgroup



## Compliance and Enforcement in Mexico

PROFEPA is the primary Mexican government agency responsible for overseeing compliance with Mexican environmental regulations. Despite fluctuations in the Mexican economy, PROFEPA has maintained a consistent pace in the pursuit of its central goal of monitoring and enforcing compliance. For example, PROFEPA has visited each of the businesses under its jurisdiction in the northern border region at least once. PROFEPA has established a goal of conducting 18,000 inspection visits in the northern border region between 1996 and 2000. Through July 1997, 28% of the inspection visits had been conducted. PROFEPA has also committed to conducting legal follow-up of more than 4,000 facilities initially found to have violations. This comprehensive inspection program has had a major positive affect on facilities in the northern border region; the number of serious violations has steadily fallen, and the number of facilities in full compliance has risen (Figure 1).

## Inspections of Maquiladora Facilities in Mexico

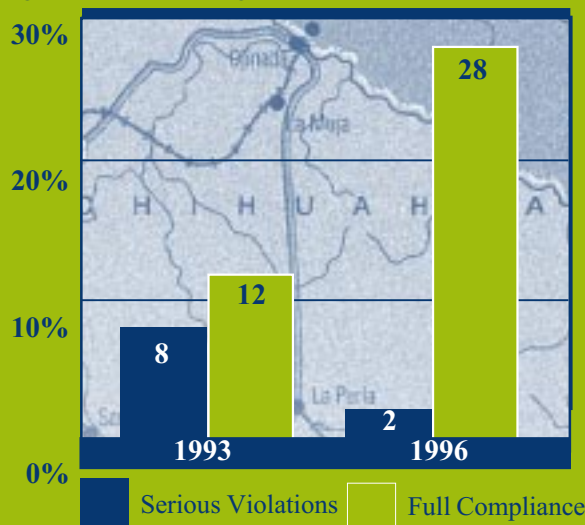


Figure 1

## Objectives

The Cooperative Enforcement and Compliance workgroup has the following objectives:

- Continuing efforts to achieve compliance with environmental requirements in the border area
- Establishing and enhancing networks of cooperation among various state, local, and federal agencies involved in environmental compliance in both countries
- Encouraging voluntary compliance by industry, through strategies such as environmental auditing and the use of clean technologies and less toxic raw materials in conjunction with a strong program of law enforcement
- Developing similar systems of reporting for compliance and enforcement in both countries in accordance with the legal framework of each country
- Promoting the development of mechanisms that enhance the evaluation of compliance with environmental law
- Promoting pollution prevention as a mechanism for solving compliance problems
- Continuing to promote public participation within the legal framework of each party

In fiscal year 1996-1997, EPA and United States border state agencies provided training to Mexican inspectors in environmental criminal enforcement and developed a training video on border environmental crimes. In 1998, EPA and Mexican authorities will pilot an advanced training course for Mexican inspectors for sampling and analysis for enforcement inspections.

## Compliance and Enforcement in the United States

The EPA and various U.S. state agencies have conducted inspections under the jurisdiction of the Resource Conservation and Recovery Act (RCRA), the Clean Water Act (CWA), the Clean Air Act (CAA), and the Emergency Planning and Community Right-to-Know Act (EPCRA). In 1996, EPA and state agencies conducted more than 600 inspections of regulated facilities in the border region (Figure 2), and with the DOJ, they have assessed \$1.2 million in penalties. In 1996, Texas officials conducted 96 transboundary hazardous waste shipment and 60 warehouse inspections. New Mexico officials conducted 41 vehicle inspections at two international border crossings, while California state and local authorities conducted 172 truck inspections.

EPA grants to Texas and New Mexico Attorneys General Offices support innovative enforcement of state environmental, consumer fraud, land-use, and nuisance laws against development of border "colonias," or shanty-towns. EPA and the DOJ, in cooperation with the Texas Attorneys General Office, brought civil judicial action against a Texas colonia developer for environmental health violations and obtained a settlement to improve environmental infrastructure and bring safe drinking water to the residents.

## Cooperative Efforts

Much of the activity of the Cooperative Enforcement and Compliance Workgroup is devoted to streamlining cooperation among agencies on both sides of the border. For example, enforcement officials in the United States have used HAZTRAKS, a binational hazardous waste tracking system developed by the Border XXI Hazardous and Solid Waste Workgroup, to identify environmental violations of transboundary hazardous waste shipments. EPA has initiated more than a dozen enforcement cases in the United States based on information obtained using HAZTRAKS, and training is underway to enhance PROFEPA's use of the tracking system in Mexico.

In February and March 1997, PROFEPA inspectors joined California Department of Toxic Substances Control (Cal-DTSC) inspectors to observe hazardous waste transporter inspections conducted at the U.S. Customs Port of Entry in Calexico.

Compliance training has been provided to inspectors on both sides of the border. From 1992 to 1997, PROFEPA and EPA have collaborated on 16 joint training programs that have included topics such as law enforcement, hazardous waste shipment inspections, and detection of illegal CFC smuggling. As a result of efforts by the Border XXI Cooperative Enforcement and Compliance Workgroup, more than 230 United States and Mexican Customs and environmental inspectors have been trained at 13 border crossings, resulting in improved field cooperation and detection of illegal hazardous waste shipments.

## Voluntary Compliance

Voluntary compliance occurs when a regulated industry undertakes proactive efforts such as environmental audits or pollution prevention to meet or exceed regulations. For those industries participating in internal environmental audits and addressing problems identified during the audits, regulatory agencies can waive penalties and reduce the frequency of inspections.

PROFEPA's innovative voluntary environmental auditing program, which requires facilities to develop internal audits and commit to Action Plans, has resulted in more than \$800 million spent in environmental improvement investments by more than 400 facilities. Under EPA's audit policy, 19 facilities voluntarily discovered and disclosed violations and implemented procedures to prevent their recurrence.

## Number of Inspections in the Border Area of the U.S.

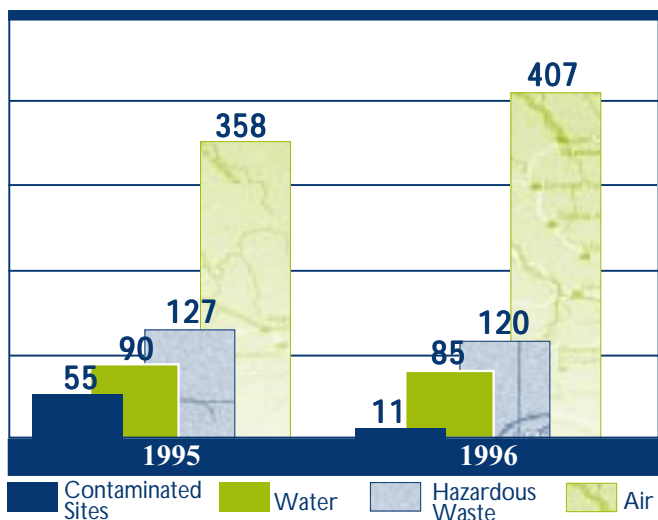


Figure 2

## Subgroups

In recognition of the diversity of the border area, the Cooperative Enforcement and Compliance Workgroup organized five subgroups, each focused on a distinct geographic region. The regional subgroups include:

- California/Baja California
- Arizona/Sonora
- Texas/New Mexico/Chihuahua
- Tamaulipas/Nuevo Leon/Texas
- Coahuila/Texas

Regional subgroups are responsive to the needs of their respective border communities such as community concerns, changing conditions, and economic and budgetary realities of communities and municipalities.

Some accomplishments of the subgroups include the following:

- The California/Baja California subgroup exchanged information and cooperated in investigation of problems regarding illegal import to Mexico of contaminated soil
- The Arizona/Sonora subgroup presented the workshop "Principles of Environmental Enforcement" to a group of federal, state, tribal, and local environmental policy makers from both sides of the border
- The Texas/New Mexico/Chihuahua subgroup helped promote environmental auditing and voluntary compliance for U.S. companies with Mexican subsidiaries
- The two newest subgroups, Tamaulipas/Nuevo Leon/Texas and Coahuila/Texas, have only recently formed, in April 1998 and May 1998, respectively. In their first meetings, both subgroups established a consensus to focus on issues arising from the transport of hazardous waste



San Diego Border Liaison Office  
610 West Ash St., Suite 703  
San Diego, CA 92101

## For more information please contact:

### UNITED STATES

#### Contact:

Timothy Whitehouse  
U.S. EPA- Headquarters (MC-2243-A)  
401 M Street SW  
Washington, DC 20460  
phone: (202) 564-2315

#### Cochair:

Michael Alushin  
Director of the EPA International Enforcement  
and Compliance Division  
U.S. EPA- Headquarters (MC-2254-A)  
401 M Street SW  
Washington, DC 20460

### MEXICO

#### Contact:

Miriam Gonzales  
PROFEPA - SEMARNAP  
Boulevard El Pipila No. 1  
Edif Principal P.B.  
Tecamachalco, Nacaulpan de Juarez  
Estado de México, CP 53950  
Telephono: (525) 589-6505  
Fax: (525) 589-4011  
E-mail: [mgonzalex@buzon.semarnap.mx](mailto:mgonzalex@buzon.semarnap.mx)

#### Cochair:

Miguel Angel Cancino Aguilar  
Jefe de la Unidad Juridica  
PROFEPA-SEMARNAP  
Boulevard El Pipila No. 1  
Edif Principal P.B.  
Tecamachalco, Nacaulpan de Juarez  
Estado de México, CP 53950  
Telefono: (525) 589-0166