

Compliance and Enforcement Panel *Criminal Enforcement*

Presented by

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Objectives for our discussion

- ◆ EPA-CID organizational awareness.
- ◆ Differences between criminal v. civil.
- ◆ How & why environmental criminal investigations are initiated and conducted.
- ◆ Recent Cases.



E.P.A. C.I.D. Organization

- ◆ 10 Area Offices.
 - Dallas Area Office.
- ◆ SAC and RAC authorities.
- ◆ Answer directly through chain to Washington, D.C.

Penalties and Yardage

- ◆ Federal Sentencing Guidelines.
- ◆ Individuals face possible jail time.
- ◆ Reductions possible for cooperation with the government.





A Bad Day for the Environmental Manager

1. Does everyone know why the environmental manager is referred to as the corporate DF?
2. The internal conflict between production and environmental.
3. Smart executives should structure corporate management to assure environmental considerations are part of production decisions.
 - straw man or actual authority?



Environmental Harm

Actual Harm.

Threat of Significant Harm.

Failure to Report an actual discharge.

Violation represents a trend in industry.



Culpable Conduct

- ◆ History of Repeated Violations.
- ◆ Deliberate misconduct resulting in violation
- ◆ Concealment of misconduct or falsification of records
- ◆ Tampering with monitoring or control equipment
- ◆ Business operating without a permit or required documentation.



Criminal Investigative Process

- ◆ Victims & Disgruntled employee.
- ◆ Information resources on corporation.
- ◆ The processes at the facility.
- ◆ Regulatory interpretation.
- ◆ Multi-agency, multi-discipline cooperation.
- ◆ Investigative discretion.
- ◆ Working with the Prosecutor.
- ◆ HEALTH & SAFETY CONCERNS.



Amitech

- ◆ Complaints of odors by community.
- ◆ During construction of new facility, environmental condenser to control emissions, including styrene, was required to be installed.
- ◆ Synthetic minor permit.
- ◆ On May 17, 2007, sentenced to a criminal fine of \$1.07 million dollars, \$20,000 SEP to LDEQ for an LDAR project in the Greater Baton Rouge area; \$80,000 SEP to LSP to its Right to Know Fund; 36 months probation.
- ◆ Plant Manager also pled guilty to negligent endangerment release of HAP charge. Sentencing is pending.



SELA

- ◆ Northshore privately owned POTWs.
- ◆ Complaints of raw sewage and systematic compliance issues.
- ◆ 2.1 million dollar criminal fine; 2) five years probation; and 3) implement an environmental compliance program which will meet the approval of the United States Environmental Protection Agency, and 4) \$12 million additional dollars since the investigation began to correct the violations charged by the Government.



Rowan Companies, Inc.

- ◆ Off shore floating platform.
- ◆ Regular dumping of hydraulic fluid, and other wastes overboard in Gulf.
- ◆ Sandblasting waste not screened or recovered in Port Fourchon and Sabine Pass
- ◆ 9 managers pled guilty – 3 felony grade; 6 misdemeanor grade.
- ◆ \$7 million criminal fine, (2) SEP totaling \$1 million to five regional enforcement organizations for the purposes of environmental training, education, and enforcement coordination concerning violations of the CWA, and 3) SEP valued at \$1 million to National Marine Sanctuaries Foundation to be used for preservation and protection projects at the Flower Garden and Stetson Banks National Marine Sanctuary located in the Gulf of Mexico off the coasts of Texas and Louisiana.
- ◆ Also, under probation, Rowan will reorganize its corporate structure to add an environmental division and to implement a comprehensive environmental compliance plan under which the company will commit that all of its rigs operating in U.S. waters will comply with U.S. and international environmental laws. In cooperation with the U.S. Environmental Protection Agency and the U.S. Coast Guard, Rowan will develop new sandblasting techniques and help establish new industry standards for the minimization and containment of sandblasting debris over water.



Honeywell

- ◆ Title V allowed venting of heels of refrigerant in Baton Rouge.
- ◆ Employee killed due to lack of controls in venting procedures when cylinder was misbranded and actually contained antimony pentichloride.
- ◆ Honeywell pled guilty to negligent endangerment CAA charge.
- ◆ Through the plea agreement, Honeywell has agreed to pay a criminal fine of \$8 million, restitution of \$2 million to Henry's three children, community restitution of \$750,000 to LDEQ, \$750,000 to LSP Hazardous Materials Unit and \$500,000 to the State Police Emergency Operations Center.

Crimes and Misdemeanors

- ◆ Lyin' cheatin' stealin'
- ◆ Knowingly doesn't ordinarily require "regulatory knowledge."
- ◆ Money being made through these criminal endeavors.

