



DAILY NEWS

Bodine Says 'Informal' Enforcement May Cut Cases But Speed Compliance

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EPA enforcement chief Susan Bodine says the agency plans to launch pilot projects using “informal” enforcement actions that notify a facility of a violation and aim to achieve immediate compliance without waiting for formal litigation steps, saying that while it may cause a drop in total enforcement cases it could speed compliance.

Bodine, assistant administrator in the Office of Enforcement & Compliance Assurance (OECA), said the pilot projects are among her list of goals during Jan. 30 remarks to an EPA National Executive Leadership Development Conference in Washington, D.C. She conceded that the informal enforcement approach could open EPA to criticism that it is reducing its enforcement efforts, but said it could provide better environmental protection.

“One of our strategic measures is reducing the time between identifying environmental problems in getting back into compliance,” Bodine said during a panel discussion on EPA's draft strategic plan for fiscal years 2018-2022, which the agency is expected to finalize in February and will outline its broad agenda for those years.

“One of the things that I want to do, and [that] OECA is working on, is to do pilot projects and hopefully institutionalize this, where we can take informal actions,” Bodine said.

Under the informal enforcement approach, “the inspector can let the facility know it has a problem. And we get compliance immediately as opposed to waiting for the inspection report, waiting for a [notice of violation], and then getting credit for it,” she said on the second day of the two-day conference.

Bodine's remarks come with outside groups already flagging a significant drop in agency enforcement during the first year of the Trump administration. Senate Democrats [have cited warnings](#) from former EPA staff about a steep drop off in agency enforcement cases during President Donald Trump's first year.

For example, Jeff Ruch, executive director of Public Employees for Environmental Responsibility (PEER), at an informal Jan. 23 forum scoffed at EPA Administrator Scott Pruitt's prior pledge to pursue “core” agency activities, citing a contradiction between such pledges and concerns that the enforcement function is being “hollowed out.”

Ruch cited as some examples of degraded agency enforcement new criminal enforcement cases under the Pruitt regime approaching a 30- year low, as well as a number of special agents in EPA's criminal investigation division down by more than half since 2003 to 147 by August 2017 -- before the conclusion of staff buyouts initiated by Pruitt.

At the EPA conference, Bodine said that the informal enforcement method might generate some criticism along those lines. She said, “We are all going to be criticized, saying, 'Oh, they are not taking as many cases.'”

But she added, “[W]hat we care about are the outcomes, we care about compliance.”

Enforcement Efforts

Bodine's remarks were part of a broader discussion in which the heads of several EPA offices combined discussion of their priorities with outreach to agency staff still facing uncertainty after the first year of the Trump administration. In that vein, Bodine herself drew laughs and applause from agency staff when she emphasized that she saw enforcement as a crucial part of performing the agency's mission, though it was not referenced on a slide during the session of general principles expected to drive the agency's work over the next several years.

“Enforcement and compliance assurance is critical to meeting every one of these core elements. Maybe you don't see it there but I see it there,” Bodine said.

Similarly, EPA Office of Air & Radiation Assistant Administrator Bill Wehrum during the discussion praised EPA career staff and managers, acknowledging that they have repeatedly dealt with shifts in agency political leadership, including during the administration of former President George W. Bush -- where Wehrum served as acting EPA air chief -- to former President Barack Obama, and now the Trump administration.

"Part of why I admire the institution is, you put up with us," he said, referring to shifting political appointees. "This group handles it with grace."

But Democrats in Congress, environmentalists and others appear likely to criticize the informal enforcement action plan, to the extent they view it as part of what they cite as an apparent trend toward pared-back enforcement under Pruitt.

"EPA has gone from a watchdog to a lapdog on enforcement," Senator Ed. Markey (D-MA) said in his opening remarks at the Jan. 23 forum.

The agency will also be closely watched for how it implements so called "cooperative federalism" approaches amid concerns from advocates of strong enforcement that EPA Administrator Scott Pruitt's embrace of the idea will simply hand enforcement matters off to states with weak enforcement programs.

Bodine during the discussion appeared to offer some assurance that Pruitt will not let states get away with lax enforcement. She said she is aware of at least two instances since she arrived at the agency where Pruitt was "extremely supportive" of efforts by the agency to warn a state that the agency would act if the state did not step up actions to protect drinking water.

"We sent that message and the state stepped up, so we didn't end up having to take a federal enforcement action." -- *Doug Obey* (dobey@iwpnews.com)

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