



Understanding Directive 019: EUB Compliance Assurance–Enforcement



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2005

Overview

- Background
- EUB Compliance Assurance Initiative (CAI)
- Directive 019–Compliance Assurance Enforcement
- EUB Next Steps

1999: IL 99-4

- EUB Enforcement Process, Generic Enforcement Ladder and Field Surveillance Enforcement Ladder

May 2004: Board Direction

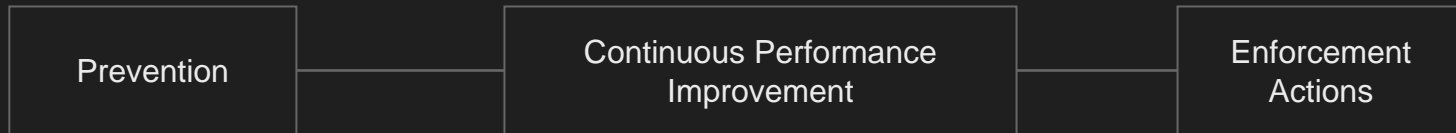
- Simplify, remove automatic escalation
- Risk-based, common & consistent process

July 2005: Publish Directive 019

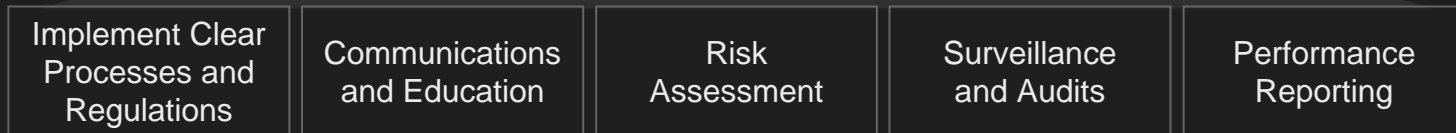
- effective 1 January 2006

EUB Initiative

Compliance Achievement



Processes



Implementation of Systems and Tools

CAI Objectives

- Maintain and or improve overall industry compliance rates
- Develop a simplified and proactive approach to compliance assurance:
 - Increase focus on: information, education, prevention and
 - Maintain enforcement
- Deliver new enforcement directive and a risk based process
- Handle noncompliance events consistently and fairly
- Measure and report compliance performance of Industry
- Support EUB strategic direction and compliance goals

Enforcement Framework Based on Risk

- Risk Assessment Matrix to categorize EUB requirements: Low or High
- Search www.eub.ca key words - Risk Assessment Matrix
- Requirements organized by compliance category
- Categorization; surveillance and enforcement by EUB groups
- Initial IL 99-4 to Directive 019 translation:
 - Minor >> Low
 - Major; Serious >> High
- Categorization results to be posted on website

Risk Assessment Matrix

Table 1 Qualitative Measures of Consequences

Level	Health and Safety	Environmental Impact	Conservation	Stakeholder Confidence in Regulatory Process
D (4)	Multiple fatalities	Widespread, long-term significant adverse effects on the environment (including soil and groundwater) or a large community. Reclamation lasts ≥ 3 years.	Extensive permanent damage to reservoir.	Widespread concerns; or Extensive provincial or some national adverse media coverage; or No or minimal stakeholder confidence.
C (3)	Multiple serious injury or one fatality, or Adverse long-term health impact.	Release requiring significant cleanup. Localized, medium-term adverse effects on the environment (soil, air, and surface water). Reclamation lasts < 3 years.	Permanent damage to reservoir.	Widespread concerns; or Ongoing adverse provincial media coverage, or Widespread reduction in stakeholder confidence.
B (2)	Serious injury, or Adverse short-term health impact.	Release with minimal short-term adverse effects on the environment (soil, air, and surface water).	Potential for permanent damage to reservoir.	Localized concerns; or Some adverse provincial media coverage; or Moderate reduction in stakeholder confidence.
A (1)	Minor injuries, or Minimal impact on public.	Release with minimal impact on soil, air, and surface water.	Limited waste of resource.	Localized concerns; or No media attention; or Small reduction in stakeholder confidence.

Table 2. Qualitative Measures of Likelihood

Level	Descriptor	Description	Probability
IV {4}	Almost certain	Event is expected to occur in most circumstances.	Once or more per year.
III {3}	Likely	Event will probably occur based on current practices.	Once every 3 years.
II {2}	Moderate	Event should occur at some time based on current practices.	Once every 20 years.
I {1}	Unlikely	Event could occur at some time based on current practices.	Less than once every 20 years.

Table 3. Risk Levels Based on Likelihood and Consequences (Risk Assessment Map)

Consequences	Likelihood			
	Unlikely (I) {1}	Moderate (II) {2}	Likely (III) {3}	Almost Certain (IV) {4}
D (4)	5	6	7	8
C (3)	4	5	6	7
B (2)	3	4	5	6
A (1)	2	3	4	5

Table 4. Risk Assessment/Enforcement

Risk Level	Assessment Results	Enforcement
High 5 to 8	Represents an unacceptable level of risk requiring the inclusion of mitigation measures, provided the benefits outweigh the risks. Consider upper level of tier 2 actions for high risk impact (7&8).	Tier 2 (High Risk)
Low 2 to 4	Represents an acceptable level of risk that requires mitigative measures within an acceptable time frame. Consider need for regulatory/audit requirement (1&2).	Tier 1 (Low Risk)

Risk Assessment Matrix

Qualitative Measures of Consequences

- Health and safety
- Environmental impact
- Conservation
- Stakeholder confidence in regulatory process

Qualitative Measures of Likelihood

- Descriptor
- Description
- Probability

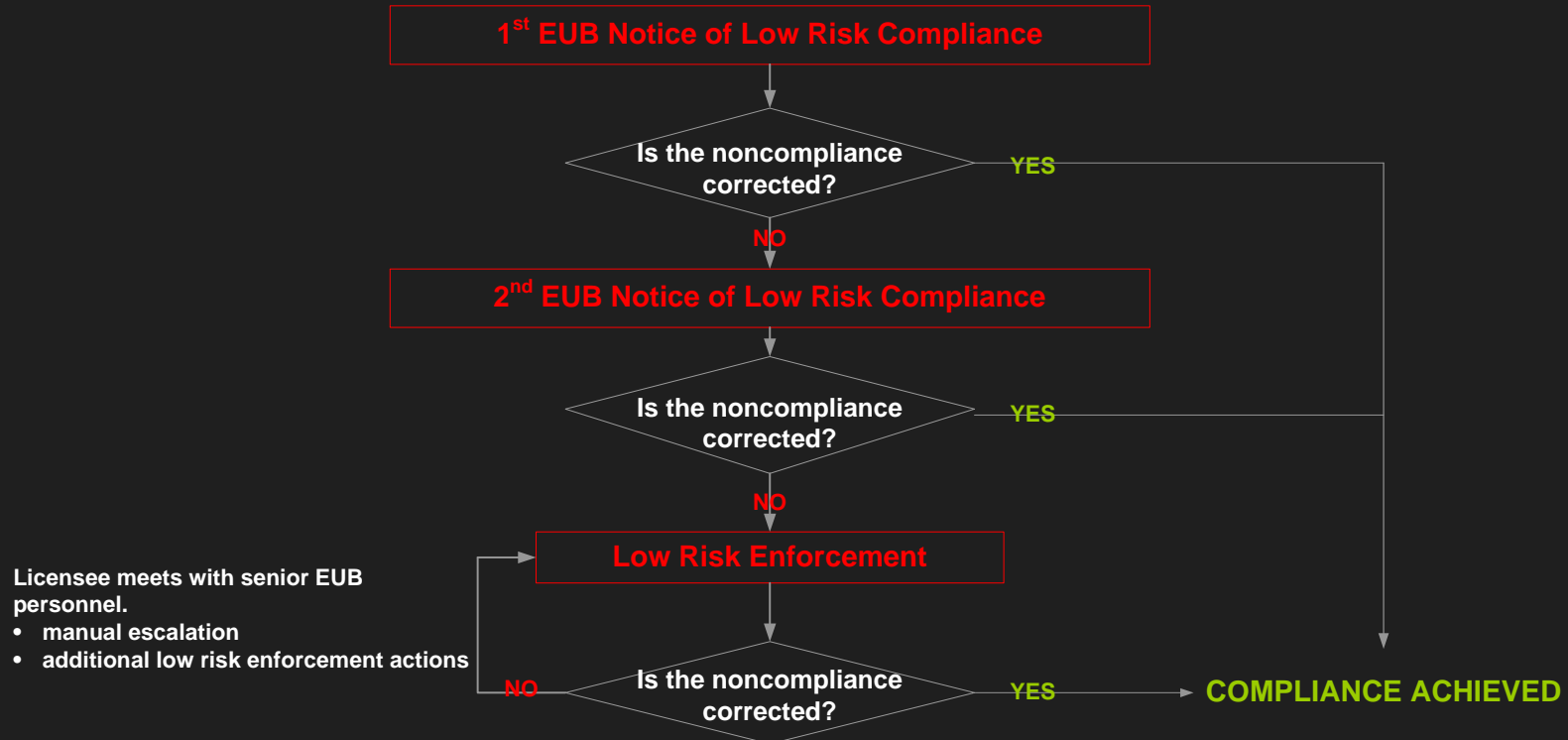
Risk Levels Based on Likelihood and Consequences

Risk Assessment/Enforcement

- High risk
- Low risk

Low Risk Noncompliance: Enforcement Process

LOW RISK NONCOMPLIANCE EVENT



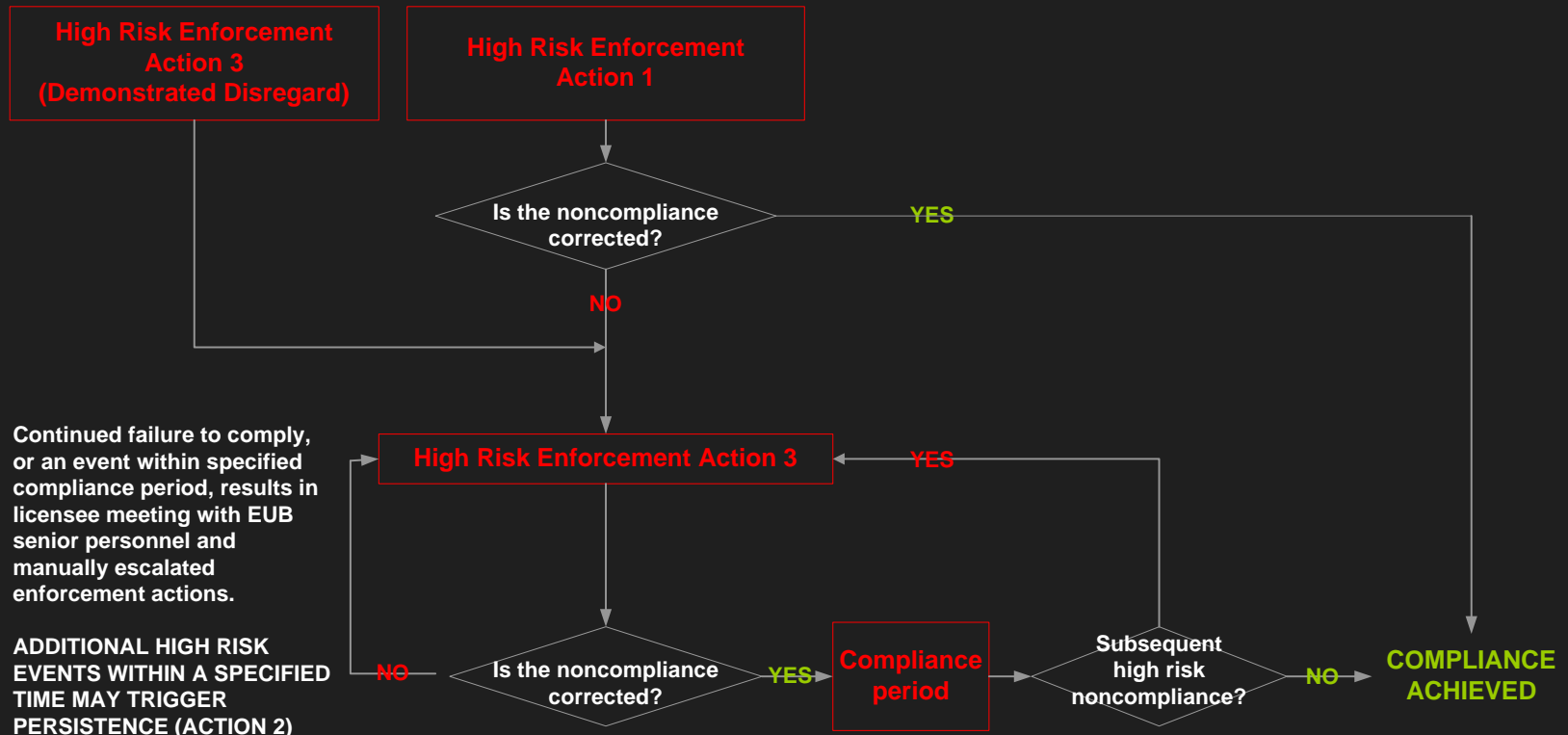
Low Risk

Consequences

- Address noncompliance
- Noncompliance fees (e.g. registry)
- Failure to comply after 2 notices:
 - Noncompliance fees
 - Partial or full suspension
 - Suspension and/or Cancellation of Permit / License or Approval
 - Refer status: focused or global

High Risk Noncompliance: Enforcement Process

HIGH RISK NONCOMPLIANCE EVENT



High Risk Action 1

Consequences

Address noncompliance; action plan implemented within 60 days (or as determined by EUB work group); plus one or more of:

- Noncompliance fees
- Self-audit or inspections
- Increased audits or inspections
- Partial or full suspension
- Suspension or cancellation of permit, license or approval

High Risk Action 3

Consequences

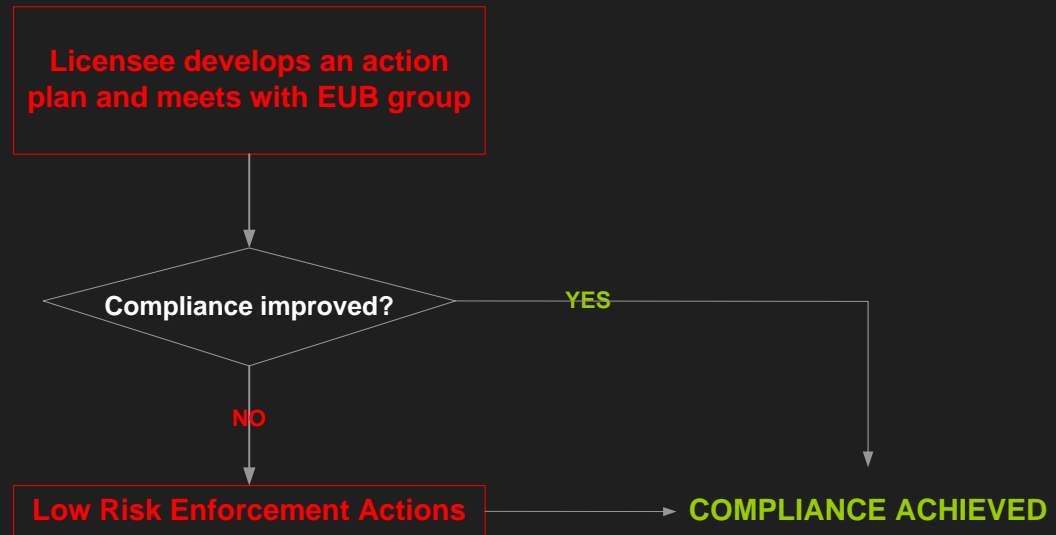
- Failure to Comply with Actions 1 or 2 or demonstrated disregard
 - Address noncompliance
 - Written action plan
 - Root causes
 - Meet with EUB group before start up
 - Noncompliance fees
 - Self audit or inspections/third party audits or inspections
 - Partial or full suspension
 - Suspension or cancellation of permit, license or approval
 - Enforcement orders; refer (Focused or Global)
- Must sustain compliance for 180 days to go back to satisfactory

Persistent Non Compliance

- Low Risk
- High Risk: two options available to EUB groups
 - Option 1: Number of Noncompliances
 - Option 2: Pre-determined Threshold
- Criteria for both options to be determined by EUB groups
- Search www.eub.ca key words: persistent noncompliance framework

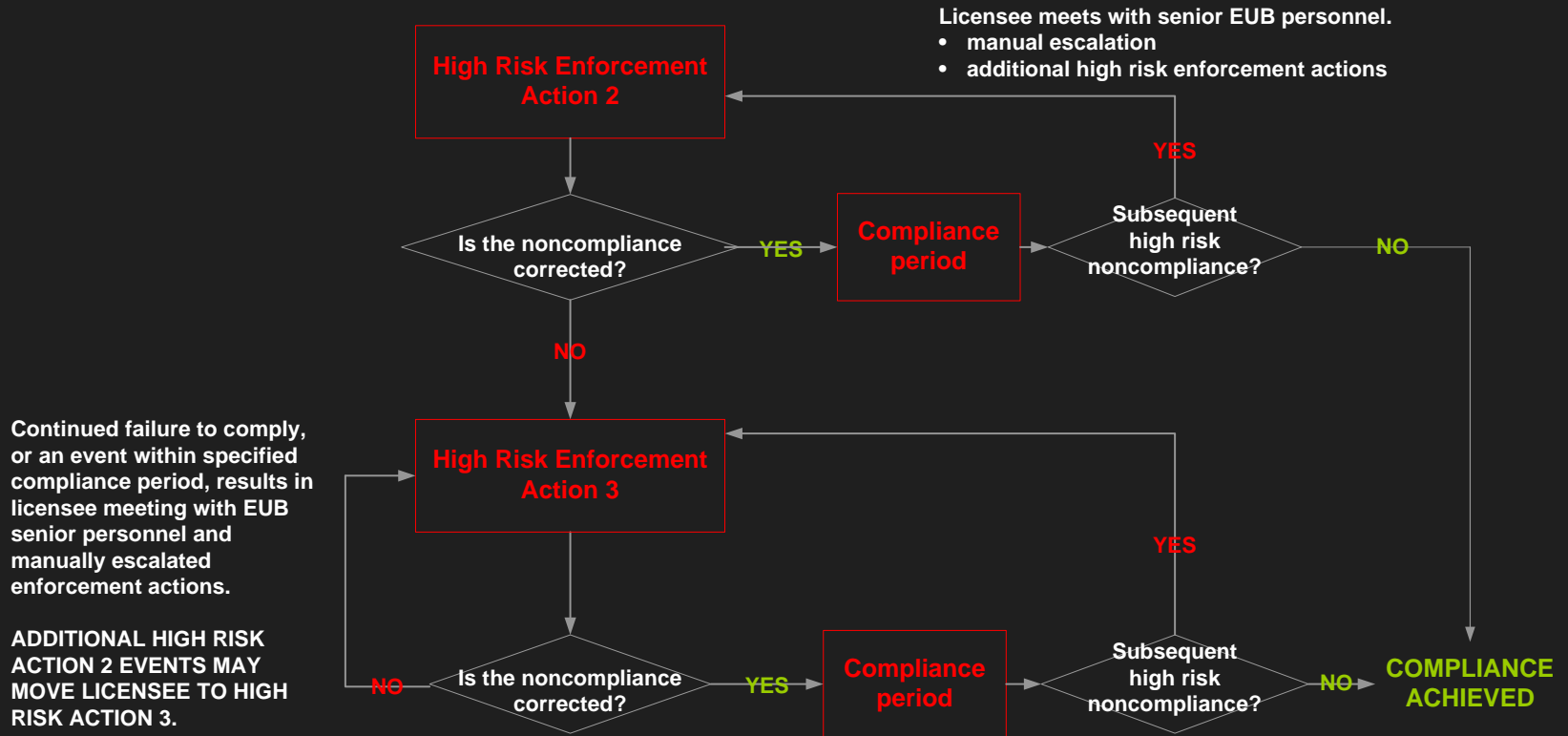
Low Risk Persistent Noncompliance Process

MEETS CRITERIA FOR PERSISTENT NONCOMPLIANCE



High Risk Persistent Noncompliance: Enforcement Process

MEETS CRITERIA FOR PERSISTENT HIGH RISK NONCOMPLIANCE



High Risk Action 2

Consequences

- Persistence
 - Address noncompliance plus action plan within 30 days (or as determined by EUB group)
 - Action plan to address reasons for failure of previous plan
 - Noncompliance fees
 - Self-audit or inspections
 - Increased audits or inspections
 - Third party audits or inspections
 - Partial or full suspension
 - Suspension or cancellation of permit, license or approval
- Must sustain compliance for 60 days (or as determined by EUB group) to go back to satisfactory

Early Intervention: High Risk

- Objective: to identify licensees nearing persistence threshold to prevent need for related enforcement.
- Dependent on persistence model.
- Methodology used for both early intervention, and persistence:
 - Low
 - Monitor
 - Persistent

Voluntary Self Disclosure



Benefits

- Proactive correction of the noncompliance,
- No enforcement if licensee corrects/address noncompliance,
- Improved relationships,
- Improved public safety, protection of the environment, conservation of the resource and regulatory confidence.

Rules

- First party to contact EUB of noncompliance,
- Correct/address noncompliance.
- Directive details events that do not qualify for self disclosure

Enforcement Appeals

The background image shows two men in blue work uniforms and white hard hats. They are standing outdoors, possibly on a construction site, with a chain-link fence and a vehicle visible. One man is holding a set of plans and pointing towards the right, while the other looks on. The overall scene is dimly lit, suggesting an overcast day or a shaded area.

- EUB Group Review
- EUB Enforcement Advisor
- Board
- Alberta Court of Appeal

Compliance Information

- EUB Enforcement Orders are public
- Licensee access to its specific inspection records via DDS
- FOIP for stakeholder access to specific licensee records
- Licensee Compliance Summary reports as systems development allows
- One EUB annual compliance report

Transition

On implementation 1 January, 2006:

Enforcement actions begun under IL 99-4 and for which compliance has not been achieved by 31 December 2005 will be continued under this directive and the determination of compliance for those enforcement actions will be in accordance with this directive.

EUB Next Steps

- Categorize and post Compliance Category Low and High Risk requirements: ongoing
- Finalize Compliance Category Persistence Criteria and post: December 2005
- Increase emphasis on out reach and early intervention: ongoing
- Refine and enhance systems and tools
- Promote awareness and knowledge

Summary

- EUB CAI updates the EUB approach to regulatory compliance; Directive 019 details a common EUB enforcement framework
- EUB administrative processes focus is on the licensee as set out in Directive 019
- Requirements categorized Low or High to provide certainty to compliance process.
- 1 January 2006 implementation
- EUB anticipates continued or improved compliance performance