

# Developing an Enforcement Readiness Program - Refrigerants

**E+Sd** Energy & Store  
Development  
Conference



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# Agenda

- EPA enforcement of refrigerant regulations
- Developing an enforcement readiness program for refrigerant regulations



# EPA Enforcement: Refrigerant Regulations



# EPA Enforcement Priorities



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## EPA Announces Federal Enforcement Priorities to Protect Communities from Pollution

The 2024-2027 National Enforcement and Compliance Initiatives are:

**Mitigating Climate Change** - Tackling the climate crisis is an urgent priority. EPA will use its enforcement and compliance tools to reduce greenhouse gas emissions, helping to limit the worst effects of climate change. The initiative will focus on three separate and significant contributors to climate change: (1) methane emissions from oil and gas facilities; (2) methane emissions from landfills; and (3) the use, importation, and production of hydrofluorocarbons (HFCs). EPA has documented widespread noncompliance in all three of these areas, resulting in potentially tens of thousands of tons of unlawful emissions of greenhouse gases and other pollutants. This initiative will help achieve EPA's goals to combat climate change while also addressing significant noncompliance in specific industry sectors.

<https://www.epa.gov/newsreleases/epa-announces-federal-enforcement-priorities-protect-communities-pollution>

# EPA Enforcement Priorities



The 2024-2027 National Enforcement and Compliance Initiatives

**Mitigating Climate Change** - Tackling the climate crisis is an urgent enforcement and compliance tool to reduce greenhouse gas emissions and the worst effects of climate change. The initiative will focus on three contributors to climate change: (1) methane emissions from oil and gas facilities; (2) methane emissions from landfills; and **(3) the use, importation, and production of hydrofluorocarbons (HFCs)**. EPA has documented widespread noncompliance in all three of these areas, resulting in potentially tens of thousands of tons of unlawful emissions of greenhouse gases and other pollutants. This initiative will help achieve EPA's goals to combat climate change **while also addressing significant noncompliance in specific industry sectors.**

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# Legal Liability



- Legal liability lies with end user
- Current fine is ~\$60,000 per violation, per day
- Enforcement actions can last 3-5 years
- Consent decrees usually last 3 years
  - Mandatory actions
  - Leak rate reductions
  - Required technologies

# EPA Food Retailer Enforcement Actions

Date	Company	Violation	Fine	Consent Decree
2013	Company A	Failure to promptly repair leaks; failure to keep adequate records	\$600,000	\$4,100,000
2014	Company B	Failure to promptly repair leaks; failure to keep adequate records	\$335,000	\$2,000,000
2016	Company C	Failure to promptly repair leaks; failure to keep adequate records; failure to respond to Section 114 letter	\$500,000	\$2,000,000
2019	Company D	Failure to promptly repair leaks; failure to keep adequate records	\$300,000	\$4,200,000
2019	Company E	Failure to promptly repair leaks; failure to keep adequate records	\$900,000	\$23,000,000
2024	Company F	Failure to calculate leak rate; repair leaks, perform verification tests, report chronically leaking appliances	\$400,000	\$13,500,000

<https://www.epa.gov/ozone-layer-protection/enforcement-actions-under-title-vi-clean-air-act>



# EPA Criminal Enforcement Actions

- Elements: 1) person; 2) knowingly; 3) commits any violation of subchapter VI of the CAA; or intentional venting of refrigerants

## Penalty:

- Penalty: up to 5 years imprisonment and/or fines
- Penalties doubled if 2<sup>nd</sup> or subsequent conviction

## EPA International Fugitives

**Bernd  
Gottweis**



[Information Packet](#)

**Heinz-Jakob  
Neusser**



[Information Packet](#)

**Martin  
Winterkorn**



[Information Packet](#)

# EPA Enforcement Actions

- Enforcement actions have other consequences for food retailers and for service contractors
  - Reputation
  - HR consequences – job loss
  - Productivity crashes
    - Pulling records
    - Backtracking to find/correct records
    - Answering questions



# The EPA Enforcement Process

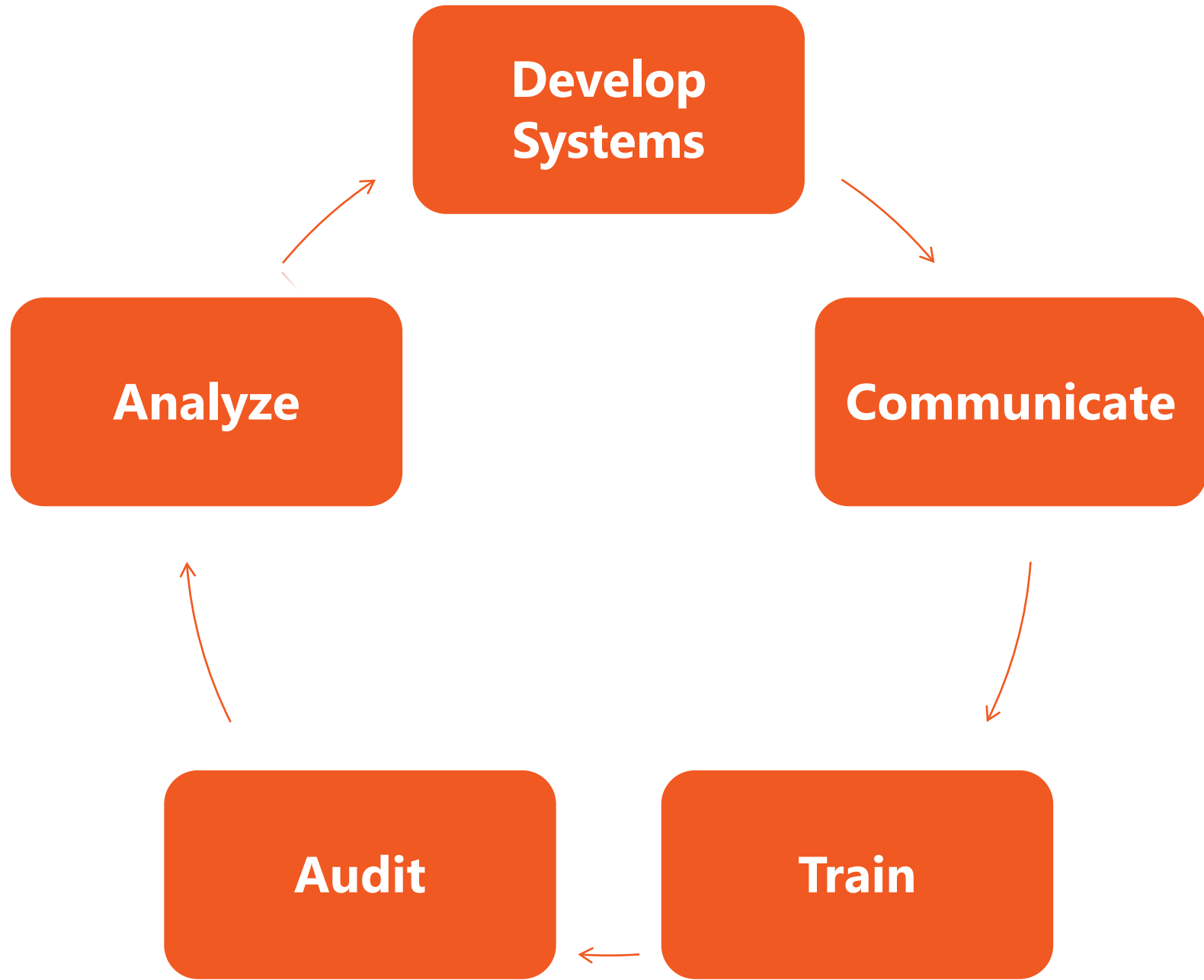
- Determine target
  - Tips – usually anonymous
  - Chronically leaking appliance reports
- Investigate/gather evidence
  - In-person inspection – records and facilities
  - Section 114 letters – records
- Start an enforcement action
  - Department of Justice
- Issue their decision
  - NOV-Notice of Non-Compliance
  - Consent decrees (negotiated settlements)
  - Press releases



# Developing an Enforcement Readiness Program

Preparation trumps wishful thinking!





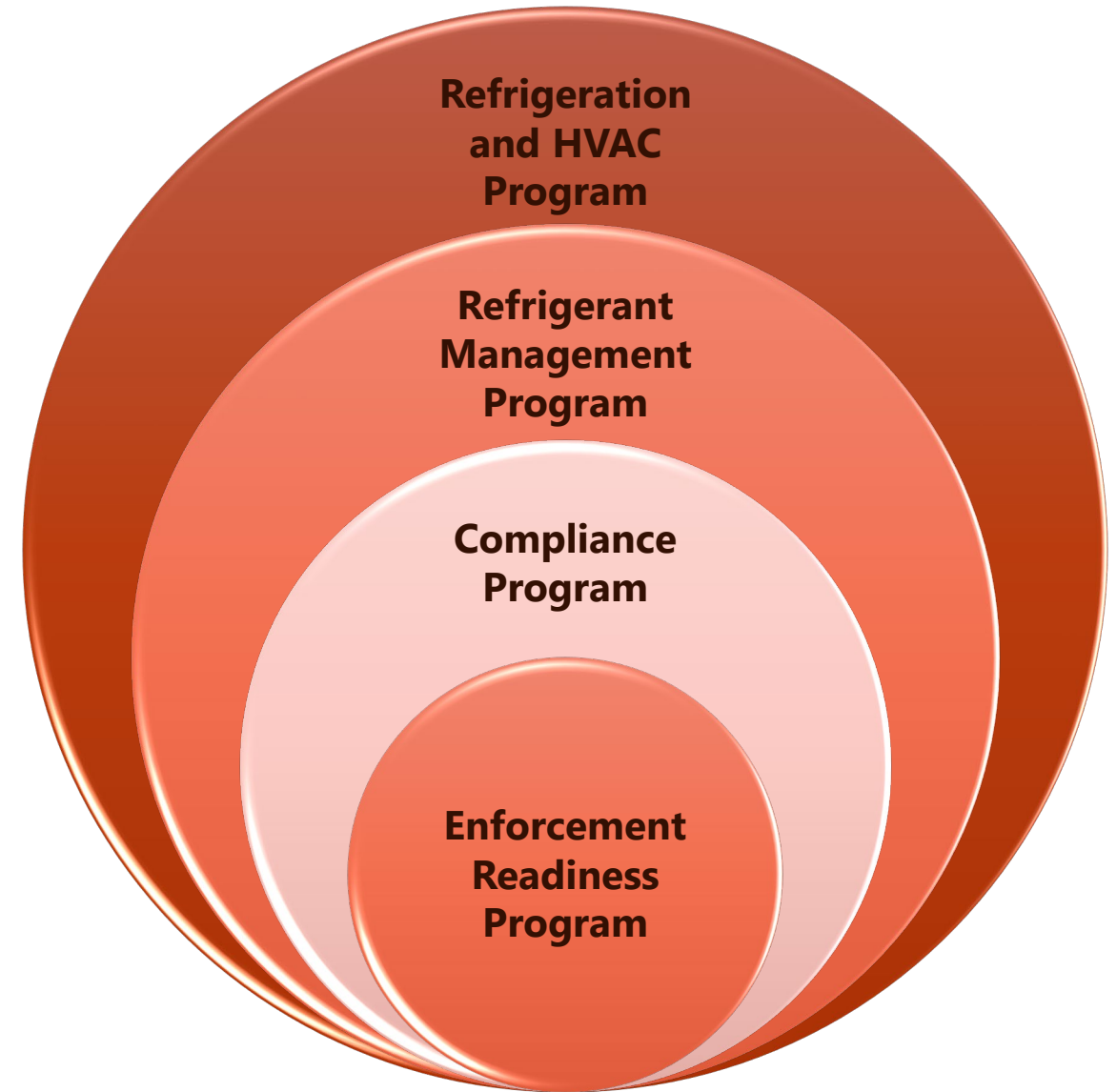
# Developing an Enforcement Readiness Program

# Develop Systems





- Systems for enforcement readiness build on other programs
- Reduce risk of becoming a target
- Develop systems to handle investigations, if they happen
  - In-person inspections
  - Section 114 letters



# Minimize Risk of Becoming A Target

- Tips from disgruntled employees, service contractors, service techs
  - Who has access to which data – think about downloads and screen shots
  - Have a policy for which information gets shared in meetings based on who the attendees are
- Avoid chronically leaking appliances!
  - How much are you willing to pay to avoid being on the EPA's hit list
- Do good things and talk about them – especially EPA-related achievements

# Readiness Systems for Investigations

- Store response - in-person EPA inspections
  - Point of first contact – checking ID
  - Who handles initial interaction?
  - Get the inspector off the store floor as soon as possible
  - Who handles inspection at store
  - Communicate w/all store employees
- Store readiness
  - Messy machine rooms
  - Oil stains
  - Logbooks
  - Access to machine room/roof access
  - Proper appliance labeling
- Store response - Section 114 letters
  - Letters go to the store, not to HQ
  - Who opens the mail
  - System to ensure the letters are handled immediately
- Emergency responders
  - HQ specialist handles EPA
  - Gathers records and sends to EPA
  - Directs store manager through process
  - Decide on a law firm and establish a relationship BEFORE you need it
  - Follow-up processes

# Communicate



# Communicate

- Explain the systems to upper management and get their buy-in
- Ensure store management understands the importance
- Ensure everyone at the store knows that an EPA inspection is a possibility
  - How to ensure they don't talk to anyone; yet ensure they are friendly and helpful and don't appear suspicious
  - Make sure they know what to do
- Communicate clear responsibilities
- Ensure emergency responders are kept up-to-date

# Train





# Train EVERYONE on the System!

- Store management, store customer service, people who open the mail
- All other store employees
- Emergency responders
- Compliance team
- Legal team
- Create a culture of constant training
  - Make training mandatory for new hires
  - Refresher trainings once a year reinforce the message that this is important



# Audit All Parts of the Program

# Audit Culture

- The best program in the world doesn't do any good if it's not executed correctly
- Food retail industry audits other areas regularly
  - Food safety – health inspectors
  - Ammonia programs at manufacturing facilities
  - Supplier audits – social, environmental audits
  - Hazardous waste audits
- Yet refrigerant compliance audits are rare

# Store Audits

- Audit all parts of the system for in-person inspections
  - Point of first contact – start with the first regular employee you find
  - Test customer service
  - How long does it take the store to get the manager?
  - What is the manager's response? Where do they put the inspector?
  - How long does it take to get the emergency responders? Does store follow the proper notification procedures?
  - Does the store manager follow instructions?

# Audit Response to Section 114 Letters

- Point of first contact
- How long does it take for store manager to reach out to emergency responders?
- Does the store manager follow instructions?

# Emergency Responder Audits

- How long does it take emergency responder to respond?
- Does the emergency responder handle the process appropriately?
  - Minimizing records to be handed over to the EPA?
  - Communication with compliance team (or people responsible for gathering and sending records)



# Compliance Team Audits

- Does compliance team provide the right records?
- How long does it take them to generate and send the records?

# Analyze Audit Results

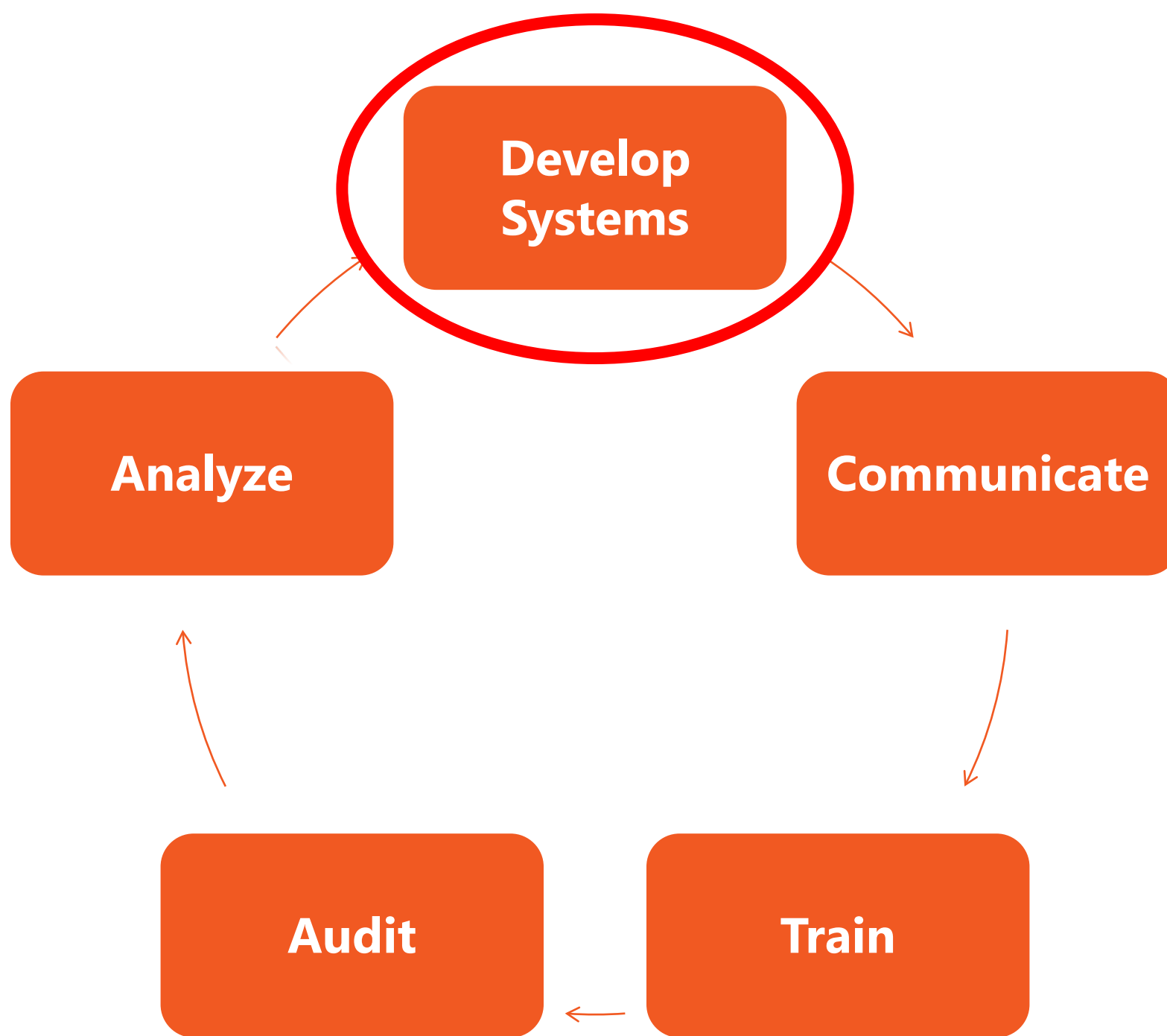


# Analyze Audit Results

- Develop analysis methodology
  - Evaluate audit results vs expectations
  - Identify what went well and what didn't go well
  - Communicate results to upper management
  - Communicate results to all parts of enforcement readiness team
- Develop next steps to improve

# Fine-Tune the Systems





# Fine-Tune the Enforcement Readiness Program

- Make adjustments as necessary
- Constant corrections and fine-tuning necessary
  - People changing jobs
  - Competing priorities



# Questions?

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