

**NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**DIVISION OF AIR RESOURCES**

**COMPLIANCE AND ENFORCEMENT**

**SUMMARY**

**FFY 2012**

*April 2013*

## **Introduction**

This report provides an overview of the Division of Air Resources enforcement activities and compliance monitoring accomplishments during Federal Fiscal Year 2012 (FFY 2012). The FFY 2012 covers the period from October 1, 2011 through September 30, 2012. The purpose of compliance monitoring and enforcement is to maintain an adequate regulatory presence so as to provide a deterrent against non-compliance. Elements of a good compliance monitoring and enforcement program include; on-site inspections, review of periodic monitoring reports, performance tests, compliance evaluations and tracking of compliance related activities. When violations are detected, an enforcement response is appropriate and may involve the assessment of penalties. The goal is to achieve compliance with all legal and regulatory requirements.

New York's enforcement program is based in the nine regional offices with support and guidance provided by the Central Office. Federal policy requires states to maintain lists of sources subject to federal Clean Air Act requirements, as well as dates and results of certain compliance activities including all High Priority Violations as defined by EPA policy. New York uses its Air Facility System (AFS) for tracking the compliance of air pollution sources, and for developing permits which provide facilities authority to operate.

A facility's compliance with permit requirements and air regulations is tracked in AFS, including; inspections, full compliance evaluations, compliance certifications, stack tests, as well as any notices of violations and subsequent enforcement cases. Compliance and enforcement activities are tracked nationally in the EPA-Aerometric Information Retrieval System (AIRS) database. This data is required to be reported to the EPA-AIRS system and is periodically downloaded from the New York AFS system into batch files which are uploaded to AIRS.

## **Full Compliance Evaluations**

EPA's Compliance Monitoring Strategy (CMS) of April 2001 set minimum standards for state air enforcement programs. The CMS policy requires state agencies to submit a CMS Plan once every two years. Each state must conduct a comprehensive evaluation of the compliance status for each facility targeted on its CMS plan. This "full compliance evaluation" (FCE) must include: a review of all required reports, monitoring data (continuous emission monitors and excess emission reports), Title V annual compliance certifications, appropriate inspections and any other reports required by the permit. Emphasis has been placed on Title V major sources and a limited subset of the largest synthetic minor sources, called SM-80s. SM-80s are facilities with permissible emissions from 80 to 99% of the major source thresholds.

## **Inspections**

On site inspections are one of the main tools used in maintaining the Department's oversight of facilities compliance with air pollution control regulations. Inspections are also an important component of a full compliance evaluation. During FFY 2012, Department staff conducted over 1350 inspections of air pollution sources. Particular focus was given to

inspecting major sources (facilities with actual or permitted emissions greater than Title V thresholds.)

### **EPA High Priority Violations**

An integral part of New York's air pollution control program is the appropriate enforcement of state and federal regulations. Under the EPA-High Priority Violation (HPV) policy, the focus is on the most important and environmentally significant violations at major "Title V" sources of air pollution. The policy contains threshold criteria to determine whether or not a violation is an HPV and sets guidance for addressing cases in a timely and appropriate manner. High priority violations should be addressed within 270 days; however the more complicated cases often take longer than 270 days to resolve.

Penalties provide incentive to stay in compliance and take away some of the economic benefit that a firm may have enjoyed by not complying with state and federal regulations. There were 42 active HPVs in legal cases during FFY 2012. Of these active violations; 21 are holdovers from prior fiscal years and 21 are new cases initiated between October 1, 2011 and September 30, 2012. Of the 21 new HPV cases, ten have been addressed with consent orders.

One comparison of interest is the number of major sources in the state vs. the number of HPVs initiated in legal cases during FFY 2012. As of January 2013, there were 425 facilities on the major source facility class list in AFS and there were 21 new HPV cases (5%). Most of the violations were discovered as a result of inspections. However, violations were also discovered through alternative methods (i.e., annual Title V compliance certifications, quarterly excess emission reports, and stack tests.)

### **Enforcement Summary of Consent Orders (FFY 2012)**

During FFY 2012, the Department collected \$1,364,630 in payable penalties for air related cases at stationary sources through 125 orders on consent as per data collected from AFS. A total of \$696,000 in payable penalties was assessed through 23 Consent Orders from legal cases with at least one HPV. The other 102 orders on consent were issued for a total of \$668,630 in penalties. These non-HPV cases were generally at non-major sources and were for violations such as; dry cleaner requirements in Part 232, permit condition violations and failure to obtain registrations or permits.

### **Stack Test Program**

One of the most effective ways of determining a facility's compliance with emission limits as well as actual source emissions is to conduct a stack test. There were more than 100 stack tests conducted in FFY 2012. Of the 96 stack tests recorded in AFS, five had violations.

## **Summary (FFY 2012)**

- ! Department staff inspected over 292 major facilities
- ! Tracked FCEs, HPVs and corrective actions in the EPA-AIRS tracking system
- ! Issued 23 orders on consent for HPV cases and 102 orders for non-HPV cases
- ! Collected over \$1.36 million in payable penalties for air enforcement cases
- ! Identified 21 new HPVs as a result of compliance monitoring activities
- ! Addressed 33 active high priority violations
- ! Conducted more than 100 stack tests
- ! Received, reviewed and logged over 430 Title V annual compliance certifications
- ! Received and reviewed over 2500 certification and monitoring reports
- ! Conducted 430 Full Compliance Evaluations (FCEs)

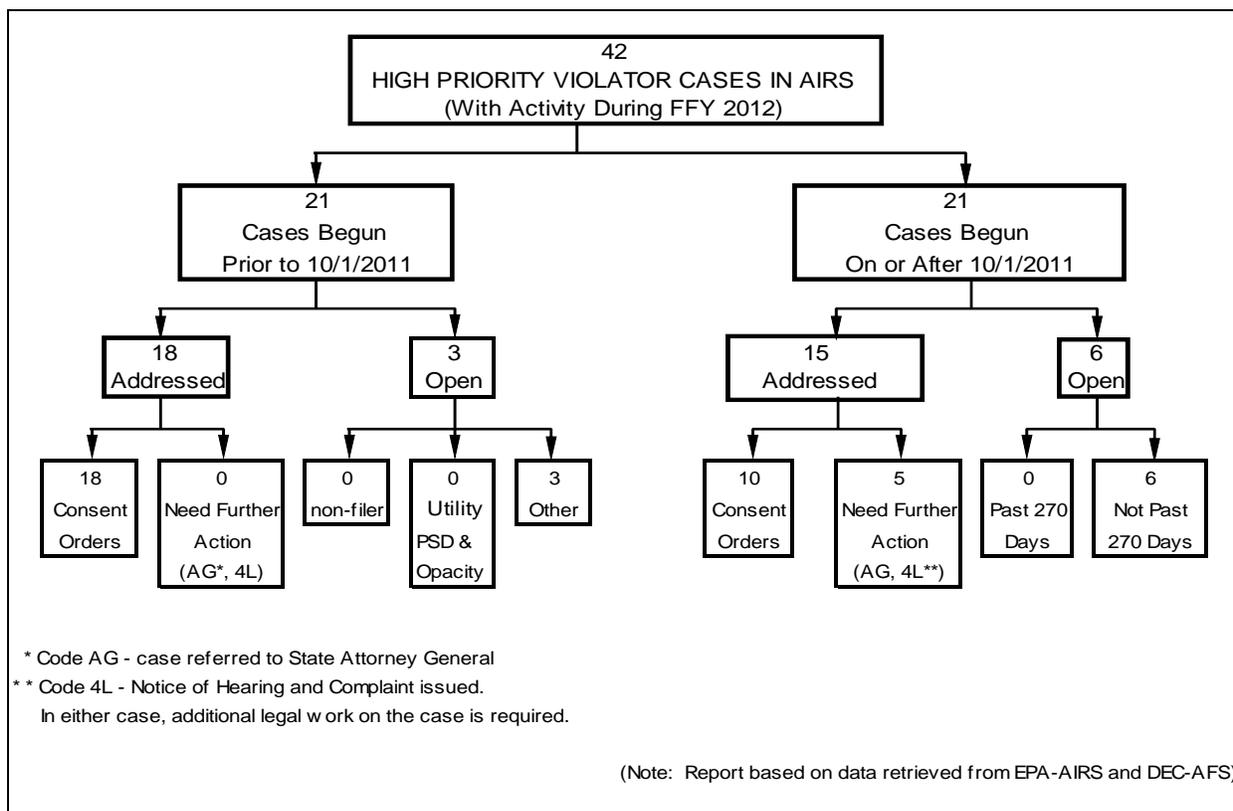
## **EPA High Priority Violations - An Overview**

An integral part of New York's air pollution control program is appropriate enforcement of state and federal regulations at major sources of air pollution. Working under the EPA's HPV policy, the focus is on the most important and environmentally significant violations. The policy contains threshold criteria to determine whether or not a violation meets HPV status. It also sets guidance for addressing cases in a timely and appropriate manner. High priority violations should be addressed within 270 days, however, more involved cases take longer to resolve. Often these more difficult cases involve complicated environmental laws, in-depth investigation, and extensive negotiations. Efforts to pursue these cases are frequently offset by significant reductions in pollutants from facilities that take measures to come into compliance. This also helps maintain a level playing field between those facilities that have gone to the expense of complying with air pollution laws and those that have disregarded air regulations.

<b>High Priority Violations by Region FFY 2012</b>				
	<b>Old HPVs from prior FFY's</b>	<b>New HPVs during FFY 2012</b>	<b>Total Active HPVs FFY 2012</b>	<b>Total HPVs Resolved during FFY 2012</b>
<b>Region 1</b>	1	1	2	1
<b>Region 2</b>	14	12	26	22
<b>Region 3</b>	1	0	1	0
<b>Region 4</b>	1	1	2	1
<b>Region 5</b>	1	4	5	0
<b>Region 6</b>	0	3	3	2
<b>Region 7</b>	0	0	0	0
<b>Region 8</b>	3	0	3	2
<b>Region 9</b>	0	0	0	0
<b>Total</b>	21	21	42	28

Penalties provide incentive for facilities to stay in compliance and are intended to remove economic benefit that a firm may have obtained while in non-compliance. AFS reports show the Department collected a total of \$696,000 in payable penalties through 23 consent orders resolving 28 HPVs during FFY 2012.

The Department's objective is to address all HPV cases in a timely manner. Resolution of HPV cases often requires a significant amount of time in both the Division of Air Resources professional staff as well as legal resources staff. There is an existing backlog of cases that have gone beyond the EPA time frames, that backlog was reduced during this reporting period. The Department tracks both HPV and non-HPV enforcement cases in the AFS Compliance Module. As part of the delegation agreements with the federal government, states are required to provide HPV data for the EPA-AIRS data system. HPV cases from AFS are batch loaded to the EPA-AIRS system periodically, satisfying this portion of the federal reporting requirements.



The table above shows High Priority case status for FFY 2012. Forty two HPV violations were actively worked on this federal fiscal year. Consent orders issued have settled 28 HPV cases.

Holdover Cases - Of the 21 HPV cases begun prior to FFY 2012, 18 have been addressed. Meaning they were either resolved with consent order, or are issued a notice of hearing. At the close of the fiscal year three holdover cases were still open and are overdue under the federal Timely and Appropriate HPV policy.

New Cases - Of the 21 new HPV violations discovered between October 1, 2011 and September 30, 2012, ten were closed with five of the cases requiring further action. Of these new HPV cases initiated, 11 are not yet resolved. Six of these unresolved cases are still within the 270 days allowed for addressing a case under the EPA Timely and Appropriate policy.

Over 305 inspections were conducted at 292 of the 425 major facilities in AFS during FFY 2012. Many violations were discovered as a result of these inspections. However, violations were also discovered through compliance monitoring reports and annual certifications.

## Inspections

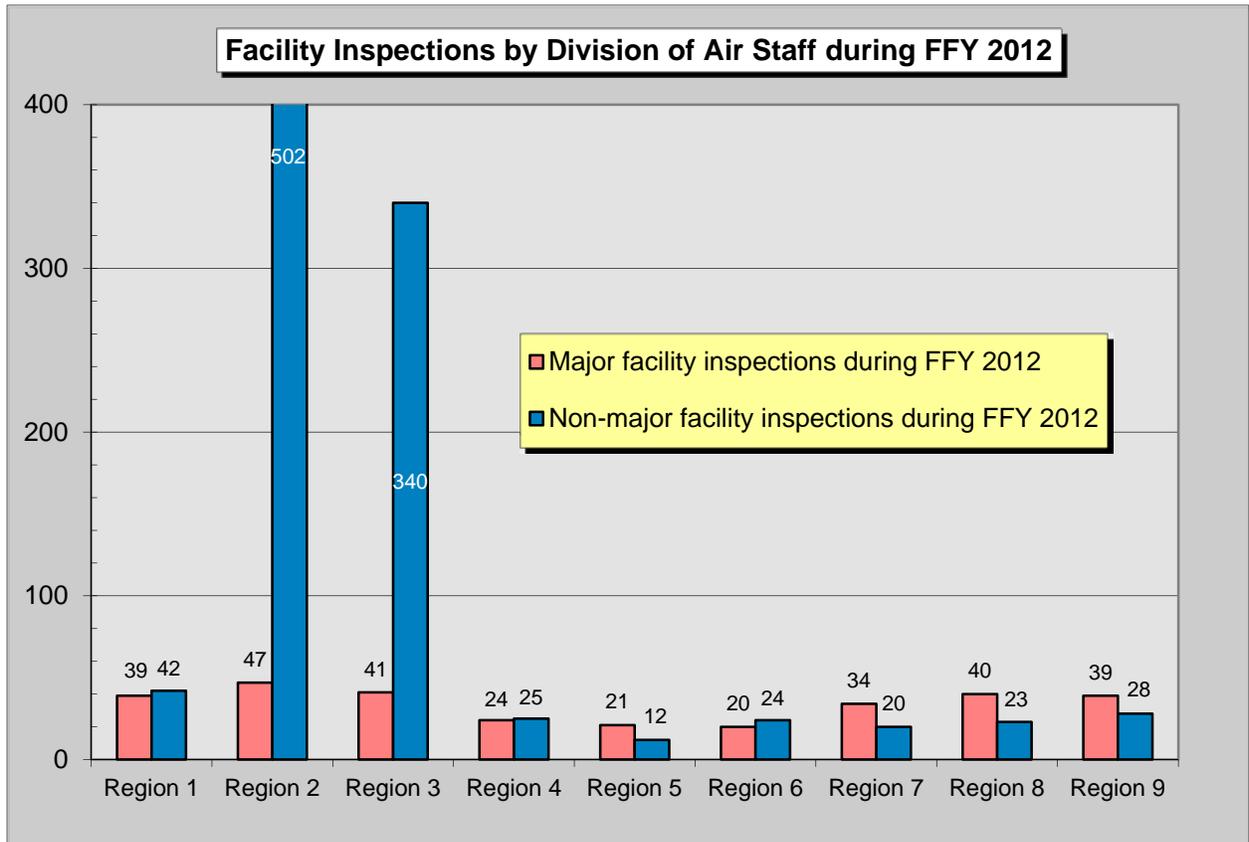
On site inspections are one of the main tools used in maintaining the Department's oversight of facilities compliance with air pollution control regulations. During FFY 2012, AFS data reports 1350 inspections conducted by Department staff at 1236 facilities and other potential air pollution source locations. Particular focus is given to inspecting major sources (facilities with actual or permitted emissions above Title V thresholds). In addition, over one thousand smaller sources were inspected including synthetic minor facilities with emission caps and many downstate dry cleaning facilities.

State inspections are entered into the AFS system by the regional inspectors. These inspection reports include details regarding; compliance status by regulation or permit condition cited in the facility permit, operating status and any specific observations made by the regional inspector. This presence in the field helps ensure compliance with state and federal air pollution regulations. Violations discovered through these inspections are followed up with enforcement actions.

<b>AFS Facility Inspection Summary Report</b>						
<b>Inspection Summary for FFY 2012</b>						
Based on AFS data						
	Total	A	SM-80	SM	B	UNK
Region 1	59	39	5	1	7	7
Region 2	551	46	29	62	123	291
Region 3	328	38	20	40	188	42
Region 4	47	24	8	6	7	2
Region 5	31	19	9	0	0	3
Region 6	39	18	12	3	3	3
Region 7	55	34	9	3	6	3
Region 8	62	37	16	2	1	6
Region 9	64	37	19	0	8	0
	1236	292	127	117	343	357

- A Major- Actual or potential emissions are above the applicable major source thresholds
- SM-80 Synthetic Minor- With emissions capped between 80% and 99% of major source thresholds provided that the facility complies with federally enforceable regulations or permit limitations
- SM Synthetic Minor- Facilities with emissions below major source thresholds provided the facility complies with federally enforceable regulations or permit limitations and excluding the SM-80 facilities
- B Natural Minor- Potential emissions below all applicable major source thresholds
- UNK Facility not classified or Classification not determined

New York considers inspections to be an important tool. In order to focus limited resources where they can do the most good for the environment, major sources of air pollution are targeted for inspection under the CMS policy at least once every two years. The vast majority of air pollution sources are non-major sources. The table below illustrates the regional distribution of total ‘routine inspections’ at major sources entered into AFS, as compared to the number of routine inspections achieved at non-major sources during the FFY.



### **EPA Compliance Monitoring Strategy**

EPA’s Compliance Monitoring Strategy (CMS) intends to provide a national consistency for stationary source compliance monitoring while allowing states flexibility in addressing air pollution program compliance. States submit a CMS plan to EPA biennially for discussion and approval. EPA periodically evaluates each State’s compliance monitoring program. The CMS policy focuses on federally enforceable requirements at Title V and SM-80 sources through three categories of compliance monitoring: Full Compliance Evaluation, Partial Compliance Evaluation, and Investigations.

Sources are tracked as “mega,” “major” and “80% synthetic minor” (SM-80) for CMS purposes. A “mega” site is one that is so large in the number and complexity of emission sources that a full evaluation of the facility’s compliance status cannot be reasonably done every two years. Mega sources can be put on a three year schedule for completion of a full compliance evaluation. New York has one facility currently categorized as a mega site. “Major” sources are those facilities with emissions permitted at or above Title V thresholds.

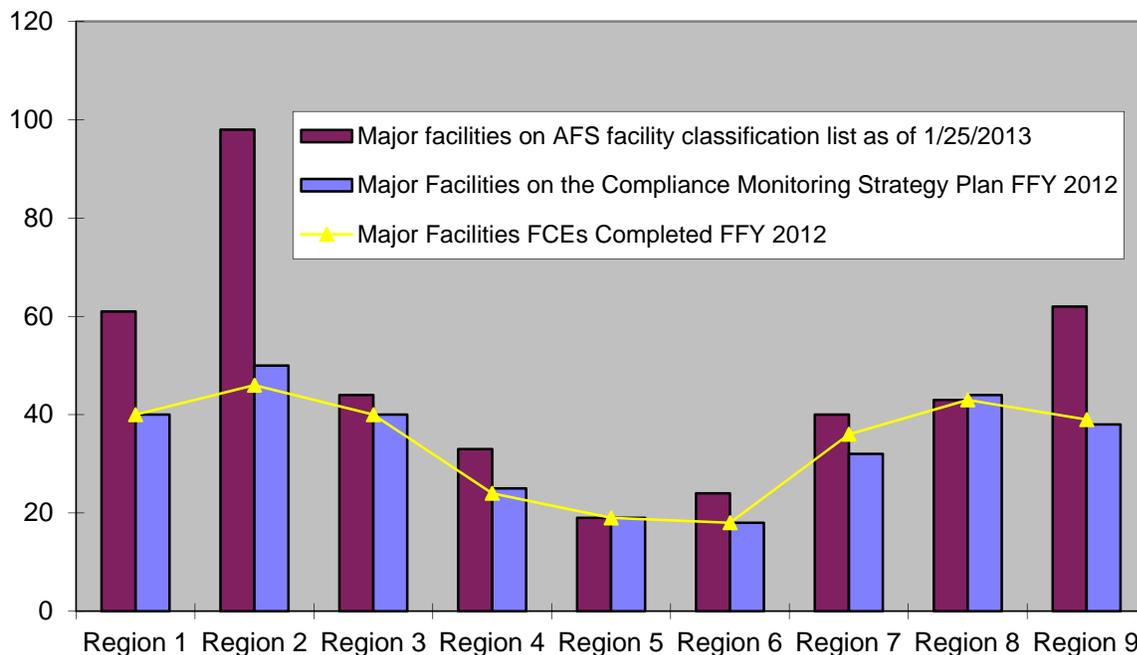
An “SM-80” is a facility that is capped out of Title V with a permit that allows emissions of 80% to 99% of Title V thresholds. Such a source should be evaluated at least once every five years and major sources should have a full compliance evaluation at least once every two years according to the EPA policy.

The CMS policy establishes a variety of methods available to agencies to determine the compliance of a source. It requires agencies to review varying sources of information in order to conduct a comprehensive evaluation of a facility’s compliance status. Inspections are only a part of the evaluation process. A “Full Compliance Evaluation” (FCE) must include: a review of all required reports, monitoring data, stack tests, inspections and any other reporting requirements in a facility’s permit.

The 2012-2013 CMS plan, which exceeds the minimum requirements in the CMS policy that the ‘state conduct an FCE at each major source once every two years’, was submitted to EPA in 2012. At that time 128 major NYS sources were scheduled to have an FCE each year while the remaining 297 majors were scheduled for an FCE once every two years. The Department has determined that an FCE should be conducted every year at certain facilities where the compliance history or operations warrant annual review.

AFS data shows that in Federal Fiscal Year 2012 New York conducted 430 FCEs, of which 304 were conducted for Title V major sources, 112 for SM-80 sources and fourteen at sources that are not SM-80 or major. The current CMS plan commits the Department to conduct an FCE for all SM-80 facilities within a five year period. In FFY 2012 the Department has met its goal of achieving an FCE for all CMS plan sources.

The chart below illustrates the relationship between the number of major sources on the 2012 FFY CMS plan; the total number of major sources; and the number of FCEs conducted at these facilities. The Department completed more FCEs at major sources during FFY 2012 than were on the CMS plan.



## Facility Compliance Tracking in AFS

The Department uses the AFS computer system to issue permits and track facilities with sources of air pollution. One of the tracking functions in AFS is the facility classification list. The list includes all operating major sources. In addition, the list has all synthetic minor and natural minor sources that have permits or registrations issued from AFS. The classification list is routinely maintained by both central office and regional staff. It comprises the most accurate list of facilities, by classification that are subject to permitting in the state. This table shows the breakdown of facility classifications per region.

	<b>Total</b>	<b>A</b>	<b>SM-80</b>	<b>SM</b>	<b>B</b>
<b>Region 1</b>	1,662	61	37	510	1,054
<b>Region 2</b>	6,300	98	162	2,949	3,091
<b>Region 3</b>	1,484	44	74	254	1,112
<b>Region 4</b>	448	33	61	203	151
<b>Region 5</b>	288	19	44	141	84
<b>Region 6</b>	295	24	61	112	98
<b>Region 7</b>	568	40	51	180	297
<b>Region 8</b>	619	44	61	196	318
<b>Region 9</b>	765	62	63	148	492
<b>Total</b>	12,429	425	614	4,693	6,697

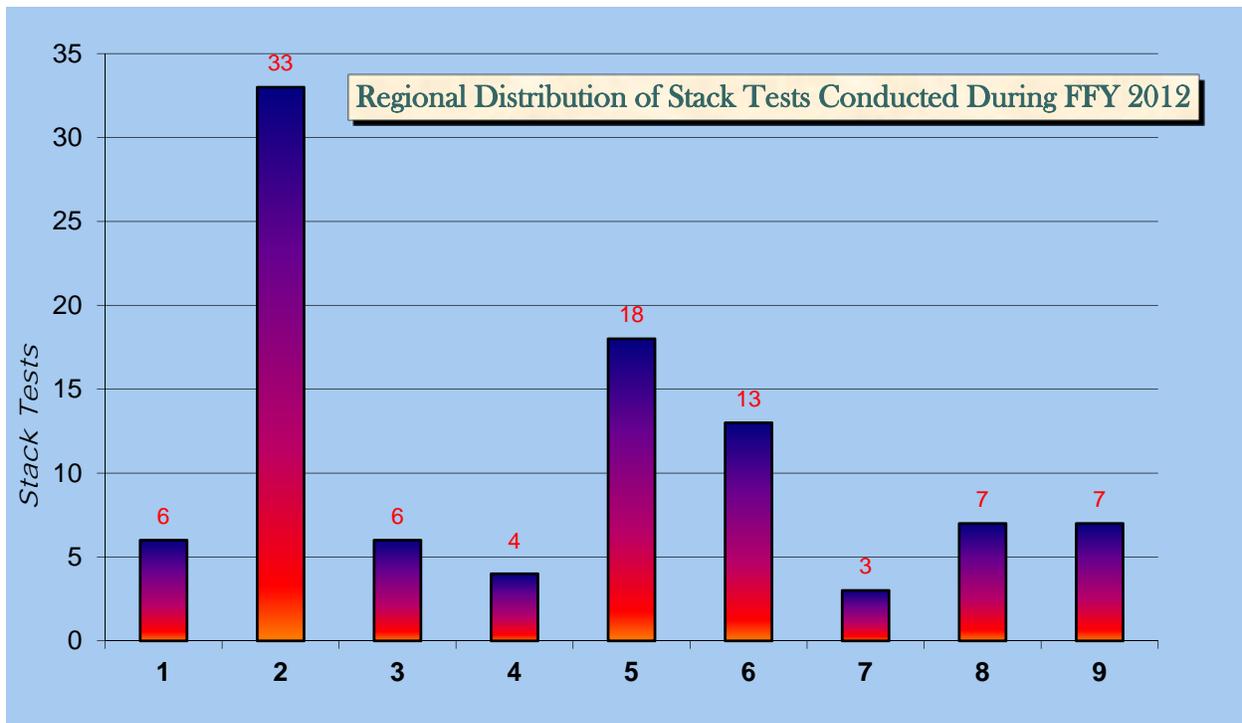
- A Major- Actual or potential emissions are above the applicable major source thresholds
- SM-80 Emissions below major source thresholds if the facility complies with federally enforceable regulations or permit limitations and the permitted limits are between 80 and 99% of the major source threshold
- SM Synthetic Minor- Emissions below major source thresholds if the facility complies with federally enforceable regulations or permit limitations and the permitted limits are less than 80% of the major source threshold
- B Natural Minor- Potential emissions below all applicable major source thresholds

The number of major sources continues to drop. As of January 31<sup>st</sup>, 2013 there are 425 facilities listed as active major sources. There were 435 major sources last year. Some facilities have closed and others have chosen to limit emissions below Title V thresholds.

## Stack Test Program

One of the most effective ways of determining actual emissions from a source and the ability of the source to comply with emissions limits is to conduct a stack test. To help

ensure stack testing is done in accordance with approved protocols, Department staff spend many days in the field witnessing stack tests. Under the current EPA Compliance Monitoring Strategy, stack testing has been given a higher priority, especially for major sources where there is no other reliable method of determining compliance. Many Title V permits include a requirement that a source conduct a stack test at least once during the term of the permit (five years).



In FFY 2012, 97 tests were conducted and entered into AFS as of 1/9/2013. It is likely that more stack tests were performed but the information was not entered into AFS. Department staff is not required to enter all stack testing results into AFS. For that reason, staff may have deferred entering some. Fifty of the 97 stack tests tracked in AFS during FFY 2012 were recorded as witnessed by department staff.

### **MACT Compliance / Initial Notifications**

The National Emissions Standards for Hazardous Air Pollutants (NESHAPs) are air quality standards, issued under Section 112 of the Clean Air Act, which regulate 188 Hazardous Air Pollutants (HAPs) from industrial sources. These industry-based NESHAPs are also called Maximum Achievable Control Technology standards (MACT). The MACT standards are designed to reduce HAP emissions to a maximum achievable degree, taking into consideration the cost of reductions, public safety and other factors.

MACT certifications, initial notifications and conditions are tracked in AFS with the ability to search the permit and minor source registration databases by regulatory citation. AFS reports a total of 1953 registered dry cleaning establishments subject to Subpart M, 1504 of which use perchloroethylene. A total of 195 on-site routine inspections were conducted during FFY 2012 at dry cleaning establishments throughout New York State.

Initial Notifications are required to be submitted for facilities that have become subject to MACT rules. The table below lists the total number of Initial Notifications received, reviewed, and entered into AFS for each MACT source during the 2012 federal fiscal year.

<i>MACT Subparts – Initial Notifications Received in FFY 2012</i>			
A – 2 General Provisions for NESHAP sources	DDDDD – 2 Boilers and Process Heaters	HHHHHH – 37 Misc Surface Coating	JJJJJJ – 72 Industrial Commercial Boilers
M – 2 National Perchloroethylene Emission Standards	N – 1 Chromium Electroplating	OOOO – 1 Printing, Coating & Dying of Fabrics	T – 3 Halogenated Solvent Cleaning NESHAP
UUUUU – 2 Coal/Oil Fired Electric Steam Generating	WWWWW – 2 Hospital Ethylene Oxide Sterilizers	XXXXXX – 9 Metal Fabrication/Finishing	ZZZZ – 9 Reciprocating Internal Combustion

DEC has continued to receive hundreds of initial notifications and initial compliance demonstrations for facilities regulated under Area Source NESHAP regulations. Some of these, such as gasoline distribution facilities (GDFs), are not included in the table above as they haven't been entered into the division tracking system yet or are not required to obtain an air pollution control permit from New York State. The two largest categories are industrial commercial boilers and automotive repair shops that have submitted initial notifications for 40 CFR 63 Subpart JJJJJJ (6J) and Subpart HHHHHH (6H) respectively.

It takes significant additional resources to ensure submitted information for the thousands of industrial commercial boilers and automotive repair shops in the state meets DEC data quality standards. Therefore facilities are entered into AFS when a SIP or MACT violation is documented, in order to meet EPA's minimum data requirements.

Additionally, DEC accepted delegation of 6H at the end of FFY 2011 and will continue to respond to exemption requests from facilities using HAP-free coatings and solvents.

### **Title V Monitoring Reports and Compliance Certifications**

All Title V permits issued in New York State require subject facilities to submit semi-annual monitoring reports and annual compliance certifications. The semi-annual monitoring reports contain a summary of compliance monitoring activities to be conducted by the facility. The facility operators must describe the monitoring status and report any deviations of permit limits. Report templates and instructions have been developed by the Department and have been distributed to all holders of Title V permits in the state. Annual Compliance Certifications include an in-depth assessment of a facilities compliance with permit requirements. Facilities must certify compliance.

All of the semi-annual monitoring reports and annual compliance certifications received are reviewed by regional staff to determine if the reporting requirements have been met fully and if the facility has complied with all applicable requirements. In the past, many facilities

were cited for not submitting their certification on time. This is no longer a significant problem.

Reports are tracked in the AFS database. Of the 438 Title V Annual Compliance Certifications that were logged into AFS during FFY 2012, one HPV and 21 non-HPV violations were documented. In accordance with federal policy, the Department reports data regarding each Title V certification received to the AIRS database. This includes: The date the report was due, the date it was reviewed and the overall compliance status.

The following table presents a summary of the Annual Certifications entered into AFS by each of the Department’s nine regions during FFY 2012.

Region	Certifications Due: *-----		Certifications Received: -----		Compliance Status For Those Received: -----			
	Total	Facilities	Total	Facilities	In Compliance	Under Review / No Determination	In Violation	HPV
1	62	57	43	40	38	1	0	0
2	111	104	109	102	74	0	3	0
3	50	43	50	43	47	0	1	1
4	35	31	32	28	23	0	3	0
5	23	20	23	20	17	0	6	0
6	29	25	26	23	23	0	1	0
7	45	39	40	35	29	0	4	0
8	50	43	49	43	38	0	3	0
9	71	60	66	56	66	0	0	0
<b>Totals</b>	<b>476</b>	<b>422</b>	<b>438</b>	<b>390</b>	<b>355</b>	<b>1</b>	<b>21</b>	<b>1</b>

\* “Certifications Due” Totals differs from the Facilities column for two reasons. 1) Title V permit renewals cause two certifications to be recorded; one with new permit information, one with old permit information. 2) Violations for non submittal of a scheduled Certification cause a second record to be created in the AFS database.

### **Periodic Compliance Reporting**

Other than the Title V semi-annual and annual reporting requirements discussed above, there are many other compliance reports that regulated facilities must submit periodically. These could be monthly, quarterly, semi-annual or annual depending on the applicable regulations. For example, many Title V and non-Title V facilities are required to submit excess emissions reports on a quarterly basis. These periodic reports are reviewed by the DEC Regional offices. The Central Office develops statewide guidance and provides an auditing function to assist the regions in determining compliance.

The Department’s AFS system has the capability of tracking all monitoring reports required in issued permits. Regulatory requirements are set out in monitoring conditions in Title V and state facility permits which specify the appropriate schedule for reporting. While all Title V annual compliance certifications must be tracked in AIRS, there is no requirement

that other periodic reports be reported to EPA in AIRS. The decision on whether to track these reports in AFS is made by the regional managers. Statistics are incomplete because of the flexibility allowed for the staff to track the information. Regardless, a combined total of 2525 certification and monitoring reports were received from 781 facilities in FFY 2012. Of all the reports entered into AFS in as received, 2471 were in compliance (98%). Only two of these reports included HPV level violations.

### **Stage II Enforcement Discretion Directive**

In FFY 2011 the Department issued an Enforcement Discretion Directive pertaining to Stage II installation and operation at gasoline dispensing facilities (GDFs) as regulated by 6 NYCRR Part 230. New York State is revising Part 230 to discontinue the requirement for Stage II systems on GDFs in ozone non-attainment areas. The directive also allows facilities to remove existing Stage II systems as long as they meet the required stipulations. New York reviewed and approved 159 reports for GDFs that decommissioned Stage II as per the directive, during FFY 2012.

### **Stage I & II Test Reporting**

In the past year, hundreds of gasoline service stations have submitted reports indicating they performed the tests required by 6 NYCRR Part 230 and 40 CFR Part 63 Subpart CCCCCC (6C). The department reviews these test reports to identify GDFs that have indicated a failed test and have not retested to determine compliance with the leak rates specified in 6C. A notice of violation (NOV) is prepared for GDFs that have indicated failed tests and violations are referred to legal for resolution.

### **Dry Cleaners**

State regulation 6 NYCRR Part 232 requires third-party inspections of dry cleaners using perchloroethylene (perc). The department reviews hundreds of inspection reports each year and issues NOVs when violations are reported by the third-party inspector. During FFY 2012, 33 orders were issued to dry cleaning establishments and \$39,405 in penalties were collected.

### **Outdoor Wood Boilers**

The department received and investigated dozens of complaints about outdoor wood boilers (OWB) during FFY 2012. These complaint responses are labor intensive and can require multiple site visits to determine compliance with opacity or nuisance provisions. Resolutions of documented violations have ranged from ensuring that appropriate fuel is being combusted in the OWB to signed agreements requiring removal of the violating OWB.

## **Enforcement Summary of Consent Orders FFY 2012**

Below is a summary of enforcement actions recorded in AFS for FFY 2012. During this time period a total of \$1,364,630 in payable penalties for stationary source related cases were assessed through 125 orders on consent. The Department collected a total of \$696,000 in payable penalties through 23 Consent Orders from High Priority Violators for air pollution cases.

### **HPV & non-HPV Order Summary**

The table below shows the number of consent orders issued and the total payable penalties entered into AFS. It is broken down by HPV consent orders and non-HPV consent orders.

<i>Region</i>	<i>HPV Orders</i>	<i>Penalty Amount</i>	<i>Non-HPV Orders</i>	<i>Penalty Amount</i>
<b>1</b>	1	\$75,000	13	\$20,600
<b>2</b>	17	\$500,500	29	\$62,355
<b>3</b>	0	\$0	40	\$186,025
<b>4</b>	1	\$13,000	4	\$160,000
<b>5</b>	0	\$0	4	\$29,000
<b>6</b>	2	\$8,500	1	\$1,000
<b>7</b>	0	\$0	6	\$170,000
<b>8</b>	2	\$99,000	1	\$20,000
<b>9</b>	0	\$0	2	\$19,650
<b>Totals</b>	<b>23</b>	<b>\$696,000</b>	<b>102</b>	<b>\$668,630</b>

Reasons some of the of the 102 orders were not considered HPV level include: the facility has emissions below the major threshold, the related regulation has not been approved into the State Implementation Plan or the violations are not gross as defined by the general HPV criteria or the High Priority Violation Matrix.

A number of orders addressed Section 227, Stationary Combustion Installation and Smoke emission limits. The greatest number of consent orders involved Part 201 permitting violations. Other orders include violations of regulations such as; dry cleaning record keeping and monitoring required in Part 232, Stage II requirements for downstate gasoline

stations in Part 230, Fuel Consumption and Use, Sulfur in Fuel Limitations in Part 225, and the Acid Deposition Reduction rules in Parts 237 and 238.

### **Major Facility Cases for FFY 2012**

1. A consent order was issued to Riverbay Corporation for 6 NYCRR Part 201.6.5 (a) and (c) required submitting a compliance certification annual, semi-annual and quarterly report to the department and also Respondent conducted a stack test at the facility. During this stack test, the Facility exceeded the sulfuric acid permitted limits as well as the sulfur dioxide (SO<sub>2</sub>) permitted limits, in a violation of 40 CFR 52.21(j) and 6 NYCRR part225-1.7. The order included a civil penalty of \$115,000.00.
2. NYC Health & Hospitals Corp. received a consent order for 6 NYCRR Part 201-6 required submitting compliance semi-annual and annual monitoring report. A civil penalty of \$12,500.00 was assessed.
3. A consent order was issued to Staten Island Landfill for 6 NYCRR Parts 201 and 231 requirement. Once during the term of the Permit the respondent must conduct a stack (emission) test for SO<sub>2</sub> and PM 10 for all emission sources at the facility, in order to demonstrate compliance with its TV permit emission. Emissions from the plant were measured as in excess of the SO<sub>2</sub> and PM<sub>10</sub> hourly permitted limit. The order included a civil penalty of \$15,000.00.
4. Buckeye Partners LP was issued a consent order for the failure of the Truck and Rail Vapor Combustion Unit (VCU) to achieve a VOC and HAP destruction efficiency of at least 98%. This is a violation of Condition #26 of their permit. A \$13,000 civil penalty was assessed in the order.
5. Corning Incorporated was issued a consent order for 6 NYCRR Part 201-6.5 (a) (2) failing to meet the requirements of the permit condition. The order included a civil penalty of \$25,000.00.