

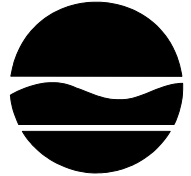
New York State Department of Environmental Conservation

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Erin M. Crotty
Commissioner

August 19, 2004

MEMORANDUM

TO: Regional Air Pollution Control Engineers
Regional Enforcement Coordinators
Regional Attorneys

FROM: David J. Shaw, Director, Division of Air Resources - /S/

SUBJECT: Supplemental Compliance Inspections in Potential Environmental Justice Areas

As you are aware, Section III.B.10 of CP-29, the Commissioner's Policy regarding environmental justice (EJ) and permitting, calls for supplemental compliance and enforcement inspections of regulated facilities where there is reason to believe that such facilities are not operating in compliance with the Environmental Conservation Law (ECL).

In order to comply with the directive, the following procedures have been developed:

Title V Sources:

1. Regular periodic (annual to biennial) inspections of all Title V facilities are already part of the base Air Resources program. Title V facilities are also required to submit annual compliance certifications and semi-annual compliance monitoring reports. Many of them submit even more frequent monitoring reports. Whenever review of compliance monitoring reports indicates an ongoing or recurring violation at a facility in a potential EJ area, a supplemental inspection of the facility (or violating portion thereof) should be scheduled as soon as possible.
2. All Title V facility violations in potential EJ areas should be referred to the Regional Attorneys as soon as possible for enforcement. Make sure to mark the referral forms appropriately to identify them as EJ matters.

All Sources:

1. Supplemental Inspection Initiatives:
 - a. Area maps showing potential EJ areas in all Regions have been distributed to the Regions. The Bureau of Stationary Sources is also developing lists of all sources (Title V or not) within potential EJ areas. These lists will be supplied to the Regional Offices by September 10, 2004.
 - b. The Regional Offices should use their knowledge of the EJ areas on the area maps to conduct a preliminary screening to identify additional sources in EJ areas. Corrections should be returned to the Enforcement Section by October 8, 2004.
 - c. The list of facilities falling in the EJ areas will be reviewed for inspection and compliance status by the Bureau of Stationary Sources. Facilities which have not been inspected at all, have not been inspected in the past five years, or have a history of noncompliance will be put on a priority list. This priority list will be grouped by Standard Industrial Classification (SIC) codes. These SIC groups will then be targeted for supplemental inspection initiatives by Central Office staff with support by Regional staff. These initiatives will target at least 20 facilities statewide each State Fiscal Year starting with SFY 2004.
 - d. Dry cleaners (SIC 7216) are already the subject of a supplemental inspection initiative focusing primarily, but not exclusively, on potential EJ areas. Several hundred possible dry cleaning sites (based on old records, telephone listings, etc.) have already been visited. Several hundred more remain. Of those visited so far, approximately 30 have resulted in documented violations. This initiative is the supplemental inspection initiative for SFY 2003.
2. Any inspections finding violations in EJ areas should be acted on following the schedule for High Priority Violations (HPVs). However, they should not be entered into the Air Facility System as HPVs unless the violations meet the HPV criteria. The HPV schedule requires:
 - a. Issuance of an NOV within 60 days of confirming that a violation has occurred.
 - b. Case progress should be evaluated by day 150.
 - c. The violation should be addressed or resolved by day 270.
3. When a violation in a potential EJ area is referred to the appropriate DEE or Regional Attorney by Air Resources staff, the referral form should be flagged to identify it as an EJ matter.
4. Compliance stack tests in potential EJ areas should be given high priority for on-site observation. The ratio of witnessed to total compliance stack tests in potential EJ areas should be at least as high as the overall ratio for each Region each State Fiscal Year.

You should begin to implement these supplemental compliance programs for State Fiscal Year 2004. If you have any questions, please contact Robert Waterfall, Chief, Enforcement Section, Bureau of Stationary Sources at 518-402-8403.

cc: C. Sullivan
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RW:dd

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