





New Jersey Department of Environmental Protection Air Compliance & Enforcement Academy May 10, 2012

Common Enforcement Findings & How to Be Prepared

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Where have we come from?



Where we are working to go.



In preparing for regulatory compliance and an Air Pollution inspection it is helpful to keep the following in mind:

Air Pollution Regulations are Extensive.

Most types of Air Pollution Sources, both stationary and mobile, are now regulated and at various governmental levels: Federal, State, County &, sometimes even Locally.





Air Pollution Regulations are Extensive

- Federal Regulations are derived from the Clean Air Act of 1970 and the Amendments of 1990.
 - ➤ State of New Jersey has delegated enforcement authority for most but not all Federal Air Regulations.



Air Pollution Regulations are Extensive

- ➤ Currently there are <u>107</u> New Source Performance Standards (NSPS) Regulations and 9 Appendixes.
- ➢ Air Toxics are regulated under National Emission Standards for Hazardous Air Pollutants (NESHAPS) Regulations. This covers <u>187</u> toxic chemicals, <u>174</u> regulated source types and currently <u>136</u> issued standards. Additionally, there are <u>29 residual risk</u> evaluations/revisions underway.



Federal NESHAPS Tip:

- Most federal regulations are circular in their logic and are good for putting you to sleep.
- NESHAPS Regulations can usually be simplified to four areas:
 - 1. Controls & their operation.
 - 2. Monitoring of some type.
 - 3. Recordkeeping.
 - 4. Reporting.



Air Pollution Regulations are Extensive

- The State of New Jersey's Air pollution regulations were originally contained in the Department of Health & The Public Health Council, under the Air Pollution Control Act of 1954 Ch 212. (NJSA Chapter 26:2C-1-25).
- These responsibilities were taken over by the New Jersey Department of Environmental Protection in 1970.



- New Jersey's Air Pollution Regulations are currently comprised of:
- The Air Pollution Statute (NJSA 26:2C),
- 4 Chapters (Title 7, NJAC 7-27, 27A, 27B & 27C), and.....
- 34 Subchapters (NJAC 7:27-1, et. seq.)



- Air Regulations are constantly evolving.
- The best ways to remain informed are the following sources:
 - -Federal Register & USEPA Web-Site
 - NJ State Register & NJDEP Air & NJDEP C&E Websites (Compliance Advisories)



- How many of these regulations are You familiar with?
- This doesn't count additional air regulations under Federal law.

 Mercifully, most facilities or operations only have to be concerned with a few of these rules.



How Do I prepare?

- When was the last time the facility or operation was inspected or visited by the Department or a regulatory representative?
- When was the last time you physically walked through your facility or your client's facility?



- When was the last time a comprehensive environmental audit was performed at your facility or your client's facility?
- This should be done at least every 5 years or sooner.
- REGULATIONS CHANGE.



- Review Department's Web-Site C&E Inspection assistance documents.
- Perform a survey of your operations & equipment. Your operations and technical staff are YOUR BEST FRIENDS, <u>EVER</u>.
- Determine what regulations apply to your facility.



- If Applicable, READ the facility air permits in DETAIL. What is the facility responsible for to comply?
- –If Applicable, review your company's or facility's inspection records on the Department's public web-site via DataMiner. What problems or issues occurred here in the past?



- Is the permit up to date for the equipment or operations it covers?
- All permits contain Facility Specific Requirements. Have you reviewed these requirements and determined if they are appropriate for the facility or operation?
- If the requirements are not correct or do not apply to the facility or operation, have you removed them from the permit?



- Register on the State of New Jersey & NJ Department of Environmental Protection's Web-Sites.
- NJDEP, as with many other state departments, is moving towards operations that are mainly Web based and away from paper. It is to the regulated community's benefit to learn how to access these sites and use them.



- Expect & Plan for inspections: Mandatory, once the facility or operation is entered into the Department's computer system. <u>Both</u> <u>Announced & Unannounced.</u>
- Who is responsible, within your organization or client's organization, for what portion of a facility's compliance? Who is responsible for inspections?
- When all else fails, what is plan B?
 Communication and training are key.



Copies of this guide may be downloaded from:

www.state.nj.us/dep/enforcement



New Jersey Department of Environmental Protection Compliance and Enforcement Bureau of Enforcement and Compliance Services Outreach and Innovation Group



New Jersey Department of Environmental Protection Compliance Inspection





Chris Christie. Governor Kim Guadagno, Lt. Governor Bob Martin, Commissioner Wolfgang Skacel, Assistant Commissioner

May, 2010







- A regurgitation of Air Pollution NJAC 7:27-8 & NJAC 7:27-22.
- Generic Air Checklist (From the Inspection Checklists on the Department C&E Web-Site).
- Below is a generic checklist which can be used to help identify if there are any equipment which may be regulated by the NJDEP air pollution rules and regulations.
- Does the facility have any air pollution permits? Does the facility have any commercial fuel burning equipment (boilers, emergency generators, internal combustion engines, ovens, heaters, dryers) over one million BTUs/hr, or incinerator of any kind? (List them, including size, type and amount of fuel.) Does the facility burn any waste oil, or any other noncommercial fuel? (List them, including amount of waste oil burned.) Does the facility have any storage tanks storing any liquid material? (List them, including size and contents, above or below ground or inside a building.) Does the facility have any silos, bins or containers for storage of solid particles? (List them, including size and contents.) Does the facility transfer any liquids or solids into or from any containers or delivery vessels, including filling lines, or using pneumatic, bucket or belt conveying systems. (Describe the process, amount any type of material transferred.) Does the facility perform any printing, graphic arts operations, spray painting or any other surface coating operation? (List them and the maximum amount of coating used per hour and per day and the VOC content of the coating material.)Does the facility perform any plating, etching, or surface cleaning operations, either with or without solvents? (List them)Does the facility process more then 50 lbs/hr of any raw material, excluding air and water, in any of their operations? Are there any air contaminants? (Describe any such processes.) Does the facility have any Dry Cleaning equipment? (List them) Does the facility process any solid waste, ground water, waste water, waste soils, sludges, yard wastes, recyclable materials, or perform the venting of any landfill or ground contamination? (Describe the processes.) Does the facility perform any welding using welding rods or welding wire? (Describe, including amount of welding material used.) Does the facility use any HAPS or TXS materials? (Describe use.)Did you observe any odors or visible emissions at this facility? (Explain.)Do you have any other comments or observations about this facility? Does the facility have any diesel-powered trucks or buses greater than 18.000 pounds gross vehicle weight that do not have an annual emissions inspection sticker?

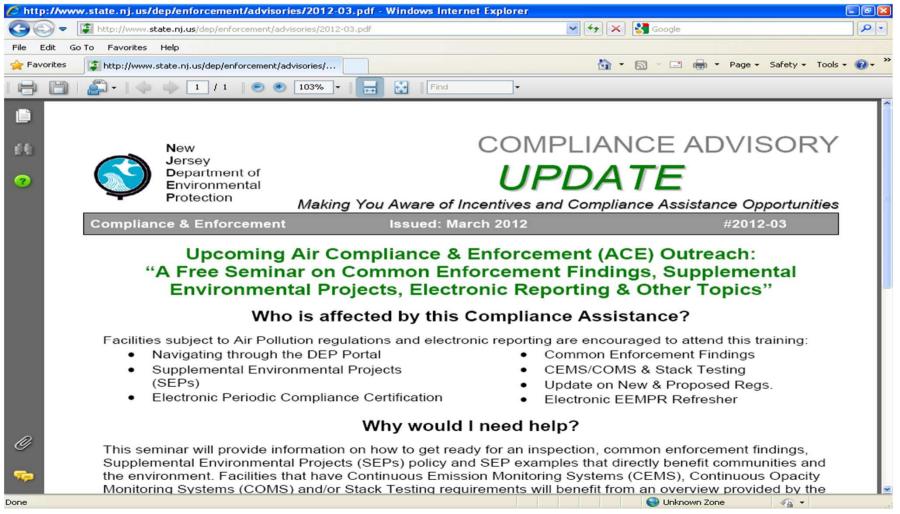






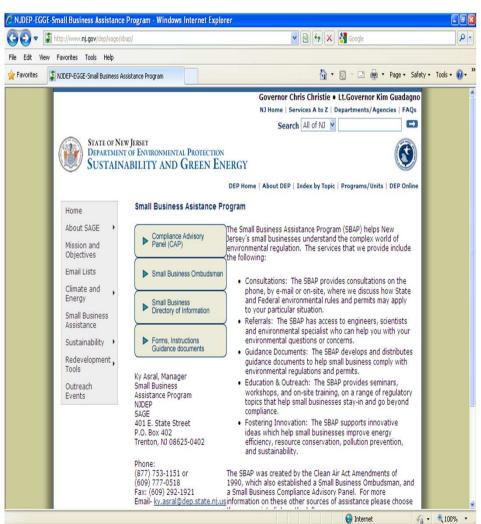




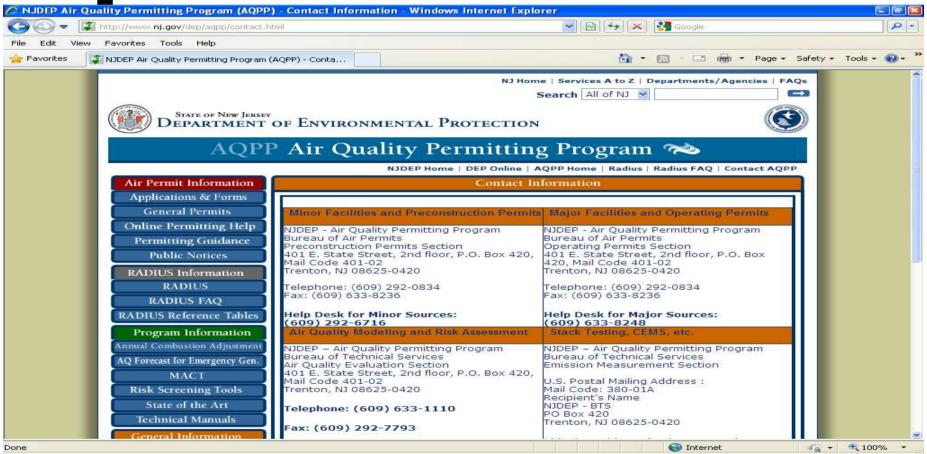




- What If I need Additional Help?
- Several options are available to you.
 - NJDEP SmallBusinessAssistanceProgram







Air Permitting Offers Help with Air Permits.



What If I need Additional Help?

This is another response, but is generally not helpful or good to resolve problems. It may, however, temporarily relieve stress.



- nijhome I citizen I business I government I services A to Z I departments

 newjersey
 department of environmental protection
 nidep home I about dep I index by topic I programs/units I dep online
- Environmental Guidance for All Child Care Facilities & Educational Institutions

Home > How to Choose an Environmental Consultant

Hire a consultant.

- Use business and industry association contacts for help.
- Can NJDEP recommend a consultant?

How to Choose an Environmental Consultant

The State of New Jersey does not have a consultant certification program for residential cleanup work. Environmental contractors are listed in the telephone book's Yellow Pages under Environmental Services. You may wish to consult with your attorney, or local health department for recommendations. Although the DEP cannot recommend a specific consultant, we do recommend several questions you should ask prospective consultants. The answers to these questions should enable you to make an informed selection.

Questions for Prospective Consultants:

Is the consultant familiar with the regulations that govern the remediation of contaminated sites in New Jersey?

The answer to this question is critical. At a minimum a consultant performing site remediation work must be familiar with:

- The <u>Technical Requirements for Site Remediation</u> (N.J.A.C. 7:26E)
- 2. The <u>Procedures for the Department Oversight of Contaminated Site Remediation (N.J.A.C. 7:26C)</u>
- The most recent version of the <u>DEP Field Sampling & Procedures Manual</u>

If a consultant does not have a thorough knowledge and understanding of these regulations, project delays and additional costs may result. Call the references given by the consultant. Ask former clients whether the consultant submitted documents, which met DEP approval or whether repeated efforts were needed to meet regulations. Ask whether or not the consultant worked effectively with both him/her and the DEP case manager.

What projects has the consultant completed that are similar to your needs?

Disclaimer:

Please note that the information given to you should not be considered comprehensive status of environmental conditions in and around the subject daycare facility.

Therefore, information provided should not be relied upon by you as a final determination on what you may need to do in order to fully understand the condition of your property.

The information provided does not guarantee in any way that your property, either inside or outside, is free of contamination or presents a potential exposure to contamination.



EZ Inspect Guide (p.19) lists some of the common problems found during an air inspection.

③	Page 19	New Jersey Department of Environmental Protection
		✓ Annual/biennial reports ✓ Emergency response plan ✓ Spill control plan ✓ Site security plan ✓ DEP issued permits ✓ DEP approved site plans ✓ Local construction permits ✓ Certified soil erosion and sediment control plan ✓ Quality assurance plan
What are the most common violations that an inspector finds?		These are the most common problems discovered as a result of inspections over the past 12 months listed in order of the most commonly cited:
		Failure to obtain a preconstruction permit Failure to fulfill all conditions and provisions of the preconstruction permit and operating certificate Failure to obtain an operating certificate Failure to keep required records Failure to fulfill all conditions of a compliance plan Failure to fulfill all conditions and provisions of the Operating Permit

DEP Hotline I-877-WARN DEP (I-877-927-6337)



EZ Inspect Guide (p.20)
lists additional
problems found
during an air
inspection.

()	Page 20		New Jersey Department of Environmental Protection
mos viole an i	at are the t common ations that nspector is? (cont.)	. Ha	Releasing odors and/or particulates into the atmosphere in quantities which result in air pollution Failure to submit an emission statement Idling the engine of a diesel-powered motor vehicle for more than three consecutive minutes while not in motion Failure to maintain records for surface coating and graphic arts operations azardous Waste Failure to comply with emergency response requirements Failure of generator to clearly mark container with the words "Hazardous Waste" and the date when accumulation period begins Failure of used oil generator to comply with used oil-labeling requirements Failure to determine if waste is hazardous Failure to perform inspection of each area where containers are stored Failure to pay a fee within specified timeframe
		•	Failure to comply with requirements for the management of containers

DEP Hotline I-877-WARN DEP (I-877-927-6337)



What if I find non-compliance? How Can I Minimize my facility's liability? NJDEP Self Disclosure Submittal.





Environmental Air Pollution Inspections are carried out by Federal (USEPA), State of NJ (NJDEP), County Health / Environmental(CEHA) & Local (Code Enforcement) Personnel, but mainly by NJDEP and County Inspectors.

Who is your inspector?

Common Perceptions of NJDEP Inspectors

Your views.
One extreme to....

Common Perceptions of NJDEP Inspectors

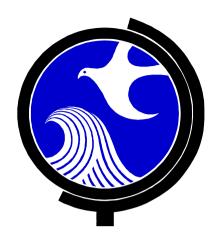
....the other.

Common Perceptions of NJDEP Inspectors

Our view of ourselves.

Common Perceptions of NJDEP Inspectors

As with so many other subjects in life, the truth is somewhere in between.



- Inspection Day Common Problems:
 - Failing to keep records.
 - Failing to keep records that were legible.
 - Failing to keep records that were specifically asked for, no substitutions unless permitted by Department permission.
 - Failing to perform testing when required.



Inspection Day Common Problems: (Con't.)

- Failing to Operate Control devices.
- Failing to operate Control devices within ranges or conditions outlined in the Air Pollution Permit.
- Failing to monitor operations when required.
- Adding unpermitted sources to permitted operations.



Inspection Day Common Problems: (Con't.)

- Failing to include changes to raw materials in permitted operations or manufacturing.
 - Failing to investigate & pay air permit renewal fees or other assessments.
 - Failing to respond to written requests for information from the Department.



Unannounced Inspections

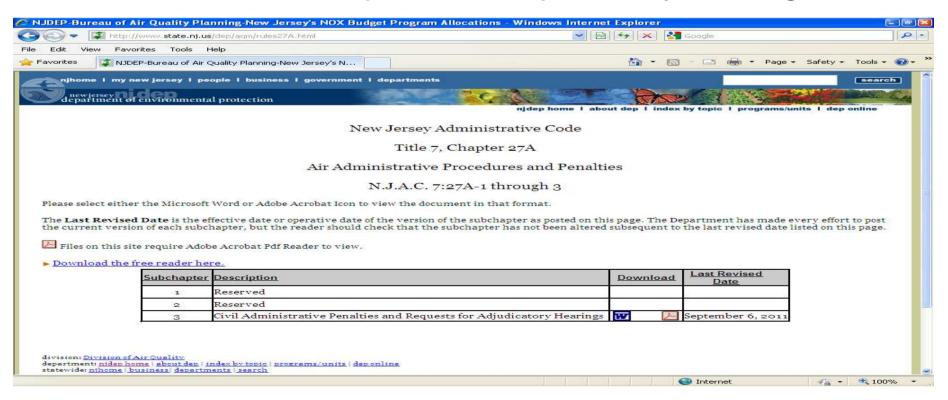
Why does the Department conduct unannounced inspections?

- To maintain a level playing field between all regulated entities.
 - Investigation of complaints.
 - Criminal Investigations.



What if a violation is determined? How does the Air Program evaluate and pursue violations?

NJAC Chapter 7:27A-Subchapter 3 – Civil Administrative Penalties & Requests for Adjudicatory Hearings.







NJDEP Air Pollution Subchapter 5
Prohibition of Air Pollution



Investigation of complaints.

- RULE #1 : DON'T UPSET THE NEIGHBORS.
 - Does your facility or client's facility have the <u>potential</u> to cause a public nuisance, based upon its operations? How close are your neighbors?
- Do you have a plan to address these issues?
 Can you shut down your operation at a moment's notice? If not, how long will it take to cease operations?



- Denial of Entry Under the Air Pollution Control Act
- NJSA 26:2C-9.1. Interference with performance of duties; entrance to premises.

"No person shall obstruct, hinder or delay, or interfere with by force or otherwise, the performance by the department or its personnel of any duty under the provisions of this act, or of the act of which this act is amendatory and supplementary, or refuse to permit such personnel to perform their duties by refusing them, upon proper identification or presentation of a written order of the department, entrance to any premises at reasonable hours."



 During inspections we still occasionally encounter the "magic" door or time portal.



This type of situation creates problems when inspectors are told.....



Move along, There's nothing to see here.

This automatically leads to a



....problem.



This generally leads to tension of some sort.

What Usually Happens Next...



The final observation of the contents behind the door made life difficult for all. Wouldn't access and the truth have been easier?

What is this?



Common Enforcement
Findings & How to Be
Prepared

What is this?



Thank you for attending!!! And helping to make New Jersey a better place!!! Philip Savoie Air C&E Northern Office