

New York State Department of Environmental Conservation

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**DIVISION OF
LEGAL AFFAIRS**



Alexander B. Grannis
Commissioner

MEMORANDUM

TO: See DISTRIBUTION Below

FROM: Stephen Hammond, Director, Division of Solid & Hazardous Materials

SUBJECT: Supplemental Compliance Inspections in Potential Environmental Justice Areas

DATE: APR 16 2007

Stephen Hammond

Commissioner Policy 29, Environmental Justice and Permitting (Policy), Section III.B.10, requires that the Department conduct supplemental compliance and enforcement inspections of regulated facilities to ensure facilities are operating in compliance with the Environmental Conservation Law (ECL). Supplemental enforcement and compliance inspections apply to facilities located within a half mile of a potential environmental justice (EJ) area where there is reason to believe that such facilities are not operating in compliance with the ECL.

The following revised procedures have been developed to more easily enable staff to comply with the Policy and ensure an equitable inspection procedure. This procedure supersedes the procedure established in my October 6, 2003 memorandum to the Regional Offices.

I. GENERAL INSPECTION PROTOCOL

- A. In identifying facilities for inspection, staff will ensure that an equitable portion of the total number of inspections for the year are conducted within a half mile of a potential EJ area.
- B. Scheduling priority will be given to those facilities that have not been inspected at all, have not been inspected recently, are believed to be operating in non-compliance, or are within a half mile of a potential EJ area.
- C. Violations identified at facilities within a half mile of a potential EJ area will be given priority by staff and referred for enforcement as appropriate. Case initiation data sheets submitted by staff with a referral package to Legal will include a check box indicating that the alleged violation(s) occurred within a half mile of a potential EJ area.

II. HAZARDOUS WASTE

- A. RCRA Treatment Storage Disposal Facilities (TSDFs) - Operating TSDFs are inspected, at a minimum, once every other year. Commercial TSDFs and TSDFs with combustion units are inspected, at a minimum, once per year. Operating TSDFs which are not commercial or combustion units and which are located within a half mile of a potential EJ area will be inspected once per year. The list of TSDFs within a half mile of a potential EJ area will be sent to each Region annually prior to the fiscal year work planning effort.
- B. Large Quantity Generators (LQGs) - Long-term LQGs are inspected, at a minimum, once every five years. Scheduling priority will be given to those long-term LQGs within a half mile of a potential EJ area that have not been inspected at all, have not been inspected within the last three full fiscal years, or are believed to be operating in non-compliance. A list identifying current long-term LQGs within a half mile of a potential EJ area will be sent to each Region annually prior to the fiscal year work planning effort.
- C. Potential EJ Area Based Initiative - Conditionally-exempt small quantity generators (CESQGs) and small quantity generators (SQGs) are inspected randomly as needed. The Potential EJ Area Based Initiative will be used to ensure that an equitable number of the CESQG and SQG inspections for the year are conducted within a half mile of a potential EJ area. Potential EJ areas will be selected in one or more Department Regions per State fiscal year, using GIS and other data. Facilities in the selected potential EJ area(s) will be identified using the manifest system, USEPA RCRAInfo, GIS and other data. An individual inspector or a team of inspectors will conduct inspections over one or more days, as necessary, to complete the inspections. The initiative will focus on the facilities identified by the procedure outlined above. However, while in the area, the inspector or team of inspectors may visually identify additional facilities for inspection, such as auto body shops and dry cleaners, which were not identified by this procedure. These additional facilities will be inspected at that time or included in a list for subsequent inspection visits.

III. SOLID WASTE FACILITIES

- A. Solid Waste Landfills (LFs) - LFs are inspected, at a minimum, once per year. Scheduling priority will be given to those facilities believed to be operating in non-compliance and facilities within a half mile of a potential EJ area. A list identifying LFs within a half mile of a potential EJ area will be sent to each Region annually prior to the fiscal year work planning effort.
- B. Transfer Stations (TSs) - TSs are inspected as needed. In identifying facilities for inspection, staff will ensure that an equitable portion of the total number of inspections for the year are conducted within a half mile of a potential EJ area. Scheduling priority will be given to those facilities that have not been inspected at all, have not been inspected within the last year, are believed to be operating in

non-compliance, or are within a half mile of a potential EJ area. A list identifying TSs within a half mile of a potential EJ area will be sent to each Region annually prior to the fiscal year work planning effort

- C. Potential EJ Area Based Inspection Initiative - The Potential EJ Area Based Initiative will be used to ensure that an equitable number of solid waste facility inspections for the year are conducted within a half mile of a potential EJ area. Potential EJ areas will be selected in one or more Department Regions per State fiscal year, using GIS and other data. Facilities in the selected potential EJ areas will be identified using SWIMS, GIS, and other data. An individual inspector or a team of inspectors will conduct inspections over one or more days, as necessary, to complete the inspections. The initiative will focus on the facilities identified by the procedure outlined above. However, while in the area, the inspector or team of inspectors may visually identify additional facilities for inspection, such as vehicle dismantlers, solid waste transfer stations, construction and demolition debris processors, and/or other solid waste facilities which were not identified by the procedure outlined above. These additional facilities will be inspected at that time or included in a list for subsequent inspection visits.
- D. Sector Based Inspections - The Sector Based Inspections will be used to ensure that an equitable number of solid waste facility inspections for the year are conducted within a half mile of a potential EJ area. In identifying facilities for inspection, staff will ensure that an equitable portion of the total number of inspections are conducted within a half mile of a potential EJ area. Inspections may be conducted in one or more Department Regions. Facilities within a half mile of a potential EJ area will be identified using SWIMS, GIS, and other data. An individual inspector or a team of inspectors will conduct inspections over one or more days, as necessary, to complete the inspections. Sector based inspections will be conducted as needed, and may not be conducted yearly.

These procedures shall be implemented for the 2007 work year and every year thereafter. If you have any questions, please contact me.

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cc: C. Sullivan
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