

Air Updates
2012

Air Enforcement Cases

Identifying Violations

- Inspections
 - Complaint or routine
- Stack tests
- Reports
 - Excess emission reports
 - Certification of Compliance & Deviation reports
- Permitting process

Common Violations

- Violation of a Synthetic minor limitation-criterion 3
 - A limit that was taken to keep a source below a major source threshold-
 - Title V
 - PSD
- Violation of an allowable emission limit detected during a reference method test-criterion 8

Common Violation cont

- Violations that substantially interfere with determining the source's compliance with applicable emission limit – criterion 7
 - Typically failure to keep records or document a required activity.

Violation Evaluation

- Evaluate violation to EPA's High Priority matrix
 - This process dictates course of action
 - Google - timely and appropriate response to high priority violations (High Priority Violations)
- High Priority Violations (HPVs)
 - Automatic Notice of Violation (NOV)
- Non- HPVs
 - Evaluate source's compliance history
 - Typical look back period is 7-10 years

Assuming HPV

- NOV written and sent to source- within 60 days
- Typically the Request for Enforcement (RFE) process begins. The inspector prepares;
 - Memo describing violation
 - Regulatory citations
 - Compliance history
 - Requested Action
 - Administrative order
 - Civil penalty

Layers of Reviews

- The following people review the RFE
 - Unit supervisor
 - Section supervisor
 - Division administrator
 - Deputy director
- If all support the package, it goes for a legal review.
- EPA can also receive case – over file or by request

RFE Process

- Legal review
 - Will determine if the case meets legal requirements.
- Enforcement meeting
 - All supervisors and legal team meet with Director
 - Case is discussed, questions resolved
 - Decision to forward case to AG or dismiss.

Attorney General

- AG's office is it's own entity
 - Deputy director is our liaison
 - Legal staff will meet with regularity (case updates)
 - Staff may get calls to answer questions
- NDEQ involvement basically ends with referral

Penalties

- Penalties have ranged from \$10,000 to \$200,000.
 - Estimate average is \$25,000-65,000
 - Really depends on the violation.
- All penalties go to school system

Contact Information

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