

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 its 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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