

## **Autobody Compliance Program Initiative**

The Association recently participated in a meeting with the Environmental Facilities Corporation (EFC). The Corporation is charged with helping small business comply with Federal and State environmental requirements through their expert technical assistance.

The EFC, although it works with other state agencies such as the New York State Department of Environmental Conservation (DEC), is non-regulatory, and most of its actions are free and confidential. Among its technical assistance programs are completing permit applications, preparing emissions inventory, exploring alternative materials and coating for use in processes, and developing compliance plans. As an expanded service, they also provide environmental assistance, which include waste handling, such as solvents, waste oil, florescent lamps, and shop tiles. Also, water quality requirements are included, and they are involved in the bulk storage regulations.

The EFC is embarking on a new program called the Environmental Results Program (ERP). It is advertised as an innovative approach to improving the environmental performance. It targets sectors or groups with large numbers of businesses with small sources of pollution. ERP's goal is to supplement traditional compliance with monitoring and compliance assistance. It does not replace existing State and Federal regulations or regulatory sources and/or enforcement. The program is actively supported by the United States Environmental Protection Agency (USEPA), which provides grants and technical assistance. Currently such programs are operating in eighteen states. Each state develops a different implementation plan for different products. New York has chosen to provide assistance with compliance for the autobody repair shops.

By targeting sectors, EFC can gain a better understanding of the environmental requirements for pollution prevention practices for each industry. It can also officially address aggregate impact of a large number of small sources. Through this, a greater number of facilities are brought into regulatory compliance, and environmental performance of an entire sector can be evaluated.

Compliance assistance is communicated through plain language workbooks and workshops. They try to clearly explain the environmental and regulatory requirements placed upon the industry.

The compliance workbooks are usually multimedia and include air, hazardous waste, water, bulk storage, pollution prevention, and energy efficiencies. One of the foundations of the program is self-certification. Facilities certify to the DEC their compliance. Those businesses that are not in compliance develop a compliance plan and submit it to DEC. A self-certification is done through a checklist, which is developed by the corporation. Environmental compliance questions are answered yes or no. Facilities not in compliance submit a document known as the "return to compliance plan," which lists the deficiencies and target dates for correction.

A typical approach cycle includes:

1. Establishing sector inventory
2. Random base line inspections
3. Compliance assistance workshops
4. Distribute and evaluate self-certification forms and return to compliance plans
5. Target is to follow-up at problem facilities
6. Random post-certification inspections
7. Assess the results

A Pilot Program to encourage compliance will be initiated in DEC's region 4 and 9. Region 4 is Western New York, and region 9 is Albany and the Capital District. Included in the program is the DEC, EFC, and Empire State Development Corporation (ESDC), New York State Energy Research and Development Authority (NYSERDA), and New York State Foundation for Science, Technology and Innovation (NYSTAR). These teams will reach out to the industry groups for assistance and guidance.

The autobody shops are defined to include any commercial motor vehicle operation involving collision repair, vehicle painting, paint stripping, sanding, bodywork, and/or antique restoration, where the work is performed inside the building or structure.

The first step is to establish an inventory of the facilities that would be defined as autobody shops. The coalition will use existing databases such as the Motor Vehicle Department, Yellow Pages, and other sources of date to identify as many of the autobody shops in each region. Currently, 989 autobody shops have been identified in regions 4 and 9.

The tools that will be used in the program will be the compliance assistance workbook, inspection checklist, and self-certification forms. These will be developed from existing DEC materials and borrowed from states with similar programs. Autobody shops stakeholders will be trade associations, career technical centers and community groups. Their input would include compliance assistance using the workbook and developing the self-certification form.

One of the main provisions of the program is to conduct a baseline inspection. This establishes compliance rate of the autobody section and helps identify problem areas needing compliance and assistance. Facilities will be randomly selected from the 989 current facilities identified.

The outreach program will include inviting all autobody shop owners and operators to attend compliance assistance workshops. It will also provide language compliance assistance workbook and additional systems will be available from other sources.

Once the material is received, a group will identify the red tag facilities and non-responders. A review of the compliance plan will be reviewed and adjustments will be made of the inventory of autobody shops in these locations.

The expected time line for the program is as follows:

- Sometime in April 2008, DEC will begin baseline inspection of randomly selected autobody shops in regions 4 and 9. Inspections will be on schedule and enforcement actions may be taken for observed violations.
- Between May and September 2008 brochures will be sent to autobody shops in region 4 and 9 informing them of the DEC Autobody Shop Program and the dates and times for upcoming workshops. Workshops for the Autobody Industry in the two regions will include guidance on how to comply with environmental requirements, how to correct areas of non-compliance, and how to complete the autobody shop self-certification format. The workshop will also include information on pollution prevention and opportunities to bring business into compliance.
- In September and October 2008 autobody shops in region 4 will conduct self-audits using the self-certification checklist, correct or develop a plan to correct any areas not in compliance and submit the self-certification form to DEC.
- During November and December 2008 DEC will conduct follow-up inspections and a randomly selected sample of autobody shops in the two regions. Inspection will be on a schedule and enforcement action may be taken for observed violations.
- In January and February of 2009 DEC will analyze the autobody shop results in the two regions and adjust and revise the material where needed.

The association believes that such programs to assist with compliance are usually helpful to the industry. The Environmental Facilities Corporation is business sensitive, and can be trusted to work with the industry toward compliance without major discomfort from violations. However, the inclusion of the Department of Environmental Conservation as the inspecting agency leaves us with a great deal of concern. We were told that major violations would result in penalties.

DEC penalties are historically draconian, and the Association has communicated to the EFC that any cooperation from the Association would be predicated on the assurance that DEC does not use this as an opportunity to penalize the industry.

More information as it is received.