

**From:** <maziarz@senate.state.ny.us>  
**To:** <hlhamilt@gw.dec.state.ny.us>  
**Date:** 10/25/04 12:30PM  
**Subject:** letter to Commissioner Crotty

Erin M. Crotty, Commissioner  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-1011

Dear Commissioner Crotty:

I am writing in reference to your agency's proposed policy regarding the on-site environmental monitoring of facilities subject to the Department's oversight. My comments will be short and direct, but their brevity should in no way be taken to imply a low level of interest on my part. Indeed, as you know, I represent some of the most environmentally burdened areas in the state. Consequently, I have long advocated on behalf of my district's communities to ensure the legitimacy of their voices in DEC's policy and permitting decisions.

On-site environmental monitors who are employed by DEC and under its direct oversight are critical to the psychological comfort of communities with such facilities in their midst. Anything less will fracture any trust between these communities and your agency. In addition, given the history of behavior and fines by some of the facilities in my district, it is clear that DEC monitors are necessary to ensure that laws and regulations are consistently followed to protect communities from exposure and risk now and in the future. Therefore, I respectfully register the following:

1. DEC should not allow for a regulated entity or facility to hire a third-party on-site monitor to act on behalf of the department. Facilities should provide the funds to DEC, and DEC should then take the responsibility to hire and supervise these monitors.

2. This proposed change in the policy regulating environmental on-site monitors is a profoundly significant issue for my constituents. However, the draft policy has not been well distributed or advertised, and my constituents and I have many questions and concerns that deserve to be addressed. I would imagine that this is true across the state. Therefore, because of the gravity of this policy proposal and its far-reaching consequences, I strongly request that public hearings on this

proposed policy be held across the state at places and times convenient to the public's participation in them. In my district, because of the level of monitoring activity, a public hearing needs to be held in Niagara Falls and another in Rochester.

As always, I am available at your convenience to further discuss this issue. I appreciate the enormity of your responsibility to protect the people and environment of New York State, and appreciate your efforts and achievements. I look forward to your reply.

Sincerely,

George D. Maziarz  
Senator, 62nd District

CC: <cecsmike@choiceonemail.com>



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

COMMITTEES  
Housing  
Labor  
Higher Education  
Insurance  
Small Business  
Real Property Taxation

JOAN K. CHRISTENSEN  
Assemblywoman 119<sup>th</sup> District

November 15, 2004

Henry L. Hamilton  
New York State Department of Environmental Conservation  
Office of Environmental Monitors  
625 Broadway, 12<sup>th</sup> Floor  
Albany, New York 12233-1510

NOV 18 2004

Dear Mr. Hamilton:

Recently, it has come to my attention that the New York State Department of Environmental Conservation (DEC) is proposing a new policy that would weaken the On-site Environmental Monitoring Program, which would impact Onondaga County's garbage burning steam plant located in the 119<sup>th</sup> Assembly District. The transition to a privatized program could negatively affect the future of waste management programs here in Onondaga County and across the state.

By allowing governing boards to decide on their own monitoring system, as well as forcing them to incur higher financial burdens, it will only open up areas for possible corruption, which can not be placed at risk when environmental policy is at stake. Taking the oversight power out of the control of a government entity is a risky proposition; one risk that is, in my estimation, not worth taking. It reminds me of the old adage of allowing the fox to guard the hen house.

The citizens of New York State need to be confident that those overseeing such important environmental facilities are not being influenced by bureaucratic and financial red tape. Rather it is necessary that they, the consumers, are having their interests protected.

I urge the Office of Environmental Monitors to review this topic further and urgently request the opportunity for more public involvement. I am asking that you extend the comment period in order to find the best resolution for our environment and the residents of New York State.

I would be happy to discuss this matter with you further. Please feel free to contact me with any questions or other ways in which I may be of help to you.

Sincerely,

Joan K. Christensen  
Member of Assembly

JCK/eah



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

FRANCINE DELMONTE  
Member of Assembly  
138th District

COMMITTEES  
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Economic Development,  
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October 29, 2004

**RECEIVED**

**NOV 01 2004**

**DEC  
OFFICE OF INTERNAL AUDIT**

Henry L. Hamilton  
Office of Environmental Monitors  
NYS Department of Environmental Conservation  
625 Broadway, 12<sup>th</sup> floor  
Albany, New York 12203-1510

Re: Proposed Department of Environmental Conservation (DEC) Policy regarding On-site Environmental Monitoring

Dear Mr. Hamilton:

I am writing to express my concerns with the DEC proposed policy regarding on-site environmental monitors. Please allow this letter to serve as my comments.

The Assembly District that I represent includes the CWM Model City facility, the only commercial hazardous waste facility in the state which accepts over 270,000 tons of waste annually from thirty states and Canada. A few years ago DEC removed one of three on-site monitors at CWM's request. The reason given at the time was that the volume coming into the facility was down and therefore the monitor was not needed. Shortly thereafter the facility was cited for a number of permit violations including falsified records and improper burial of wastes. CWM was assessed \$178,000 in state and federal fines; however, the monitor was not reinstated even though the problem of inadequate oversight of the facility due to DEC monitors being spread too thin has come up at numerous hearings and discussions.

Section 27-0917 of the Environmental Conservation Law (ECL) authorizes DEC to require on-site monitors at any hazardous waste facility "... if the commissioner determines that adequate protection of the public so requires" whose function "shall be to monitor compliance with permit conditions" (see subdivision 4. of section 27-0917 of the ECL). On-site environmental monitors provide independent oversight which is accountable to the public as well as the Department. There have been numerous instances throughout the history of the program where DEC monitors have identified violations at subject facilities which have led not only to

enforcement actions, but more importantly improved operation of those facilities thereby mitigating environmental and public health impacts.


Under the proposed policy I believe that DEC's regulatory oversight will be severely compromised. With the replacement of the DEC staff with private contractors (independent environmental monitors or IEMs), the initiation of enforcement actions could become more difficult. Rather than experienced state employees who answer to the public; private consultants, whose clients often include the very entities that they will be expected to monitor, will be conflicted. There is no assurance that they will report environmental violations in a timely manner.

In addition, the proposed policy provides no fiscal benefit to the state. The present system requires strict accounting and reporting in which the monitoring expense is charged to the regulated party with no cost to the state. In fact, private sector consultants would include a profit margin in their contracts thereby increasing the cost to the regulated community.

I am also concerned with the wording of the proposed policy in several instances. The existing policy (O&D Memo #92-10) not only specifies the circumstances in which an environmental monitor should be utilized, but also details the Department's administrative and programmatic responsibilities. Most of these specifics are lost in the proposed policy which does not even appear to be an O&D Memo. Finally, the proposed policy appears to limit the use of environmental monitors by shifting the decision away from those in the field who are best equipped to make the determination to senior central staff.

For the above stated reasons and in the interest of the public health and the environment of New York's residents, I urge the Department to reconsider the proposed policy. Furthermore because of the substantial public interest in this proposal, I request that the comment period be extended with sufficient time for the Department to hold hearings in each of its administrative regions.

Sincerely,



Francine DelMonte  
Member of the Assembly

Cc: Commissioner Crotty



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

THOMAS P. DINAPOLI  
Member of Assembly  
16th District  
Nassau County

CHAIR  
Standing Committee on  
Environmental Conservation

CO-CHAIR  
Legislative Commission on  
Water Resource Needs of  
New York and Long Island

COMMITTEES  
Ways & Means  
Education  
Veterans Affairs

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NOV 01 2004

DEC  
OFFICE OF INTERNAL AUDIT

October 28, 2004

Henry L. Hamilton  
Office of Environmental Monitors  
NYS Department of Environmental Conservation  
625 Broadway, 12<sup>th</sup> floor  
Albany, New York 12233-1510

Re: Proposed Department of Environmental Conservation Policy regarding On-site  
Environmental Monitoring

Dear Mr. Hamilton;

Please allow this letter to serve as my comments regarding the above captioned proposal. As previously stated in an April 25, 2003 letter to the Commissioner, I am concerned with the privatization of on-site environmental monitors as the proposed policy would allow.

On-site environmental monitors, "whose function shall be to monitor compliance with permit conditions" (see paragraph (a) of subdivision 4. of section 27-0917 of the ECL), provide independent oversight which is accountable to the public as well as the Department. There have been numerous instances throughout the history of the program where DEC monitors have identified violations at subject facilities which have led not only to enforcement actions, but more importantly improved operation of those facilities thereby mitigating environmental and public health impacts.

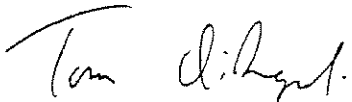
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In addition, the proposed policy provides no fiscal benefit to the state. The present system requires strict accounting and reporting in which the monitoring expense is charged to the regulated party with no cost to the state. In fact, private sector consultants would include a profit margin in their contracts thereby increasing the cost to the regulated community.

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Sincerely,



Thomas P. DiNapoli  
Chair, Environmental Conservation Committee  
New York State Assembly

cc: Commissioner Crotty

10/29/04 FRI 09:58 FAX 718 282 4228

Assemblywoman DeMonte

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FRANCINE DELMONTE  
Member of Assembly  
138th District

THE ASSEMBLY  
STATE OF NEW YORK  
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COMMITTEES  
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and Industry  
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Tourism, Arts and Sports  
Development

October 29, 2004

Henry L. Hamilton  
Office of Environmental Monitors  
NYS Department of Environmental Conservation  
625 Broadway, 12<sup>th</sup> floor  
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Assemblywoman DelMonte

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Francine DelMonte  
Member of the Assembly

Cc: Commissioner Crotty