§ 28-0109. Small business pollution prevention and environmental compliance assistance program.

1. The commissioner is hereby authorized and directed to establish, develop and implement a small business pollution prevention and environmental compliance assistance program. The purpose of such program shall be to:

a. assist eligible businesses to achieve pollution prevention and improved environmental performance;

b. assist eligible businesses to comply with the provisions of and rules adopted pursuant to this chapter; and

c. support all environmental and regulatory programs carried out pursuant to this chapter, including permitting, facility inspection and enforcement activities. For the purposes of this section, "eligible business" shall mean a small to medium-sized business, not-for-profit organization or municipality which employs less than five hundred persons on a full-time basis.

2. The commissioner, after providing notice and opportunity for public hearing, may exclude from the small business pollution prevention and environmental compliance assistance program any category of regulated entity that the commissioner determines to have sufficient technical and financial capabilities to meet the requirements of this chapter without such assistance. The department may designate eligibility for assistance based on whether an eligible business has sufficient technical and financial capabilities to comply with federal and state law without such assistance. Such determination or designation shall be based on criteria formally adopted by the department as guidance or regulation therefor. Such program shall include:

a. the development, collection and coordination of information concerning pollution prevention and compliance methods, and programs to encourage lawful cooperation among eligible businesses and other persons to further comply with the provisions of this chapter;

b. adequate mechanisms for assisting eligible businesses with pollution prevention, environmental compliance and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, and products and methods of operation that help to achieve pollution prevention;

c. the provision of assistance for eligible businesses in:

(i) determining applicable requirements of this chapter and rules and regulations promulgated pursuant thereto,

(ii) submitting complete permit applications, and

(iii) receiving permits issued by the department in a timely and efficient manner;

d. adequate mechanisms for referring eligible businesses to qualified auditors, or to the extent possible, offering eligible businesses and responding to requests from eligible businesses for audits of the operations of such businesses to determine compliance with this chapter and rules and regulations promulgated pursuant thereto;

e. procedures for offering eligible businesses and responding to requests from eligible businesses for technical, pollution prevention and environmental compliance assistance including, but not limited to:

(i) on-site technical assistance and consultations regarding the identification and implementation of opportunities to achieve pollution prevention or enhance compliance, including the adoption of comprehensive pollution prevention plans or environmental management systems;

(ii) assistance in the modification of any work practice and the identification of affordable and cost effective alternative technologies or technological improvements to achieve pollution prevention or to achieve compliance with or to establish compliance procedures pursuant to this chapter and rules and regulations promulgated pursuant thereto; and

(iii) the establishment of a schedule of milestones for implementing such work practice or method of pollution prevention or compliance preceding any applicable compliance date, based on the technology and

financial capability of such eligible business. No modification shall be recommended unless it is in compliance with the applicable requirements of environmental laws;

f. procedures for soliciting input from and exchanging information with the small business pollution prevention and environmental compliance ombudsman program created pursuant to section 138 of the economic development law, regarding pollution prevention opportunities and compliance requirements for small businesses;

g. adequate mechanisms for the collection and dissemination of information to eligible businesses, including the development of guidance manuals and the establishment of a toll-free telephone number dedicated to answering questions involving pollution prevention and small business compliance;

h. procedures for assuring the confidentiality of information received from eligible businesses;

i. the identification of individuals, firms and/or state and local agencies with a distinctive competence in areas related to pollution prevention and compliance with environmental laws, rules and regulations, and a demonstrated ability to serve eligible businesses, for the purpose of referring eligible businesses with identified needs to consultants or agencies with relevant expertise; and

j. the provision of information on state-sponsored programs offering financial or technical assistance and on funding available from private lenders to eligible businesses, and of aid to such businesses in applying for financial assistance or funding.

3. In developing and implementing the small business pollution prevention and environmental compliance assistance program, the department shall consult with the pollution prevention and environmental compliance coordinating council as created pursuant to section 28-0111 of this article, the environmental facilities corporation, the small business pollution prevention and environmental compliance ombudsman

program as created pursuant to section 138 of the economic development law and the office of waste prevention services as created pursuant to article 14 of the economic development law.