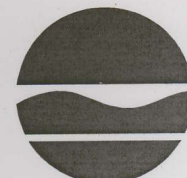



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Denise M. Sheehan  
Commissioner

**MEMORANDUM**

TO: Regional Water Managers

FROM: Sandra Allen, Director, Division of Water 

SUBJECT: CP-29 Environmental Justice Policy: SPDES Supplemental Compliance Inspection Strategy

DATE: **FEB 14 2006**

As you are aware, Section III. B.10 of CP-29, the Commissioner's Policy regarding Environmental Justice (EJ) and permitting, calls for supplemental compliance and enforcement inspections of regulated facilities where there is reason to believe that such facilities are not operating in compliance with the Environmental Conservation Law. The purpose of this memorandum is to establish a strategy for the Division of Water (DOW) to meet the requirements of Section III. B.10 of CP-29.

The intent of this Supplemental Compliance Inspection Strategy ("Strategy") is to insure that facilities having priority violations are inspected within five months of the end of the quarter (i.e., review period) in which the violations occur and within three months of detection of those violations by the New York State Department of Environmental Conservation (Department) when those facilities are located in potential EJ areas.

Total numbers of inspections are established in each Region as part of annual work plans. The intent of the Strategy is not to increase the number of inspections, but to influence the distribution and timing of them to ensure potential EJ areas do not get overlooked. The Strategy shall apply to U.S. Environmental Protection Agency (EPA) majors and state significant permitted facilities, but not to facilities with general permits.

DOW has long employed policies that avoid selective enforcement. DOW will continue operating under existing policies; however, supplemental measures can be triggered to better ensure protection of public health. This Strategy attempts to emphasize the environmental justice considerations which are already built into our program.

## **STRATEGY INITIATION**

Regional Water Managers (RWMs) shall begin to use this targeting strategy within each Region's existing work plan commitments on April 1, 2006 for facilities that are the subject of complaints. The Bureau of Water Compliance's Compliance Assurance Section (CAS) will use this strategy for priority violations starting upon receipt of the September, 2006 Permit Compliance System's Quarterly Non-Compliance Report (which covers violations from April through June, 2006). CAS will issue the first Priority Violations Reports to the RWMs that address potential EJ concerns between late September and mid-October, 2006. Discussions of potential EJ concerns will begin during the October and November, 2006 Water Integrated Compliance Strategy System (WICSS) meetings. Please contact Karen Baker with questions on this strategy. For all other questions on the Division's Environmental Justice activities, please contact our Division's Environmental Justice Coordinator, Al Fuchs.

In order to comply with the directive, the following procedures have been developed:

## **RESPONSIBILITIES**

### **1. Bureau of Water Compliance (BWC) /SPDES Compliance Information Section (SCIS):**

Prepare a list of all EPA Major and State Significant permitted SPDES facilities that are located in potential EJ areas. These areas are mapped as potential EJ areas by census block groups. The facilities shall be grouped by Region and discharge class. The initial list is attached to this document. An updated list will be created and distributed to Regional Water Managers (RWMs) and BWC Section Chiefs every April 1 to coincide with the work plan year.

### **2. BWC/CAS:**

- a. Continue to use the quarterly WICSS and Significant Non-compliance Action Program (SNAP) processes and existing guidance to produce the Priority Violations Reports for the RWMs. Additionally, use the lists provided by SCIS to determine whether facilities with priority violations are located in potential EJ areas and note this status, when applicable, on the Priority Violations Reports.
- b. Discuss priority violations of facilities that are located in potential EJ areas with RWMs at WICSS meetings.

### **3. Regional Division of Water offices:**

- a. For facilities on the WICSS agenda that have potential EJ concerns:
  - i. Check records for the last inspection date and type.



- ii. Refer to the Strategy's Appendix A-1 to determine if a supplemental inspection is due, and if so, what type (comprehensive or reconnaissance).
  - iii. If inspection is required, refer to Appendix A-2 to determine when the inspection is due. Inspections should occur within five months of the end of the quarter (i.e., review period) in which the violations occur and within three months of detection of those violations by DEC/CAS.
  - iv. Discuss priority violations that occur in potential EJ areas with CAS at WICSS meetings.
- b. For facilities that are the subject of complaints:
- i. Determine whether the facilities are located in potential EJ areas (using potential EJ area facility lists or the EJ Navigator).
- Each RWM will establish procedures to carry out this function within the region. The Department has completed development of an internal web-based tool that mimics the Department's Environmental Navigator Facilities Map. All staff will be able to identify potential EJ areas from their personal computer without additional software or GIS knowledge. Locations will be able to be viewed by zooming in a map or by searching by address. The EJ Navigator is now operational on In-site at <http://internal/home/ej/index.html> (click "EJ Navigator"). Once the application is launched, there is a help button.
- ii. If a facility that is the subject of a complaint is located in a potential EJ area, provide prompt followup. Consistent with the Division of Water's current practices, immediate action would be required in an emergency situation.
  - iii. Perform supplemental inspections as warranted, based on the allegations in the complaints and available followup information.
- c. For all Supplemental Compliance Inspections:
- i. Use existing inspection report forms. When an inspection was the result of potential EJ concerns, note "potential EJ concerns" in the "Purpose of Inspection" box on the form.
  - ii. Use information obtained from the inspection to formulate the Department's compliance and enforcement response to those violations.
  - iii. Include on all Case Initiation Data Sheets submitted, with a referral package to Legal, a line item noting whether the violation(s) occurred in or contiguous to a potential EJ area.

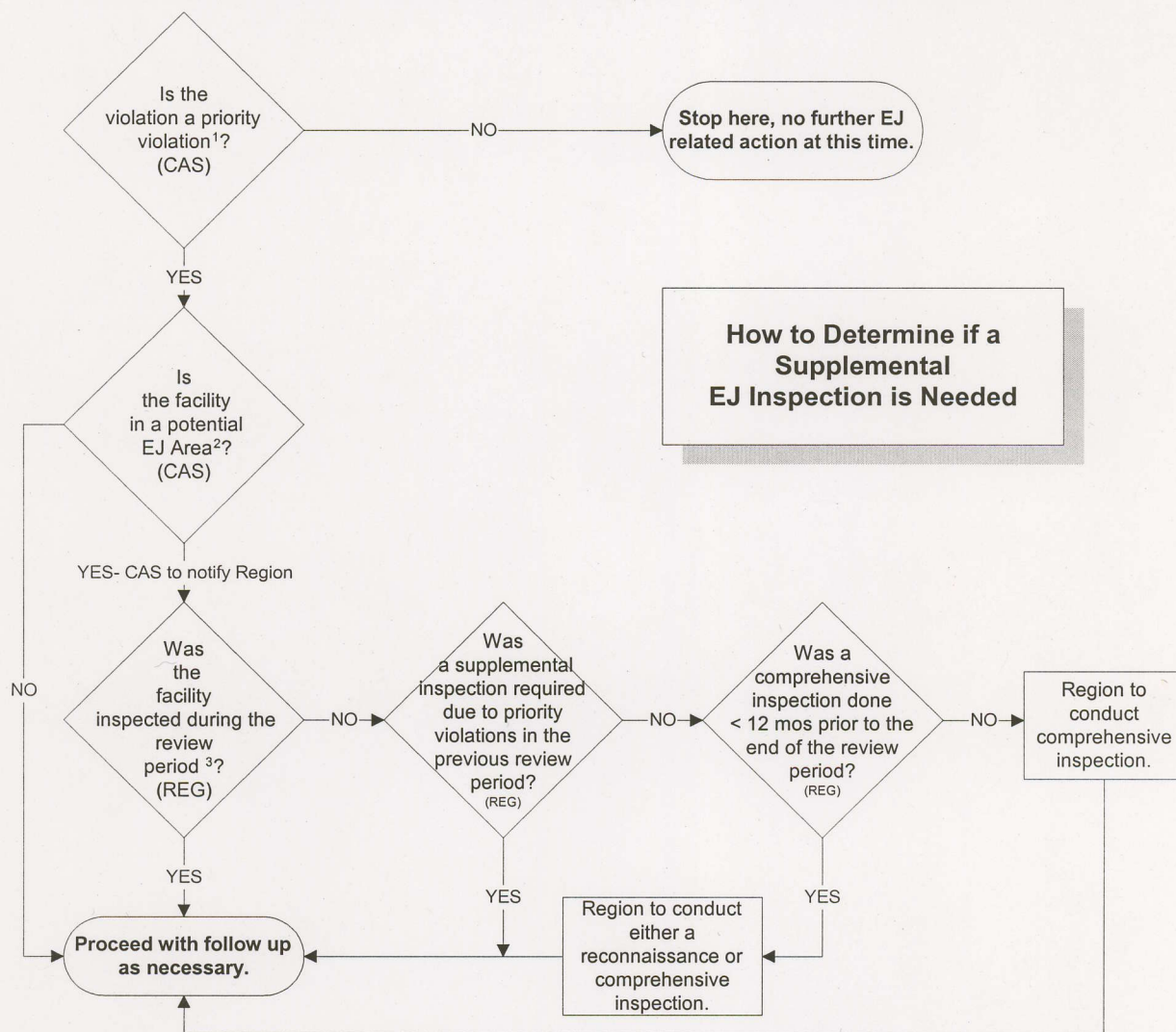
## Attachments

- c: Division of Water Bureau Chiefs
- Bureau of Water Compliance Section Chiefs
- K. Baker, BWC/CAS
- C. Birr, BWC/CAS
- E. Cruden, BWC/CAS
- G. Kline, BWC/CAS
- H. Shear, BWC/CAS
- M. Streeter, BWC/CAS
- A. Fuchs, BWP - DOW Environmental Justice Coordinator
- M. Kreshik - NYS DEC Environmental Justice Coordinator
- D. McKenna - Chief, Water Compliance Branch, USEPA Region II



## APPENDIX A-1

### Determining the Need for Supplemental Compliance Inspections



1. "Priority Violation" refers to one of the types of violations listed in Section III B ("Criteria for establishing priority violations") of Technical and Operational Guidance Series 1.4.1: Water Integrated Compliance Strategy System (WICSS) TOGS1.4.1 (reissued 6/20/96).

2. "Potential EJ area" means, for the purposes of the Supplemental Compliance Inspection Strategy, the area actually located within the mapped boundaries of the potential EJ area census block groups (a U.S. Census reporting unit generally consisting of between 250 - 500 housing units).

3. The "review period" is the calendar quarter during which the priority violations occurred.

Where "(CAS)" or "(REG)" is found above, either the Compliance Assurance Section(CAS) of the Bureau of Water Compliance, Division of Water or Regional Division of Water (REG) staff is responsible for the item in the box.

## APPENDIX A-2

### Determining the Due Date for Supplemental Inspections

Environmental Justice Time Frames				
<i>Review Period in which priority violation occurred</i>	<b>QNCR run; violations detected by CAS</b>	<b>Region notified via WICSS Priority Violations List</b>	<b>WICSS Meeting</b>	<i>Supplemental Inspection Due (if needed)</i>
<i>Jan.-Mar.</i>	June 1	~ July 15	by end of July	<i>September 1</i>
<i>Apr.-Jun.</i>	September 1	~ October 15	by end of Oct.	<i>December 1</i>
<i>Jul.-Sept.</i>	December 1	~ January 15	by end of Jan.	<i>March 1</i>
<i>Oct.-Dec.</i>	March 1	~ April 15	by end of April	<i>June 1</i>

Should the flow chart in Appendix A-1 show that an inspection is required for violations during a particular review period shown in the first column of this table, the due date for that inspection will be the Supplemental Inspection Due date shown in the last column of this table.



# EPA Major and State Significant Minor Permitted Facilities located in Potential Environmental Justice Areas\*

Status	Region	SPDES#	Permittee	Facility	County	Class
A	01	NY0005908	KEYSPAN ENERGY CORP	KEYSPAN - E F BARRETT POWER	NASSAU	03
A	01	NY0006955	KONICA GRAPHIC IMAGING INTERNA	KONICA GRAPHIC IMAGING INTERNA	NASSAU	01
A	01	NY0020567	LONG BEACH (C)	LONG BEACH (C) WPCP	NASSAU	05
A	01	NY0023922	PATCHOGUE (V)	PATCHOGUE (V) WWTP	SUFFOLK	07
A	01	NY0026620	GLEN COVE (C)	GLEN COVE (C) WTP	NASSAU	05
A	01	NY0028495	CONCORD OIL CO	CONCORD OIL COMPANY	NASSAU	01
A	01	NY0030872	CARBO INDUSTRIES, INC	CARBO INDUSTRIES, INC	NASSAU	01
A	01	NY0077348	HERITAGE GARDENS AT BRENTWOOD	HERITAGE GARDENS AT BRENTWOOD	SUFFOLK	09
A	01	NY0077399	LEXINGTON VILLAGE CONDOMINIUM	LEXINGTON VILLAGE CONDOMINIUM	SUFFOLK	09
A	01	NY0077402	HOME PROPERTIES	CONCORD VILLAGE APARTMENTS	SUFFOLK	09
A	01	NY0077411	WINDBROOKE HOMES CONDOMINIUMS	WINDBROOKE HOMES CONDOMINIUMS	SUFFOLK	09
A	01	NY0079383	HOMESTEAD VILLAGE ASSOC	HOMESTEAD VILLAGE	SUFFOLK	09
A	01	NY0085537	R F I CORP	R F I CORP	SUFFOLK	01
A	01	NY0109291	SUNY @ STONY BROOK	SUNY @ STONY BROOK-PHYSICAL PL	SUFFOLK	01
A	01	NY0195952	MONTAUK MANOR	THE MANOR AT MONTAUK	SUFFOLK	09
A	01	NY0195995	ROUGH RIDERS LANDING HOA	ROUGH RIDERS LANDING STP	SUFFOLK	09
A	01	NY0197963	LIGHTHOUSE COIN-OP LAUNDRY	LIGHTHOUSE COIN-OP LAUNDRY	SUFFOLK	04
A	01	NY0199508	EXXONMOBIL OIL CORP	MOBIL OIL - INWOOD TERMINAL	NASSAU	01
A	01	NY0206644	SUFFOLK CO DPW	SUFFOLK CO SD#21 SUNY	SUFFOLK	05
A	01	NY0210048	BUDGET LAUNDRY INC	BUDGET LAUNDRY INC	SUFFOLK	04
A	01	NY0210862	L S BUBBLES CORP	LUCY'S LAUNDROMAT	SUFFOLK	04
A	01	NY0211478	FEDERICO, ANTHONY	DAN'S LAUNDROMAT	SUFFOLK	04
A	01	NY0211591	C I SUPERLAUNDRY	CENTRAL ISLIP SUPER LAUNDROMAT	SUFFOLK	04
A	01	NY0221759	C I LAUNDROMAT	C.I. LAUNDROMAT	SUFFOLK	04
A	01	NY0222127	CHENG, SZESENG	N BRENTWOOD SUPER LAUNDROMAT	SUFFOLK	04
A	01	NY0222291	LEGENDARY LAUNDROMAT INC	LEGENDARY LAUNDROMAT INC	SUFFOLK	04
A	01	NY0226025	KEYSPAN ENERGY CORP	KEYSPAN - MONTAUK ICF	SUFFOLK	01
A	01	NY0226327	WEIBOLDT, MARK	LAUNDRY PALACE	SUFFOLK	04
A	01	NY0226530	FREEPORT (V), INC	FREEPORT (V) POWER PLANT #1	NASSAU	01
A	01	NY0226556	MAYOR, CHRISTOPHER	SECOND AVENUE LAUNDROMAT INC	SUFFOLK	04
A	01	NY0226891	SUFFOLK CO WATER AUTHORITY	SCWA GREAT NECK RD WELLFIELD	SUFFOLK	01
A	01	NY0226921	SUFFOLK CO WATER AUTHORITY	SCWA ALBANY AVE WELLFIELD	SUFFOLK	01
A	01	NY0227111	SOUTHAMPTON CAR WASH & DETAIL	SOUTHAMPTON CAR WASH, INC	SUFFOLK	01
A	01	NY0237027	GAUDIO, RAYMUND	DIRT BUSTERS SUPER LAUNDROMAT	SUFFOLK	04



# EPA Major and State Significant Minor Permitted Facilities located in Potential Environmental Justice Areas\*

Status	Region	SPDES#	Permittee	Facility	County	Class
A	01	NY0237370	ZANGHI FAMILY PARTNERSHIP	EXPRESSWAY 55 CAR WASH	SUFFOLK	01
A	01	NY0237493	DELICATO MGMT CO	GLO N GO CAR WASH	SUFFOLK	01
A	01	NY0237515	WRZ CORP	PERRIER CAR WASH INC	SUFFOLK	01
A	01	NY0253502	CABRINI GRDNS SR CHF	CABRINI GRDNS SR CHF	SUFFOLK	09
A	01	NY0266736	SUFFOLK COUNTY WATER AUTHORITY	SCWA FOXCROFT LANE WELLFIELD	SUFFOLK	01
A	01	NY0266787	SUFFOLK COUNTY WATER AUTHORITY	SCWA EDGEWEG ST WELLFIELD	SUFFOLK	01
I	01	NY0266663	TOUCH OF BEAUTY INC	AUTO SHOWERS CAR WASH & DETAIL	SUFFOLK	01
A	02	NY0005118	ASTORIA GENERATING CO, LP	ASTORIA GENERATING STATION	QUEENS	03
A	02	NY0005126	CONSOLIDATED EDISON CO OF NY	EAST RIVER GENERATING STATION	NEW YORK	03
A	02	NY0005134	CONSOLIDATED EDISON CO OF NY	59TH STREET STEAM STATION	NEW YORK	03
A	02	NY0005151	CONSOLIDATED EDISON CO OF NY	HUDSON AVENUE STATION	KINGS	03
A	02	NY0005193	KEYSPAN ENERGY CORP	RAVENSWOOD GENERATING STATION	QUEENS	03
A	02	NY0005207	CONSOLIDATED EDISON CO OF NY	WATERSIDE GENERATING STATION	NEW YORK	03
A	02	NY0005681	FRED M SCHILDWACHTER & SONS	BRONX TERMINAL	BRONX	01
A	02	NY0005924	LONG ISLAND LIGHTING COMPANY	FAR ROCKAWAY POWER STATION	QUEENS	03
A	02	NY0006033	PORT AUTHORITY OF NY & NJ	WORLD TRADE CENTER	NEW YORK	01
A	02	NY0006131	MOTIVA ENTERPRISES LLC	MOTIVA MARKETING TERMINAL	KINGS	01
A	02	NY0006297	BAYSIDE FUEL OIL DEPOT CORP	BAYSIDE FUEL OIL DEPOT CORP.	KINGS	01
A	02	NY0007340	NEW YORK POWER AUTHORITY	CHARLES POLETTI POWER PROJECT	QUEENS	03
A	02	NY0026107	NYC DEPT OF ENVIR PROTECTION	NYCDEP - PORT RICHMOND WPCP	RICHMOND	05
A	02	NY0026115	NYC DEPT OF ENVIR PROTECTION	JAMAICA WPC	QUEENS	05
A	02	NY0026131	NYC DEPT OF ENVIR PROTECTION	WARD ISLAND WPC	NEW YORK	05
A	02	NY0026166	NYC DEPT OF ENVIR PROTECTION	NYCDEP - OWLS HEAD WPCP	KINGS	05
A	02	NY0026191	NYC DEPT OF ENVIR PROTECTION	HUNT'S POINT WPC	BRONX	05
A	02	NY0026204	NYC DEPT OF ENVIR PROTECTION	NEWTOWN CREEK WPC	KINGS	05
A	02	NY0026212	NYC DEPT OF ENVIR PROTECTION	NYCDEP - 26TH WARD WPCP	KINGS	05
A	02	NY0026239	NYC DEPT OF ENVIR PROTECTION	TALLMAN ISLAND WPC	QUEENS	05
A	02	NY0026247	NYC DEPT OF ENVIR PROTECTION	NORTH RIVER WPC	NEW YORK	05
A	02	NY0027073	NYC DEPT OF ENVIR PROTECTION	RED HOOK WATER POLLUTION CONTR	KINGS	05
A	02	NY0028452	GETTY TERMINAL CORP	GETTY TERMINALS CORP	QUEENS	01
A	02	NY0033090	CADDELL DRY DOCK & REPAIR CO	CADDELL DRY DOCK & REPAIR CO	RICHMOND	01
A	02	NY0036668	UNIVERSAL FIXTURE CORP	UNIVERSAL FIXTURE CORP	KINGS	01
A	02	NY0087874	FRED M SCHILDWACHTER & SONS	FRED M SCHILDWACHTER & SONS	BRONX	01
A	02	NY0109932	BROOKFIELD FINANCIAL	BATTERY PARK COMMERCIAL CTR	NEW YORK	01



# EPA Major and State Significant Minor Permitted Facilities located in Potential Environmental Justice Areas\*

Status	Region	SPDES#	Permittee	Facility	County	Class
A	02	NY0110001	AMERADA HESS CORP	AHC - BROOKLYN, NY TERMINAL	KINGS	01
A	02	NY0200247	BAY TERMINAL OF ROCKAWAY	BAY TERMINALS OF ROCKAWAY	QUEENS	01
A	02	NY0200271	NYC DEPT OF SANITATION	DST. 73 GARAGE & BORO REPAIR	RICHMOND	09
A	02	NY0200352	GARDEN HOMES MGMT CORP	GOETHALS MOBILE PARK	RICHMOND	09
A	02	NY0200476	HOME DEPOT USA, INC	HOME DEPOT	RICHMOND	09
A	02	NY0200484	CLEAN WATER OF NEW YORK INC	CLEAN WATER OF NEW YORK INC	RICHMOND	01
A	02	NY0200735	US DREDGING CORP	US DREDGING CORP	KINGS	01
A	02	NY0200808	ASTORIA GENERATING CO, LP	NARROWS GENERATING STATION	KINGS	01
A	02	NY0200824	J B WASTE OIL CO, INC	J B WASTE OIL CO, INC	QUEENS	01
A	02	NY0200841	NYC DEPT OF SANITATION	QUEENS DISTRICT 5/5 GARAGE	QUEENS	01
A	02	NY0200859	NYC DEPT OF ENVIR PROTECTION	CROTON AQUEDUCT SHAFTS 24 & 25	BRONX	01
A	02	NY0200930	EXXONMOBIL OIL CORP	GREEN POINT REMEDIAL PLAN	KINGS	10
A	02	NY0200999	CONSOLIDATED EDISON CO OF NY	NORTH FIRST STREET FUEL OIL	KINGS	01
A	02	NY0201006	ASTORIA GENERATING CO, LP	GOWANUS GAS TURBINE SITE	KINGS	01
A	02	NY0201138	CONSOLIDATED EDISON CO OF NY	11TH STREET CONDUIT	KINGS	01
A	02	NY0201154	CONSOLIDATED EDISON CO OF NY	ASTORIA LIQUIFIED NAT GAS STOR	QUEENS	01
A	02	NY0201201	CONSOLIDATED EDISON CO OF NY	ASTORIA WWTF	QUEENS	01
A	02	NY0201219	CONSOLIDATED EDISON OF NY	ASTORIA TUNNEL HEADHOUSE	QUEENS	01
A	02	NY0201227	CONSOLIDATED EDISON OF NY	RAVENSWOOD TUNNEL HEADHOUSE	QUEENS	01
A	02	NY0201235	ASTORIA GAS TURBINE POWER,LLC	ASTORIA GAS TURBINE POWER	QUEENS	01
A	02	NY0201243	CONSOLIDATED EDISON OF NY	ASTORIA CENTRAL WWTF	QUEENS	01
A	02	NY0201278	TULLY ENVIRONMENTAL INC	TULLY ENVIRONMENTAL INC	QUEENS	01
A	02	NY0267503	NEW YORK POWER AUTHORITY	NYP&A 500 MW POWER PROJECT	QUEENS	01
A	02	NY0267538	ASTORIA ENERGY LLC	ASTORIA ENERGY	QUEENS	01
A	02	NY0270423	JAMAICA BAY PEAKING FAC, LLC	BAYSWATER/JAMAICA BAY PEAK FAC	QUEENS	01
I	02	NY0005789	TERMINNALLE	TERMINNALLE	KINGS	01
I	02	NY0008443	AMERICAN SUGAR REFINING, INC	BROOKLYN CANE SUGAR REFINERY	KINGS	03
I	02	NY0028002	CASTLE ASTORIA TERMINALS INC	CASTLE ASTORIA TERMINALS INC	QUEENS	01
I	02	NY0032131	RICHMOND SHOPPING CENTER ASSOC	RICHMOND SHOPPING CENTER ASSOC	RICHMOND	09
I	02	NY0036609	BCF OIL REFINING, INC	BCF OIL REFINING, INC	KINGS	01
A	03	NY0004588	SPRAGUE	MT VERNON TERMINAL	WESTCHESTER	01
A	03	NY0004944	EXXONMOBIL OIL CORP	MT VERNON TERMINAL	WESTCHESTER	01
A	03	NY0007561	V&W OF AMERICA, INC	V&W OF AMERICA, INC	ULSTER	01
A	03	NY0007633	WEST VERNON TERMINAL CORP	WEST VERNON - LANIMRET	WESTCHESTER	01



# EPA Major and State Significant Minor Permitted Facilities located in Potential Environmental Justice Areas\*

Status	Region	SPDES#	Permittee	Facility	County	Class
A	03	NY0008087	AVNET, INC	IMPERIAL SHRADE	ULSTER	03
A	03	NY0021890	WARWICK (T)	WARWICK (T) SD#1	ORANGE	07
A	03	NY0022101	ORANGE CO RES HEALTH CARE	ORANGE CO HOME & INFIRMARY	ORANGE	09
A	03	NY0024520	FALLSBURG (T)	SOUTH FALLSBURG (T) WWTP	SULLIVAN	05
A	03	NY0024538	FALLSBURG (T)	LOCH SHELDRAKE WWTP	SULLIVAN	07
A	03	NY0025925	WATCHTOWER BIBLE & TRACT SOCIE	WATCHTOWER FARM	ULSTER	01
A	03	NY0025976	BEACON (C)	BEACON (C) WPCP	DUTCHESS	05
A	03	NY0026310	NEWBURGH (C)	NEWBURGH (C) WPCP	ORANGE	05
A	03	NY0026328	MIDDLETOWN (C)	MIDDLETOWN (C) STP	ORANGE	05
A	03	NY0026522	NYC DEPT OF ENVIR PROTECTION	PORT JERVIS STP	ORANGE	05
A	03	NY0026689	WESTCHESTER CO DEPT ENV FAC	YONKERS JOINT WWTP	WESTCHESTER	05
A	03	NY0026697	WESTCHESTER CO DEPT ENV FAC	NEW ROCHELLE SD	WESTCHESTER	05
A	03	NY0026786	WESTCHESTER CO DEPT ENV FAC	PORT CHESTER SANITARY SD WWTP	WESTCHESTER	05
A	03	NY0028479	KINGSTON OIL SUPPLY CORP	KOSCO - GAS PLANT TERMINAL	ULSTER	01
A	03	NY0029351	KINGSTON (C)	KINGSTON (C) WWTF	ULSTER	05
A	03	NY0029718	WAWARSING (T)	NAPANOCH SEWER IMP AREA	ULSTER	07
A	03	NY0030074	LIBERTY (V)	LIBERTY (V) WWTP	SULLIVAN	05
A	03	NY0032158	NYS OMH - HARLEM VALLEY	HARLEM VALLEY SECURE CENTER	DUTCHESS	09
A	03	NY0033235	WEST VERNON PETROLEUM CORP	WEST VERNON PETROLEUM CORP	WESTCHESTER	01
A	03	NY0034002	ELLENVILLE (V)	ELLENVILLE (V) STP	ULSTER	07
A	03	NY0037397	US DEPT OF JUSTICE	OTISVILLE FED CORRECTIONAL FAC	ORANGE	09
A	03	NY0099368	BETHEL (T)	KAUNEONGA LAKE STP	SULLIVAN	07
A	03	NY0100803	WESTCHESTER CO DEPT ENV FAC	PEEKSKILL SANITARY SD WWTP	WESTCHESTER	05
A	03	NY0102211	PARADISE HEATING OIL, INC	PARADISE HEATING OIL, INC	WESTCHESTER	01
A	03	NY0102954	SUBURBAN HEATING OIL PRTN LLC	MIDDLETOWN BULK PLANT	ORANGE	01
A	03	NY0103632	GETTY PETROLEUM CORP	PELHAM MANOR TERMINAL	WESTCHESTER	01
A	03	NY0110019	CRAWFORD (T)	PINE BUSH WWTP	ORANGE	07
A	03	NY0110574	DELAWARE (T)	DELAWARE (T)-CALLICOON SD	SULLIVAN	07
A	03	NY0214507	THOMPSON (T)	DILLON FARMS SD	SULLIVAN	07
A	03	NY0234346	CASTLE NORTH TERMINALS, INC	CASTLE NORTH TERMINALS, INC	WESTCHESTER	01
A	03	NY0234796	A TARRICONE INC	ROCKLAND FUEL OIL CO INC	ROCKLAND	01
A	03	NY0235008	B PETROLEUM CORP	B PETROLEUM CORP	ULSTER	01
A	03	NY0248258	UNITED WATER NEW YORK	RAMAPO VALLEY WELL FIELD	ROCKLAND	01
A	03	NY0248339	HERITAGE ENERGY	GILLETTE CONSUMERS OIL CO	ULSTER	01



# EPA Major and State Significant Minor Permitted Facilities located in Potential Environmental Justice Areas\*

Status	Region	SPDES#	Permittee	Facility	County	Class
A	03	NY0250520	KIRYAS JOEL (V)	KIRYAS JOEL (V) WWTP	ORANGE	07
A	03	NY0251488	WESTMORE FUEL CO, INC	WESTMORE FUEL CO, INC	WESTCHESTER	01
A	03	NY0251551	CONSOLIDATED EDISON CO OF NY	EASTVIEW CENTRAL SUBSTATION	WESTCHESTER	01
A	03	NY0259446	LIBERTY (V)	LILY POND WFP	SULLIVAN	01
A	03	NY0260312	MOUNT VERNON (C)	DPW, CITY YARD	WESTCHESTER	01
A	03	NY0264024	NEW JERSEY TRANSIT	WOODBINE YARD	ROCKLAND	01
A	03	NY0264342	MIRANT BOWLINE, LLC	MIRANT BOWLINE, LLC	ROCKLAND	01
A	03	NY0264954	DUTCHESS QUARRY & SUPPLY CO	GOSHEN QUARRY	ORANGE	01
A	03	NY0265039	CONSOLIDATED EDISON OF NY	WHITE PLAINS SUBSTATION	WESTCHESTER	01
I	03	NY0099538	A TARRICONE INC	ALEXANDER ST TERMINAL	WESTCHESTER	01
A	3W	NY00333596	BEDFORD PARK APTS@WESTCHESTER	BEDFORD PARK APTS@WESTCHESTER	WESTCHESTER	02
A	3W	NY0101885	NYS DEPT OF CORRECTIONAL SERV	BEDFORD HILLS CORRECTIONAL FAC	WESTCHESTER	09
A	04	NY0004880	NORLITE CORP	NORLITE CORPORATION	ALBANY	01
A	04	NY0006874	ST LAWRENCE CEMENT CO, LLC	ST LAWRENCE CEMENT CO, LLC	GREENE	01
A	04	NY0007242	GLENS FALLS LEHIGH CEMENT CO	GLENS FALLS LEHIGH CEMENT CO	GREENE	01
A	04	NY0020290	AMSTERDAM (C)	AMSTERDAM (C) WWTP	MONTGOMERY	05
A	04	NY0021016	EXXONMOBIL OIL CORP	ALBANY TERMINAL	ALBANY	01
A	04	NY0022039	HUDSON (C)	HUDSON (C) STP	COLUMBIA	05
A	04	NY0025747	ALBANY WATER BOARD	COMBINED SEWER OVERFLOWS	ALBANY	07
A	04	NY0026867	ALBANY CO SD	ALBANY CO SD SOUTH WWTP	ALBANY	05
A	04	NY0026875	ALBANY CO SD	ALBANY CO SD NORTH WWTP	ALBANY	05
A	04	NY0028592	CIBRO - ALBANY	CIBRO PETROLEUM PRODUCTS, INC	ALBANY	01
A	04	NY0033031	GREEN ISLAND (V)	COMBINED SEWER OVERFLOWS	ALBANY	07
A	04	NY0104060	NYSOGS - DIV ALBANY UTILITIES	EMPIRE STATE PLAZA	ALBANY	01
A	04	NY0205044	CATSKILL (T)	CATSKILL (T) SD#4	GREENE	07
A	04	NY0212946	ASHLAND CHEMICAL COMPANY	INDUSTRIAL CHEMICALS & SOLVENT	RENSSELAER	01
A	04	NY0241008	HUDSON HANDLING CO	HUDSON STOCKPILE	COLUMBIA	01
A	04	NY0241652	CAPITAL DISTRICT SALT	PORT OF ALBANY STOCKPILE	ALBANY	01
A	04	NY0260754	ST LAWRENCE CEMENT CO, LLC	HUDSON SALT TRANSFER AREA	COLUMBIA	01
A	04	NY0261114	DELAWARE & HUDSON CORP	D&H - ALBANY TERMINAL	ALBANY	01
A	05	NY0005525	FINCH, PRUYN AND COMPANY, INC	FINCH, PRUYN AND COMPANY, INC	WARREN	03
A	05	NY0026042	GLOVERSVILLE-JOHNSTOWN JOINT	GLOVERSVILLE-JOHNSTOWN JOINT W	FULTON	05
A	05	NY0029050	GLENS FALLS (C)	GLENS FALLS (C) WWTP	WARREN	05
A	05	NY0030376	MALONE (V)	MALONE (V) WWTP	FRANKLIN	05



# EPA Major and State Significant Minor Permitted Facilities located in Potential Environmental Justice Areas\*

Status	Region	SPDES#	Permittee	Facility	County	Class
A	05	NY0030627	FORT ANN (V)	FORT ANN (V) STP	WASHINGTON	07
A	05	NY0035041	NYS DEPT OF CORRECTIONAL SERV	GREAT MEADOWS CORRECTIONAL FAC	WASHINGTON	09
A	05	NY0202070	NYS DEPT OF CORRECTIONAL SERV	WASHINGTON CORRECTIONAL WWTP	WASHINGTON	09
A	06	NY0000957	KNOWLTON SPECIALTY PAPERS, INC	KNOWLTON SPECIALTY PAPERS, INC	JEFFERSON	03
A	06	NY0005665	REVERE COPPER PRODUCTS INC	REVERE COPPER PRODUCTS INC	ONEIDA	01
A	06	NY0020125	LOWVILLE (V)	LOWVILLE (V) MUNICIPAL PCP	LEWIS	05
A	06	NY0020281	MARTINSBURG (T)	GLENFIELD SD STP	LEWIS	07
A	06	NY0020818	POTSDAM (V)	POTSDAM (V) WPCP	SAINT LAWRENCE	05
A	06	NY0206938	BLACK RIVER GENERATION, LLC	BLACK RIVER GENERATION, LLC	JEFFERSON	01
A	06	NY0235733	MIDSTATE CORRECTIONAL FACILITY	MIDSTATE CORRECTIONAL FACILITY	ONEIDA	01
A	06	NY0236179	AG - ENERGY, LP	AG - ENERGY COGEN PROJECT	SAINT LAWRENCE	01
A	06	NY0236438	GOVERNEUR (T)	GOVERNEUR (T) SD#1 STP	SAINT LAWRENCE	07
A	06	NY0256986	GRIFFISS UTILITY SERVICES CORP	GRIFFISS CENTRAL HEAT PLANT	ONEIDA	01
A	06	NY0257061	ONEIDA COUNTY	GRIFFISS AIRFIELD	ONEIDA	01
I	06	NY0257079	PALLET SERVICES, INC	PALLET SERVICES, INC	ONEIDA	01
A	07	NY0000981	NESTLE USA INC	NESTLE USA INC	OSWEGO	01
A	07	NY0001902	HUHTAMAKI CONSUMER PACKAGING	HUHTAMAKI CONSUMER PACKAGING	OSWEGO	01
A	07	NY0002186	OSWEGO HARBOR POWER	OSWEGO HARBOR POWER	OSWEGO	03
A	07	NY0003808	ENDICOTT INTERCONNECT TECH, INC	ENDICOTT INTERCONNECT TECH, INC	BROOME	03
A	07	NY0024406	BINGHAMTON (C)	BINGHAMTON (C) CSO'S	BROOME	05
A	07	NY0026638	ITHACA (C) & (T) & DRYDEN (T)	ITHACA AREA WWTF	TOMPKINS	05
A	07	NY0029106	OSWEGO (C)	OSWEGO (C) WEST SIDE WWTF	OSWEGO	05
A	07	NY0031089	WAVERLY (V)	WAVERLY (V) WWTP	TIOGA	07
A	07	NY0107417	SUBURBAN HEATING OIL PRTN LLC	ITHACA BULK PLANT	TOMPKINS	01
A	07	NY0109592	IBM CORP DEPT HRV/0044	IBM GROUNDWATER TRT SYSTEM	BROOME	01
A	07	NY0231410	FULTON COGENERATING ASSOCIATES	FULTON COGENERATING ASSOC PROJ	OSWEGO	01
A	07	NY0231878	CORNELL UNIVERSITY	CORNELL UNIVERSITY	TOMPKINS	01
A	07	NY0243931	MILLER BREWING COMPANY	FULTON MUNICIPAL WTF	OSWEGO	01
A	07	NY0244261	THERM, INC	THERM, INC	TOMPKINS	01
A	08	NY0000621	ROCHESTER GAS & ELECTRIC	BEEBEE STATION, STATION 3	MONROE	03
A	08	NY0001520	AMERADA HESS CORP	ROCHESTER HEAVY TERMINAL	MONROE	01
A	08	NY0003352	UNITED REFINING CO	CHILI AVE TERMINAL	MONROE	01
A	08	NY0003981	CORNING INC	FALL BROOK PLANT	STEBEN	01
A	08	NY0027049	GENEVA (C)	MARSH CREEK WWTP	ONTARIO	05



# EPA Major and State Significant Minor Permitted Facilities located in Potential Environmental Justice Areas\*

Status	Region	SPDES#	Permittee	Facility	County	Class
A	08	NY0030279	NYS DEPT OF CORRECTIONAL SERV	GROVELAND CORRECTIONAL FAC	LIVINGSTON	09
A	08	NY0095389	EXXONMOBIL OIL CORP	ROCHESTER TERMINAL	MONROE	01
A	08	NY0110078	BUCKEYE TERMINALS, LLC	BUCKEYE - ROCHESTER TERMINAL	MONROE	01
A	08	NY0162540	GENERAL ELECTRIC CO CORP EN	JMT PROPERTIES, INC	MONROE	01
A	08	NY0245879	AMERICAN ROCK SALT CO, INC	HAMPTONS CORNERS MINE	LIVINGSTON	01
A	08	NY0246506	WORLD KITCHEN, INC	WORLD KITCHEN - PRESSWARE PLT	STEUBEN	01
A	08	NY0246701	CORNING HOSPITAL	CORNING HOSPITAL	STEUBEN	01
A	09	NY0000906	SIGRI GREAT LAKES CARBON, LLC	SIGRI GREAT LAKES CARBON, LLC	NIAGARA	03
A	09	NY0002321	DUNKIRK POWER, LLC	DUNKIRK POWER	CHAUTAUQUA	03
A	09	NY0002470	BUFFALO COLOR CORP	BUFFALO COLOR CORP	ERIE	03
A	09	NY0003328	E I DUPONT DENEMOURS & CO, INC	E I DUPONT - NIAGARA FALLS PLT	NIAGARA	03
A	09	NY0003336	OCCIDENTAL CHEMICAL CORP	OCCIDENTAL CHEMICAL CORP	NIAGARA	03
A	09	NY0003433	JAMESTOWN ELECTRO PLATING WORK	JAMESTOWN ELECTRO PLATING WORK	CHAUTAUQUA	03
A	09	NY0020508	SALAMANCA (C)	SALAMANCA (C) WWTP	CATTARAUGUS	05
A	09	NY0022136	ERIE COUNTY SD#6	ERIE COUNTY SD WWTP	ERIE	05
A	09	NY0022357	ALFRED (V)	ALFRED (V) WWTP	ALLEGANY	05
A	09	NY0026336	NIAGARA FALLS (C) & WATER BRD	NIAGARA FALLS (C) WWTP	NIAGARA	05
A	09	NY0028410	BUFFALO SEWER AUTHORITY	BIRD ISLAND WWTP	ERIE	05
A	09	NY0106259	AMERICAN REF-FUEL CO	AMERICAN REF-FUEL NIAGARA LP	NIAGARA	01
A	09	NY0108251	PRAXAIR, INC	PRAXAIR, INC	NIAGARA	01
A	09	NY0110043	PVS CHEMICAL SOLUTIONS, INC	PVS CHEMICAL SOLUTIONS, INC	ERIE	01
A	09	NY0269310	TECUMSEH REDEVELOPMENT	TECUMSEH REDEVELOPMENT	ERIE	01

\*These facilities are located within mapped census block groups determined to be potential environmental justice areas

## Notes:

### Sig Major Classes

A = Active  
I = Inactive

03 = Industrial  
05 = Municipal  
06 = P/C/I

### Sig Minor Classes

01 = Industrial  
07 = Municipal  
09 = P/C/I



**RESPONSIVENESS SUMMARY**  
**Comments on the April 30, 2004 Draft Environmental Justice Supplemental Compliance**  
**Inspection Strategy**

Document Date: 12/02/05

The Draft Environmental Justice (EJ) Supplemental Compliance Inspection Strategy (the "Strategy") dated 4/30/04 was developed by the Division of Water (DOW) order to comply with the Supplemental Compliance Inspection requirement of the New York State Department of Environmental Conservation's Commissioner's Policy #29 (CP-29): Environmental Justice and Permitting. The Draft was distributed for review to the Regional Water Managers (RWMs), Division of Water Bureau Chiefs and the Compliance Assurance Section (CAS) staff in December, 2004. Forty one comments were received from seven respondents.

The Responsiveness Summary provides the New York State Department of Environmental Conservation (Department), Division of Water (DOW), Bureau of Water Compliance (BWC) responses to comments on and questions about the Draft Environmental Justice (EJ) Supplemental Compliance Strategy. The Section references refer to the original draft document dated 4/30/04.

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**GENERAL COMMENTS**

1. *You have set up a process that is much more complicated than it needs to be. If it is not simplified, it will be ignored. (Jerry Palumbo)*

This process is intended, for the most part, to fit into the Significant Non-compliance Action program/Water Integrated Compliance Strategy System (SNAP/WICSS) processes. In brief, the process is as follows:

The CAS will notify Regions of priority violations in potential EJ areas through the WICSS and SNAP processes.

Regions will check records for the last inspection date and type, then refer to the Strategy's Appendix A-1 to determine if a supplemental inspection is due, and if



so, what type (comprehensive or reconnaissance). If inspection is required, Regions will refer to Appendix A-2 to determine when the inspection is due.

- ~ 7-10 weeks after notification of violations via SNAP IOC;
- ~ 6 weeks after issuance of the WICSS Priority Violations List.

For complaints received by the Regions, Regions will check either the list of facilities in potential EJ areas (provided by the BWC) or the EJ Navigator on the internal web to determine whether the facility is located within a potential EJ area. If so, a prompt response to the violation is expected.

The Office of Environmental Justice is available to work with DOW staff to make this (and any other EJ initiative that DOW undertakes) as easy and efficient as possible.

2. *These activities are done on a region-wide basis irrespective of any sociological/economic considerations. (Fred Sievers)*

Noted. Existing DOW compliance guidance should result in no group bearing a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations. This Strategy attempts to emphasize environmental justice considerations which are already built into our program.

3. *We have already seen community activists attempting to use the EJ policy. We need to be specific on what level of commitment we are making to this. (Steve Eidt)*

In order to comply with section III. B. 9 of the Department's Policy on Environmental Justice and Permitting, the Division is committed to conducting timely inspections (as prescribed in the Strategy) in response to priority violations at U.S. Environmental Protection Agency's (EPA) major and State Significant facilities that are located within potential EJ area census block groups and to providing prompt response to complaints related to permitted and unpermitted facilities within those same census block group. The Strategy is not intended to increase the overall number of inspections that are required by existing guidance and Regional Work Plans, but to affect the timing of some of those inspections.

4. *The draft policy supports the position taken by Region 4 relative to the significance of conducting regular compliance inspections and timely response to citizen complaints. (Fred Sievers)*

The Strategy is intended to be consistent with existing policies and guidance.

### SECTION III: DISCUSSION

1. *This is the first I've heard of our "Probable Cause Inspection Program" - but I like it! (Jerry Palumbo)*



Inspections based on specific evidence have always been a part of our program. The nomenclature of the existing inspection program discussion has been modified to be more consistent with what is in Technical and Operational Guidance Series (TOGS) 1.5.3.

2. *Isn't the Neutral Surveillance Program a sampling program, not an inspection program? (Jerry Palumbo)*

The Neutral Surveillance Plan (TOGS 1.5.3) addresses both inspections (III.A.2.) and sampling (III.A.3)

3. *Comprehensive inspections are not done at 80% of Significant Class facilities. The target set in our workplan is comprehensive inspections at 80% of EPA Majors. (In addition, we inspect about half of the Significant Minors). (Jerry Palumbo)*

The discussion of the neutral inspection component of the Compliance and Inspection Program has been modified to recognize that actual targets set in workplans may differ from the goals set in the TOGS.

4. *Our policy has been and is to conduct an annual inspection at every EPA Major and State Significant facility. When time or situations warrant inspections are also conducted at some non-significant facilities. (Fred Sievers)*

In this case, there should be minimal impact to the Program from the EJ Strategy. The Strategy is not intended to increase the number of inspections from that required by existing guidance, but merely to affect the timing of some of those inspections.

5. *We do not get DMR's from Non-Significant Class SPDES facilities. (Jerry Palumbo)*

Where the text notes specific evidence of a violation as reported in "monitoring reports", it does not specifically mean "Discharge Monitoring Reports"; the evidence could be from any type of monitoring or operating report the facility submits to our Department.

## **SECTION IV: GUIDANCE**

### **A. Identifying Facilities Located in EJ Areas**

1. *Before we finalize this strategy, I would like to see the list of SPDES permits in EJ areas. This will give me a better idea of the universe of facilities for which we are expected to do "extra work". From my limited exposure, one issue that needs clarification in the permitting aspect of the EJ program is definition of "areas of potential impact" from a facility. Some people are using "impact zones" of up to one mile radius. What will be used in the inspection program? Will you only be looking at the specific "census tract" within which the SPDES facility is located? (Jerry Palumbo)*



The mechanism for obtaining a list by Region is still under development. There are about 200 permitted State Significant facilities statewide that are located within the mapped potential EJ areas. The intent of the Strategy is to cover facilities actually located within the mapped boundaries of the "potential EJ area" census block groups. Given the complexity of variables that may be related to impact potential, such as stream direction & flow, the particular materials discharged by facilities etc., at this time, the Division does not have the capability of evaluating the "areas of potential impact" from each facility that may be located outside of the mapped potential EJ area and inspections will be limited to facilities actually located within the mapped boundaries. The document has been corrected to read that the list will be of "EPA Majors and State Significant" permitted SPDES facilities.

2.
  - a) *General permits are not subject to the Policy. (Chuck Haugh)*
  - b) *Applying this strategy to general permits, at this time, is not recommended. We are already spending too many resources on CAFO and Stormwater General permits. I suggest considering adding General Permits at a later date. (Jerry Palumbo)*
  - c) *SPDES Permitted Facilities including those with General SPDES Permits, as for example, General SPDES Permit for Stormwater Discharge (Industrial and Construction Activity), located in potential EJ areas, say currently filing only Notice Of Intent (NOI), will these facilities be required to be inspected under Supplemental Compliance and Enforcement inspections? If so, I believe additional man power and/or man hours will be required to accomplish this additional task. (Chan Chakrabarti)*

The EJ Policy of 3/19/03 (CP-29) does state in Section V.A.2: "This policy shall not apply to ... registrations or general permits." Therefore, references to general permits have been removed from the Division of Water's Strategy. The Strategy applies only to facilities issued individual SPDES permits and to unpermitted facilities located in potential EJ areas.

3.
  - a) *It is noted that EPA has developed a GIS application entitled "Environmental Justice Screening Wizard", which may be used by the staff to identify potential EJ areas for Supplemental Enforcement and Compliance inspections. Will there be any training for the staff? (Chan Chakrabarti)*
  - b) *To identify facilities located in EJ areas- further training of staff may be required to get familiar with the GIS Application and related database. Do we have access to EPA database to check whether the site falls in EJ areas. (Atiqur Rahman)*
  - c) *Rather than having the RWE's responsible for identifying if unpermitted facilities are in an EJ area, why not have the New York City Department of Environmental Protection (DEP) staff do this. They are more expert at making those determinations. If it becomes a permitting scenario they bear that responsibility anyway. (Steve Eidt)*



Each RWM will establish procedures to carry out this function within the region. The Department has completed development of an internal web-based tool called "EJ Navigator" that mimics the Department's Environmental Navigator Facilities Map. All staff will be able to identify potential EJ areas from their PC without additional software or GIS knowledge. Locations can be viewed by zooming in on a map or by searching by address. This tool is located on In-site at <http://internal/home/ej/index.html> (click EJ Navigator).

EJ is not a responsibility of permit staff only. Each division/region is responsible for ensuring compliance with the EJ policy. DEP has designated two individuals to address EJ related to permitting, but as of March, 2005, no other divisions or offices have assigned an EJ coordinator. Permit staff were targeted first to deal with permitting issues, but they are not responsible for doing EJ for other divisions. The Office of Environmental Justice cannot volunteer DEP to assist DOW.

Regions should work out procedures based on what works best for the Region.

#### **COMMENTS ON SECTION IV: GUIDANCE**

##### **B Identifying Facilities Subject to the EJ Policy**

1. *Is the first line inconsistent with the item noted above. I believe New York State wants to retain the responsibility for identifying the potential EJ areas (~and not EPA). (Steve Eidt)*

BWC/CAS will determine whether facilities entering the SNAP process, whether permitted or unpermitted, are located within potential EJ areas. The Strategy has been modified to delete the reference to EPA's responsibility on this matter.

2. *What is intended here? Are you referring to facilities ID'd by EPA? If so, reword first sentence to read: "For all items entered into the SNAP process by EPA as unpermitted facilities, EPA will ..." Or, are you referring to all unpermitted facilities that are brought to our attention? FYI, I don't ever recall EPA identifying an unpermitted facility to us via the SNAP process. (For that matter, I would have extreme hesitation to enter an unpermitted facility that came to our attention into the SNAP process, and have only done so in one situation that I can recall.) (Jerry Palumbo)*

EPA frequently enters unpermitted facilities into the SNAP process (i.e. Citizen Concerns, Citizen Suits, illegal SSOs etc). The Strategy does not change any existing practices of how or why a facility is added to the SNAP process in any way. Response: BWC/CAS will determine whether facilities entering the SNAP process, whether permitted or unpermitted, are located within potential EJ areas. The Strategy has been modified to delete the reference to EPA's responsibility on this matter.



3. *What happens for a facility located in EJ areas and in cases where a situation meets the criteria for a Priority Violation under "Section III. B (TOGS 1.4.1) by definition, but is not a potential for environmental threat, nor is it amenable to a technology based resolution, the final strategy may recognize this by establishing it as a low priority violation". Will it still get higher priority for Supplemental Enforcement and Compliance inspection(s) over the other facility(-es) which is not located in EJ area but has High Priority Violation(s), e.g., Significant Non Compliance(SNC) or discharging highly dangerous toxic chemicals/substances at a dangerous level. Will there be any criteria(s) for prioritization or it would be at the discretion of Regional Water Engineer and BWCP with concurrence by the responsible Bureau under the Section III.C (TOGS 1.4.1) ?* (Chan Chakrabarti)

The Strategy does not change the TOGS 1.4.1 (WICSS) (6/20/1996). The low priority designation may still be mutually agreed to through the WICSS process by the Regional Water Engineer (or Manager) and the Bureau of Water Compliance with concurrence by the responsible Bureau if the situation is consistent with Section III. D paragraph 5 of TOGS 1.4.1. If the violations are determined to be no longer a high priority, they are not subject to the Strategy.

#### **SECTION IV: GUIDANCE**

##### **C. Identifying the Need for Supplemental Inspections**

###### **1. SPDES Permitted Facilities**

1. *What is meant by the term 'priority violation'? I am concerned as to how widely we open up the list of violations subjected to this surveillance and compliance strategy. Why not just SNC violations or their equivalent for significant minors. Where do the CSO violations fall in this realm? (Steve Eidt)*

The term "priority violation" is defined in TOGS 1.4.1 Water Integrated Compliance Strategy System (WICSS) reissued 6/20/96 in Section III B: "Criteria for establishing priority violations." (<http://www.dec.state.ny.us/website/dow/togs/togs141.pdf>). The source of the term has been added to the document the first time the term appears (in Section IV.B.1). CSO violations fall under EPA's definition of SNC as discussed in EPA's 9/21/95 Memorandum entitled "Revision of NPDES Significant Noncompliance (SNC) Criteria to Address Violations of Non-Monthly Average Limits" Attachment I, Section 4. This Memorandum has been added to the reference section of the Strategy.

2. *Again, what is intended here? In either case, an inspection is not always the appropriate response to a priority violation. For example, if a facility is self reporting violations via a Discharge Monitoring Report (DMR), there may be no need to do an inspection. Is this Section only intended to apply to facilities located in an EJ area or all facilities? (Jerry Palumbo)*

The intent is to insure that inspections are conducted at facilities having priority violations located in a potential EJ area within five to seven months of the violations (depending on the timing of the violation within the quarter).



This section is intended to apply to only to facilities located in potential EJ areas. Clarification has been added to the document. The Department's EJ Policy requires an inspection where there is a reason to believe that a facility is not operating in compliance with the Environmental Conservation Law.

3. *The flow chart indicates that non priority violations will have "no further action at this time." Since I am not that familiar with the water program, can you give me an idea of what a non priority violation might be? Are priority violations set by EPA? Do you have a list of these priority or non priority violations that I could look at? Here is my concern, the Department. makes assessments as to the priority of violations using it best assessment. I am concerned that there may be a category of non priority violation that may in fact have more priority if it occurs in an EJ area, since those areas generally have a lot of pollution already and may not be able to withstand even the slightest addition of pollution. (Monica Kreshik).*

See the definition of priority violations in item #1 above. Non-priority violations would be anything not meeting that criteria, such as minor effluent violations or failure to submit a minor report. See Attachment 5 of TOGS 1.2.2 for a list of toxic substances referred to in TOGS 1.4.1 Section IIIB. Although submission of Discharge Monitoring Reports and major reports are not listed as priority violations in the TOGS, that was by oversight & those and all other activities defined as SNC by EPA are, in practice, treated as priorities by DOW.

#### **SECTION IV: GUIDANCE**

##### **D. Time Frames**

1. *If we have any reason to suspect any facility is in non-compliance we undertake timely followup. (Fred Sievers)*

In this case, there should be minimal impact to the Program from the EJ Strategy. The Strategy is not intended to increase the number of inspections from that required by existing guidance, but merely to affect the timing of some of those inspections.

#### **SECTION IV: GUIDANCE**

##### **D. Time Frames**

##### **1. SPDES Permitted Facilities**

1. *Your chart requires supplemental inspections w/in 5 months, not 6. And if the priority violation is not brought to the Region's attention until the WICSS meeting, it may require an inspection w/in 30 days. (Jerry Palumbo)*

The text, which stated that supplemental inspections will be completed within six months of the end of the review period, was in error. The text has been corrected to read "... inspections will be completed within five months of the end of the review period and



within three months of detection by the Department.” For EPA Major facilities in SNC, Regions will be notified via the SNAP Items of Concern list between seven to ten weeks prior to the due date of the inspection. For Significant Minor facilities, Regions will be notified through the WICSS Priority Violations List approximately six weeks prior to the due date of the inspection.

## SECTION IV: GUIDANCE

### D. Time Frames

#### 2. Citizen Complaints and SPDES Unpermitted Facilities

1.
  - a) *Immediate followup on complaints is sometimes very difficult to do and holds us to a very high standard. We have a lot of complaints that are not critical but could fall within this context. Our program could be driven by a public or neighborhood issue (i.e. an SSO or CSO). We need some flexibility in this. (Steve Eidt)*
  - b) *Reword to say that we will do “timely” follow-up inspections, not “immediate”. (Jerry Palumbo)*
  - c) *It is noted under the Heading Citizen Complaints and SPDES Unpermitted Facilities that Regional DOW will provide immediate follow-up to complaints regarding specific facilities that are located in EJ areas. What would be the priority for a Supplemental Enforcement and Compliance inspection(s) for this facility, and how it is determined? If inspections(s) is required, consideration for additional man power and/or man hours is required. (Chan Chakrabarti)*
  - d) *We follow up on all citizen complaints. (Fred Sievers)*

The response requirement wording has been changed from “immediate” to “prompt” in order to be consistent with TOGS 1.4.2. Section III. C. It is expected that complaints are promptly responded to. Discharges that do not have a valid SPDES permit and are required to have one are already priority violations under TOGS 1.4.1 Section III B.2. This Strategy does not result in an increase in the number of facilities that will have priority violations.

2. *Re: the time frames, again since I am not familiar with the water inspection program, I just want to make sure that violations in EJ areas are acted upon expeditiously especially in cases where there may be illegal discharges when a complaint comes in that might not be there when staff does the inspection 3 months later. (Monica Kreshik)*

TOGS 1.4.2. Section III. C requires aggressive compliance action be promptly pursued to remedy situations when public health or intended best use of a receiving water is impaired and if the issue of impairment is unclear, measures must be promptly taken to enable clear determination.



Our TOGS 1.4.1 Section A. classifies emergency situations, which require immediate action to respond to an imminent threat to life health, property, or natural resources as the highest priority for the use of program and legal resources.

## SECTION V: RESPONSIBILITIES

1.
  - a) *Again, what is the rationale for EPA making these distinctions? (Steve Eidt)*
  - b) *Has EPA agreed to this responsibility? (Chuck Haugh)*
  - c) *The procedure looks really good. I just have a few questions. Under responsibility, it states that EPA will indicate whether certain facilities are located within a potential EJ area. Is this something new or has EPA been doing this for you? (Monica Kreshik)*

BWC/CAS will determine whether facilities entering the SNAP process, whether permitted or unpermitted are located within potential EJ areas. The Strategy has been modified to delete the reference to EPA's responsibility on this matter.

2. *Questions SCIS providing a list of facilities in EJ areas to RWEs & BWC section chiefs. (Chuck Haugh)*  
This activity is possible, however, the specific logistics remain to be worked out.

3. *What is a 'Potential' EJ area as opposed to an EJ area? (Steve Eidt)*

The use of "EJ areas" in this document has been replaced with "potential EJ areas". A potential EJ area is defined in DEC Policy CP-29 Environmental Justice and Permitting dated 3/19/03 as "a minority or low-income community that may bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies". The Environmental Justice Preliminary Screen Guidance (issued 4/18/03) explains that an EJ area would be a minority or low-income community that has been deemed to in fact bear a disproportionate share of the negative environmental consequences. CP-29 does not include a methodology for determining whether this is the case. Therefore this document will use the term "potential EJ area".

4.
  - a) *Are we going to use the same inspection form while conducting inspection in EJ areas? (Atiqur Rahman)*
  - b) *Will there be any additional section to be developed and added to the Inspection Form with check lists for this Supplemental Enforcement and Compliance Inspections for facilities located in EJ areas? (Chan Chakrabarti)*

The same inspection forms (unchanged) will be used for conducting inspections in EJ



areas. The content of the inspection is not changed by the Supplemental Compliance Inspection Strategy. The Supplemental Compliance Inspection Strategy does not change procedures for the inspections themselves, it merely affects the timing of the scheduling of the inspections. The inspector should note on the inspection form that the inspection was conducted because of potential EJ impacts. This may be done by inserting the note "EJ concerns" into the "Purpose of Inspection" box on the form.

5. a) *Supplemental enforcement and compliance inspections in potential EJ areas will require additional work load, working time, funding. I am not sure whether our current staff will be adequate. (Atiqur Rahman)*

*Are we getting help from other agency to conduct supplemental inspections? (Atiqur Rahman)*

Total numbers of inspections are established in each Region as part of their annual work plans. The intent of the Strategy is not to increase the total number of inspections, but the distribution and timing of them may be influenced to ensure potential EJ areas do not get overlooked.

Some Regions have existing agreements with partners (such as county health departments) to conduct SPDES compliance inspections. The Regions have the responsibility for insuring supplemental inspections get done; however, Regions may continue to utilize those outside resources for supplemental compliance inspections if that use is in accordance with existing agreements.

#### **APPENDIX A-1**

1. *Appendix A-1 Define "priority violation" or refer to the definition & note who does what. (Chuck Haugh)*

References to the definition of "priority violation" and "EJ area" have been added to the Appendix A-1 as well as notes regarding who does what.

Comments were submitted by the following individuals:

Atiqur Rahman - DOW Region 2

Chan Chakrabarti - DOW Region 2

Fred Sievers - DOW Region 4

Steve Eidt - DOW Region 7

Jerry Palumbo - DOW Region 9

Chuck Haugh - DOW BWC SCIS

Monica Kreshik - DEC Office of Environmental Justice