

# Guidance for Unpermitted Industrial/Commercial Facility Assessment Program



Version 2.2  
March 2019

Disclaimer: This document contains general guidelines for inspecting unpermitted industrial/commercial facilities pertinent to paragraph IV.H(1) and IV.H(2) of SPDES Permit Number NY0287890 dated July 31, 2015. These guidelines are intended to promote consistency among inspectors and are subject to revision as needed.

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APPENDIX

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## 1 Introduction and Objective

The New York State Department of Environmental Conservation (NYSDEC) issued New York City its first citywide Municipal Separate Storm Sewer System (MS4) permit, as required under the Clean Water Act, effective August 1, 2015. As part of the permit requirements, New York City developed a Storm Water Management Program (SWMP) Plan and submitted it to NYSDEC on August 1, 2018. Pursuant to the MS4 permit, the SWMP Plan must address discharges from Industrial and Commercial (I/C) stormwater sources. The SWMP Plan must include, among other things:

- An inventory of publicly and privately owned I/C facilities in the MS4 area that could discharge pollutants of concern (POCs) to the MS4.
- An assessment and enforcement program for facilities covered by the State Pollution Discharge Elimination System (SPDES) Multi-Sector General Permit (MSGP) for Stormwater Discharges from Industrial Activities (GP-0-17-004).<sup>1</sup> **Table 1** lists Sectors covered by the MSGP.
- A plan to inspect and assess unpermitted I/C facilities to determine whether they generate significant contributions of POCs to impaired waters.
- A training program for staff conducting facility assessments.

The purpose of this document is to provide guidance to those conducting on-site assessments of I/C facilities whose stormwater discharges currently are not covered by a SPDES permit. The objectives of these on-site assessments are to:

**Table 1. Sectors of Industrial/Commercial (I/C) Activities Subject to NYSDEC’s MSGP**

Sector	Name
A	Timber Products
B	Paper and Allied Products
C	Chemical and Allied Products
D	Asphalt Paving and Roofing Materials and Lubricants
E	Glass Clay, Cement, Concrete, and Gypsum Products
F	Primary Metals
G	Metal Mining (Ore Mining and Dressing)
H	[Reserved]
I	Oil and Gas Extraction and Refining
J	Mineral Mining and Dressing
K	Hazardous Waste Treatment, Storage, or Disposal Facilities
L	Landfills and Land Application Sites
M	Automobile Salvage Yards
N	Scrap Recycling Facilities
O	Steam Electric Generating Facilities
P	Land Transportation and/or Warehousing
Q	Water Transportation
R	Ship and Boat Building or Repairing Yards
S	Air Transportation
T	Treatment Works
U	Food and Kindred Products
V	Textile Mills, Apparel, Other Fabric Product Manufacturing, Leather and Leather Products
W	Furniture and Fixtures
X	Printing and Publishing
Y	Rubber, Miscellaneous Plastic Products, and Miscellaneous Manufacturing Industries
Z	Leather Tanning and Finishing
AA	Fabricated Metal Products
AB	Transportation Equipment, Industrial or Commercial Machinery
AC	Electronic, Electrical, Photographic, and Optical Goods

<sup>1</sup> NYSDEC will continue to administer the SPDES permitting program, which includes two types of permits that may apply to stormwater discharge from an industrial site: individual permits for specific dischargers, or the MSGP for broad classes of industries.

- Educate I/C Facility managers/owners about the NYSDEC SPDES permit requirements for stormwater discharges from industrial activities and City requirements under the MS4 permit.
- Verify the accuracy of the facility’s characterization in the City’s facility inventory, according to criteria in Paragraph IV.H.1.iii of the MS4 Permit.
- Determine if potential industrial activities are present and the level of exposure to stormwater that could potentially contribute significant amounts of pollutants to stormwater,
- Collect adequate onsite information to allow NYSDEC to determine whether stormwater discharges from an I/C Facility are subject to a SPDES permit.
- Report any illicit discharges observed during the on-site assessment to the facility manager/owner and enforce as applicable.

Each section of this guidance addresses the three assessment phases outlined in **Figure 1**. Included in the Appendix of this guidance are forms, checklists, and other supporting material the inspectors will use for planning and performing the assessments.

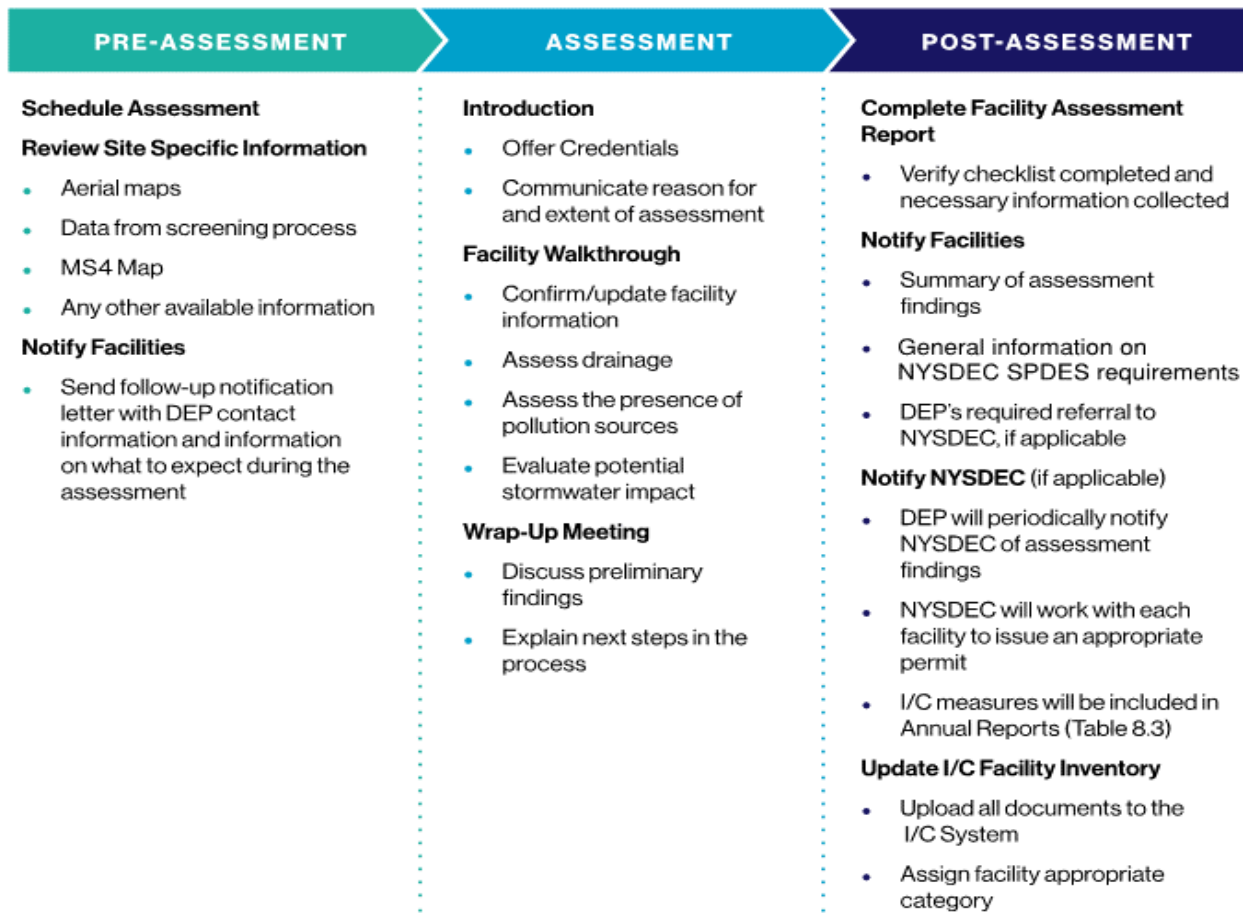


Figure 1. General approach to unpermitted facility assessment

## 2 Pre-Assessment Activities

Using the Historical MS4 Map, various databases and information from NYSDEC, DEP created a Facility Inventory of publicly and privately owned I/C facilities that may conduct activities within the industrial sectors covered by the MSGP permit, and other I/C facilities that might generate a significant amount of POCs to impaired waters. DEP conducted a web-based screening process to develop the Facility Inventory according to criteria set forth in Part IV.H.1.a.iii of the MS4 permit, and categorized each inventoried I/C facility for DEP action:

- **Category 1: No Further Action** – consists of facilities with Individual SPDES permit coverage, or a Notice of Termination filed with NYSDEC, or an improperly reported SIC/NAICS Code (and not actually included in a covered sector), or not draining to the MS4.
- **Category 2: Facilities with NYSDEC No Exposure Certification** – consists of facilities to which NYSDEC has issued a certification of No Exposure (all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff).
- **Category 3: On-Site Assessment for Potential Referral to NYSDEC** – consists of facilities for which DEP’s web-based screening process found database and/or photographic evidence of industrial and commercial activity not currently permitted by NYSDEC but potentially generating significant contributions of POCs to impaired waters. These facilities have applicable SIC/NAICS codes covered under one or more MSGP Sectors. However, only facilities that include operations covered by the applicability criteria as described under Part VII – Specific Permit Requirements will be referred to DEC. Note the inspector should not refer this facility as a facility requiring MSGP coverage, but rather the report should point out the activities that are covered under the sector applicability criteria. Facility determination for type of SPDES coverage will be done by DEC.
- **Category 4: Ongoing MSGP On-site Assessments Based on Priority Rating** – consists of I/C facilities with existing coverage under MSGP GP-0-17-004.

This section provides guidance for scheduling and preparing for on-site assessments of the unpermitted (Category 3) I/C facilities, as well as complaint-driven on-site assessments of facilities with NYSDEC No-Exposure Certification (Category 2), according to the process illustrated in **Figure 2**.

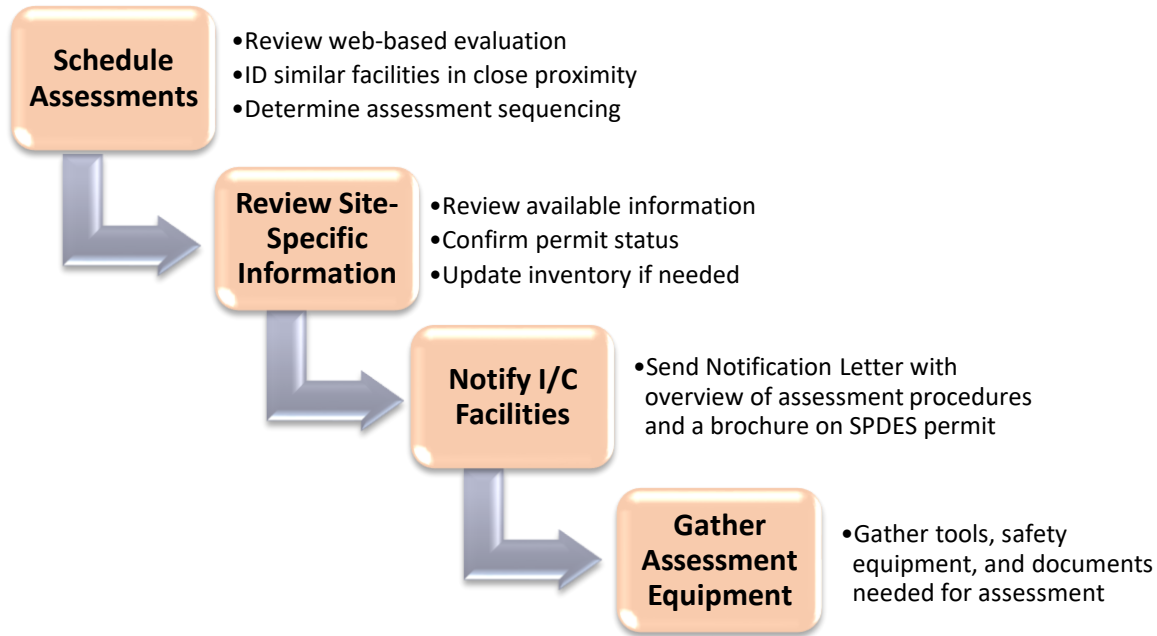


Figure 2. Pre-Assessment activities for Unpermitted (Category 3) Industrial/Commercial facilities

### 2.1 Step 1: Schedule Assessments

The City's web-based screening process placed approximately 1,300 I/C facilities into Category 3. DEP will perform on-site assessments at these facilities to assess industrial activity exposure to stormwater and to determine whether the facilities generate potentially significant contributions of pollutants to impaired waters. During the 4<sup>th</sup> quarter of 2018, DEP sent initial notifications to these unpermitted (Category 3) facilities explaining the I/C Program and the DEP facility assessment process. DEP also assembled a unit of inspectors led by a DEP project manager responsible for supervising the unpermitted (Category 3) I/C facility assessments.

The DEP project manager can implement cost-effective scheduling preferences for inspecting unpermitted (Category 3) I/C facilities and can base the scheduling preferences on the following three criteria:

- **Desktop/Web-Based Facility Evaluation.** The web-based evaluations based on the historical MS4 boundary (**Figure 3**) identified approximately 1,300 unpermitted (Category 3) I/C facilities and grouped them into three categories as documented in DEP's I/C database. The DEP project manager will use the findings of these web-based evaluations to give scheduling preference to facilities deemed most likely to be significant contributors of pollutants, e.g., I/C facilities with many visible, exposed outdoor industrial activities potentially subject to SPDES permitting.



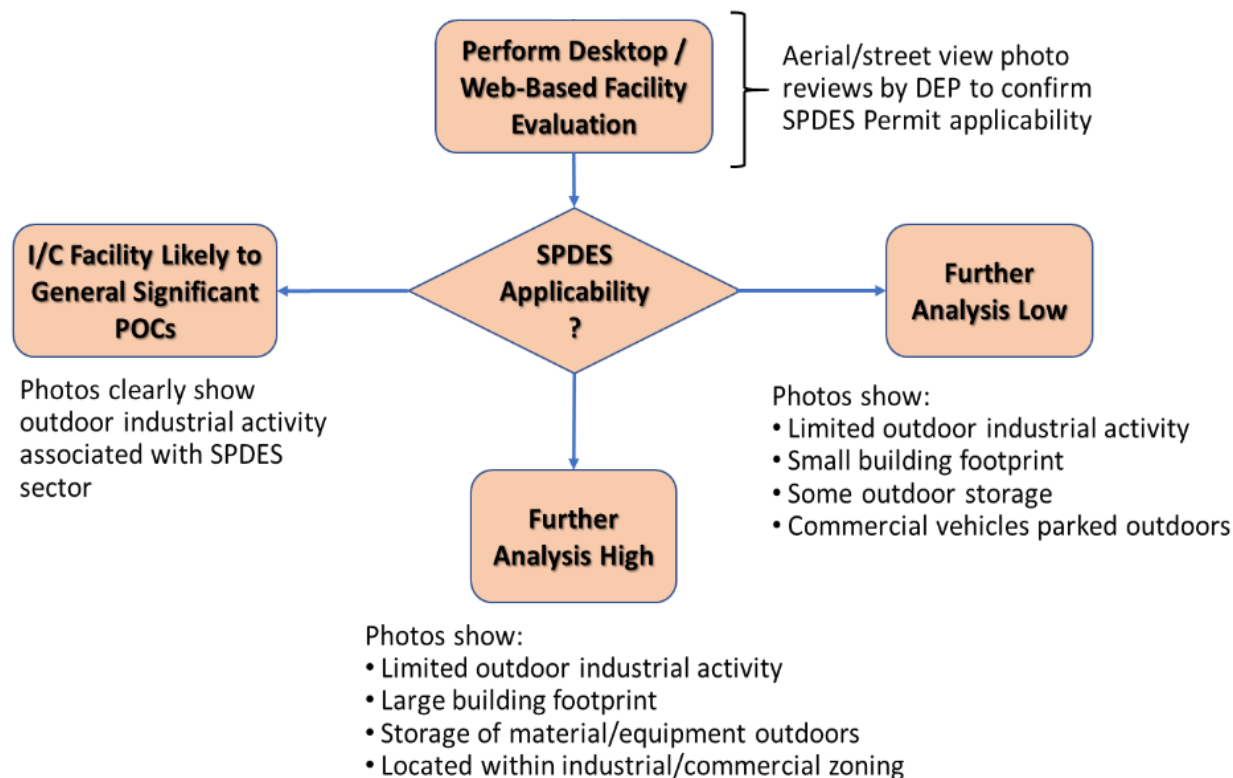


Figure 3. Web-based evaluation for scheduling assessments of Unpermitted (Category 3) I/C facilities

- **Focused assessments within SIC Categories.** The DEP project manager will also attempt to group facilities by SIC category and/or MSGP Industrial Sector to allow assessment teams to focus on a specific type of industrial activity. Scheduling in this manner should increase the productivity of the inspectors, allowing them to focus on mastering their understanding of potentially significant pollutant sources associated with each industry category.
- **Focused Assessments by Geographic Proximity.** In addition, assessment scheduling should consider geographic proximity, allowing assessment teams to minimize travel time and perform on-site assessments as promptly as possible.

Each quarter, DEP’s project manager will provide each team of inspectors with a list of I/C facilities the team will assess, as determined under these scheduling preferences. The project manager will also maintain a record of changes to DEP’s I/C database that may emerge during preparations for or conduct of facility assessments. The project manager should be particularly aware of changes that may eliminate the need for on-site assessment (e.g., changes to the MS4 drainage boundary or notification via NYSDEC’s Dropbox of changes in the permitted status of a facility).

Once the DEP project manager provides you with a list of facilities you must assess during the quarter, you can schedule those on-site assessments in the order you see fit. After your review of business data,

you may request that the DEP project manager modify the schedule to accommodate previously unknown circumstances (i.e., complexity of assessment, seasonal/weather-related delays).

### 2.1a Public Complaint Assessments

In addition to the scheduled quarterly assessments, when a public complaint about a facility in the I/C facility inventory is submitted to 311, DEP's IPS software program will alert both DEP's DERTA Unit and I/C Program. You must incorporate an assessment of the facility into your schedule. The complaint is to be responded to and inspected in a timely fashion. DEP will add the facility to the inventory as category 3 if DEP refers the facility to NYSDEC and will modify the category when DEC makes a determination as to proper coverage: if DEP determines that the facility does not require referral to DEC, DEP will add it to category 1. If the facility requires coverage under the MSGP, DEP will move it to category 4.

### 2.2 Step 2: Review Data about the I/C Facility

DEP has created an I/C database, containing the information gathered during the web-based evaluation of each I/C facility in the Inventory. Information in the I/C database includes:

- MS4 boundary confirmation – if in historical area apply further analysis using BWSO maps as noted;
- Waterbodies to which the facility is discharging;
- Whether a given facility generates significant POCs to an impaired waterbody; and
- A description of the facility, including general information (address, contact information, etc.), applicable SIC/NAICS code(s), products made, or services provided.

Review available data about businesses you will inspect. This desktop review should help you assess whether the facility discharges into the MS4, and may include the following:

- BWSO Maps
  - Review available maps via BWSO ARC GIS Mapping files to narrow down and determine what type of sewer connection fronts the facility.
    - Stormwater/sanitary/combined sewer lines may warrant dye testing if there is no obvious connection to a NYC DEP stormwater sewer
    - If the end point discharge cannot be confirmed by the steps above, request additional support from BWSO.
- Aerial Maps;
- Business SIC/NAICS Code(s);
- Land use/zoning of property;
- Data from DEP's web-based evaluation;
- City's most updated MS4 drainage map;
- Additional data the City may have on the business; and
- Information in NYSDEC's Dropbox

Review also the MSGP sector-specific requirements so that you are able to address facility manager/owner questions related to MSGP permitting requirements. While reviewing business data, take note of information that may be pertinent to the assessments, such as the business’s SIC/NAICS code or areas visible on aerial maps that indicate potentially exposed outdoor industrial activity.

### 2.3 Step 3: Notify I/C Facilities

Unpermitted facilities in the current 2018 inventory will receive two notifications: DEP sent the first Notification Letter to the facility in October 2018 and the inspector will send a second letter within 90 days before the assessment. Call the facility in advance of the anticipated scheduled assessment date using the phone number on file. If DEP adds a new facility to the inventory, the inspector will send the same two notifications and you will make the phone call accordingly. New, unpermitted facilities identified during the course of the program implementation will also receive two notifications following the methodology outlined in this section.

A Notification Letter should include the following information:

- Information about DEP’s authorization to perform assessments;
- Inspector Credentials;
- Activities to be performed during on-site assessment;
- A brochure summarizing NYSDEC SPDES permit requirements for stormwater discharges from industrial activities; and
- Contact information of assigned DEP personnel, should the facility have questions.

**Appendix A** includes a template for the Notification Letters.

### 2.4 Step 4: Gather Assessment Equipment

Before you perform an on-site assessment, it is important to gather the necessary equipment. **Table 2** includes a list of personal protective equipment (PPE), documents, and additional materials that you may need to properly complete the assessment.

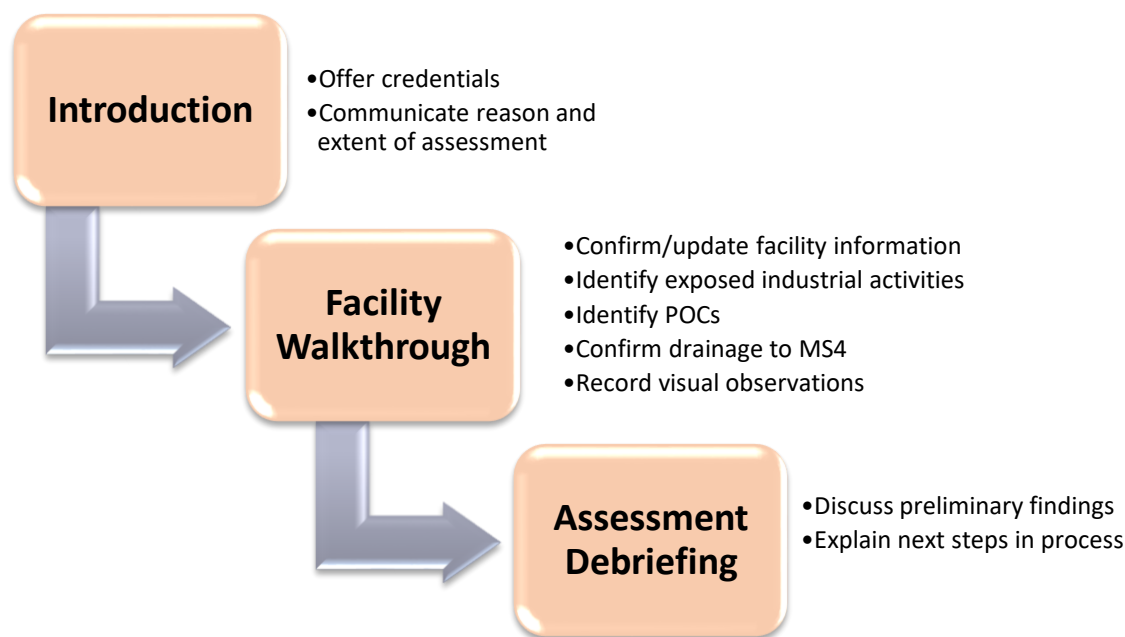
**Table 2. Assessment equipment list**

Documents	Assessment Tools	Safety Equipment (PPE)
Inspector credentials	Field notebook	Hard hat
Facility file (records)	Clipboard	Hearing protection
Aerial Map of facility	Tablet (properly charged)	Safety shoes (steel toe)
Field computer (if applicable)	Cell phone (properly charged)	Reflective safety vest
Facility Assessment Report	Waterproof digital camera	Safety glasses
Educational Material	Manhole hooks	Gloves
First and second Notification letters	Flashlight	
	Mirror	
	Tape Measure	
	Dye	

Bring reference documents needed to support the assessment. Do not assume that maps will be available on site. Additionally, carry educational material on SPDES permitting and stormwater management to give to facility manager/owner, when applicable.

### 3 On-Site Assessment Procedures

This section provides guidelines for inspecting an unpermitted (Category 3) I/C facility and responding to citizen complaints about an I/C facility covered by a No-Exposure Certification (Category 2). Introduce yourself to the facility manager/owner, answer any initial questions about SPDES and MS4 permitting requirements, and review the assessment agenda. Following these introductions, conduct a walkthrough of the facility to verify that the City’s Facility Inventory correctly characterizes the facility; determine if industrial activities are present, assess whether exposure to stormwater could potentially contribute significant amounts of pollutants, and note any evidence of illicit discharges seen during the walkthrough. **Figure 4** provides an outline of the activities involved in the assessment from the time the inspector arrives on site.



**Figure 4. On-Site Assessment Procedures for Unpermitted Industrial/Commercial facilities**

Encourage the facility manager/owner to accompany you to clarify observations, learn about potential industrial activities and significant pollutant sources subject to SPDES permitting, and understand exposure concerns. At the end of the walkthrough, be prepared to conduct an assessment debriefing to provide general preliminary observations and discuss next steps.

Complete a Facility Assessment Report (**Figure 5**) while performing the on-site assessment. The Facility Assessment Report consists of several sections, which have a list of questions with checkboxes with the following choices: *Yes*, *No*, *Not Inspected (N/I)*, or *Not Applicable (N/A)*. Each question has an associated citation, so if you ever need a refresher you can reference the regulatory material. **Appendix B** includes a blank copy of the Facility Assessment Report.

### 3.1 Introduction

Upon arrival at the facility site, introduce yourself as a DEP authorized representative and offer the appropriate DEP credentials (i.e., DEP issued ID/or DEP business card ID). After introductions, communicate to the facility manager/owner the reason for and scope of the assessment, which includes the following:

- Background Information Review
  - Provide brochure summarizing MSGP and City MS4 Permit, and answer questions.
  - Review documentation from web-based evaluation of facility.
- Walkthrough of the facility
  - Inspect facility to confirm listed SIC/NAICS code(s).
  - Identify industrial activities associated with the SIC/NAICS code(s).
  - Identify other potentially significant pollutant sources.
  - Identify features that potentially prevent exposure of industrial activities/pollutant sources to stormwater.
  - Confirm drainage to MS4 (by asking the facility manager/owner, determining through visual observation, or conducting a dye test at selected locations).
  - Record evidence of illicit discharges observed.
  - Take thorough notes and photos.
- Assessment debriefing with facility manager/owner to discuss SPDES applicability, if any.
  - Discuss what constitutes SPDES coverage.
  - Discuss next steps in obtaining SPDES permit coverage.
  - Provide facility manager/owner with educational material on SPDES permits and stormwater management

Be prepared to review the brochure summarizing the MSGP and City MS4 Permit requirements, review the documentation about the I/C facility gathered during DEP's web-based evaluation, and answer facility manager/owner questions that emerge during this discussion or the subsequent walkthrough. Conclude the Introduction portion of the on-site assessment by completing the *General Information* section of the Facility Assessment Report (**Figure 5**), recording data from the web-based evaluation and confirming it with the facility manager/owner.

**NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
**Bureau of Environmental Planning and Analysis**  
**Unpermitted Industrial/Commercial Facility Assessment Program**  
**Facility Assessment Report**

General Information			
Inspection Type: <input type="checkbox"/> Complaint Response <input type="checkbox"/> Compliance Inspection			
Enterprise Name: _____		Facility/Establishment Name: _____	
Address: _____		City/Town: _____	ZIP: _____
DEC Region: 2	Date/Time of Inspection: _____	Weather Conditions: _____	Rain in last 24 hours: <input type="checkbox"/> Yes <input type="checkbox"/> No
Code(s) Listed in I/C Inventory <sup>1</sup> SIC Code: _____ NAICS Code: _____	Primary: _____	Description (from published list of codes): _____	Secondary Codes (if provided): _____

<sup>1</sup> Note: Refer to the SIC Manual ([https://www.osha.gov/pls/imis/sic\\_manual.html](https://www.osha.gov/pls/imis/sic_manual.html)) and/or the NAICS Association (<https://www.naics.com>) for descriptions of codes and cross-references between the SIC and NAICS systems

**Figure 5. Excerpt of Facility Assessment Report**

### 3.2 Facility Walkthrough

The facility walkthrough serves six (6) main purposes:

1. Confirm that DEP has properly characterized the facility in the I/C Facility Inventory per criteria in Part IV.H.i.iii of the MS4 permit;
2. Identify whether industrial activities are exposed to stormwater;
3. Identify whether potentially significant pollutant sources are exposed to stormwater;
4. Determine whether the site partially or completely drains to the MS4;
5. Record visual observations of effluent/receiving waters adjacent to the facility; and
6. Conduct visual observations to identify any unauthorized discharges, illicit connections, and potential discharges of pollutants to stormwater

Acknowledge the fact that the manager/owner of an unpermitted facility may not be familiar with SPDES requirements and, therefore, be prepared to identify exposed industrial activities and/or pollutant sources that may be significant contributors of POCs to impaired waters.

The walkthrough allows an inspector to conduct a visual assessment of the areas where industrial activities may be taking place. You do not need to inspect areas where industrial activities are not

expected to occur (e.g., administrative buildings, employee parking lots, rooftops, etc.) if clear evidence is provided that no suspected industrial activities do occur in these areas. During the walkthrough, carry an aerial map to note locations of identified industrial activities and mark apparent drainage patterns.

### 3.2.1 I/C Facility Inventory Confirmation

First, determine if the appropriate SIC/NAICS code has been assigned to the facility and if there are additional permit-eligible SIC/NAICS Codes that are applicable to the facility’s business operations. Update the facility case file accordingly. To accomplish this, compare the facility’s operations to available descriptions on eligible SIC/NAICS Codes (also listed in Part VIII of the MSGP), record the findings in the I/C database, and summarize these findings in Section A of the Facility Assessment Report (**Figure 6**). Keep in mind that multiple SIC/NAICS codes may apply. If there is ambiguity, ask the Facility manager/owner to clarify operations to better determine what SIC/NAICS Codes are applicable. Please note that N/I means Not Inspected and N/A means Not Applicable when completing the Facility Inspection Report.

Yes	No	N/I	N/A		Citation(s) <sup>1</sup>	Comments
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1	<b>A. I/C Facility Inventory Confirmation</b> Use left column of Worksheet 1, discussions with the Facility Manager/Owner, and visual observations of facility operations to indicate if the Facility is properly categorized per criteria in Part IV.H.1.iii of the MS4 Permit. Summarize findings below.	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2	Does the Primary Code listed describe the primary products produced/distributed, services rendered, employee activities, and/or revenue sources for the Enterprise? If not, provide the appropriate Primary Code here: _____	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3	Do one or more of the Secondary Codes listed describe a co-located activity involving other products produced/distributed, services rendered, employee activities, and/or revenue sources for the Enterprise? If yes, list them here: _____	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4	Is the facility/establishment auxiliary <sup>2</sup> to the Enterprise defined by the Primary/Secondary Codes? If not, describe the primary purpose of the facility here: _____	
<b>Worksheet 1: SIC Codes/Activity Codes and Industrial Activities</b>						
<b>SIC/NAICS Code or Activity Code (Mark all that apply)</b>					<b>Industrial Activity where significant materials* are/could be exposed to stormwater</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<b>Sector A: Timber Products</b>						
<input type="checkbox"/>	2411	1133		Log Storage & Handling (wet deck storage areas authorized only if no chemical additives are used)	<input type="checkbox"/>	Manufacturing/processing areas
<input type="checkbox"/>	2421	3211, 3219		General Sawmills and Planning Mills	<input type="checkbox"/>	Treatment chemical storage areas
<input type="checkbox"/>	2426	3211, 3219		Hardwood Dimension and Flooring Mills	<input type="checkbox"/>	Treated wood and residue storage areas
<input type="checkbox"/>	2429	3211, 3219		Special Products Sawmills, Not Elsewhere	<input type="checkbox"/>	Wet and dry decking areas
					<input type="checkbox"/>	Untreated wood and residue storage areas
					<input type="checkbox"/>	Treatment Equipment storage areas
					<input type="checkbox"/>	Soils, treatment equipment, or materials contaminated by past use of chlorophenolic,

**Figure 6. Facility Assessment Report Section A and Left Column of Worksheet 1 for I/C facility inventory confirmation**

After identifying, the appropriate SIC/NAICS codes for a facility, consult Part VII- Sector Specific Permit Requirements of the SPDES MSGP for additional sector applicability criteria requirements. Clearly document in both Appendix B and Appendix C, a listing of the industrial activities from the sector observed at the facility. Below are two examples to illustrate:

Example 1: Sector P- Land Transportation and/or Warehousing

The inspector must observe the facility for the following activities: vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication) and/or equipment cleaning operations.

**Sector P – Land Transportation and/or Warehousing**

<b>Applicability</b>	The requirements listed under this section apply to <i>stormwater discharges associated with industrial activity</i> from land transportation and/or warehousing facilities (generally identified by SIC Codes 4011, 4013, 4111-4173, 4212-4231, 4311 and 5171), that have vehicle and equipment maintenance shops (vehicle and equipment rehabilitation, mechanical repairs, painting, fueling and lubrication) and/or equipment cleaning operations. Transfer stations that have vehicle and equipment maintenance shops are covered under this sector in addition to the applicable Sector N subsector requirements.
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Example 2: Sector Q- Water Transportation

The inspector must observe the facility for the following activities: Vehicle/vessel maintenance shops, and equipment cleaning operations.

**Sector Q – Water Transportation**

<b>Applicability</b>	The requirements listed under this section apply to <i>stormwater discharges associated with industrial activity</i> from water transportation facilities (generally identified by SIC Major Group 44), that have vehicle (vessel) maintenance shops and/or equipment cleaning operations. The water transportation industry includes facilities engaged in foreign or domestic transport of freight or passengers in deep sea or inland waters; marine cargo handling operations; ferry operations; towing and tugboat services; and marinas, including: boat yards, storage and incidental repair, and yacht basins. The retail sale of fuel alone at marinas, without any other vessel maintenance or equipment cleaning operations, is not considered to be grounds for coverage under the storm water regulations.
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3.2.2 Industrial Activity Exposure

The second task you must complete is to establish where industrial activities occur and may be exposed to stormwater. Pay close attention to which activities, materials, equipment, etc. are currently exposed (or may be exposed in the future) to rainfall in order to determine if activities are prone to stormwater pollution. In support of this assessment, enter observations related to industrial activities associated with each SIC/NAICS code, and summarize observations as prompted in Section B *Industrial Activity Exposure* of the Facility Assessment Worksheet (**Figure 7**).



Yes	No	N/I	N/A	<b>B. Industrial Activity Exposure</b>		Citation(s)	Comments
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1	Is there industrial equipment, machinery, or materials that are stored, used, processed, or cleaned in areas that are exposed to precipitation?	NEC II.1	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2	Is there material or residuals on the ground or in stormwater inlets from spills/leaks?	NEC II.2	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3	Are there materials or products from past industrial activity in areas that could be exposed to precipitation?	NEC II.3	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4	Are there any material handling equipment (with the exception of adequately maintained vehicles) exposed to precipitation?	NEC II.4	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5	During loading/unloading or transporting activities, could any materials or products be exposed to precipitation?	NEC II.5	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	6	Are there any products or materials stored outdoors (except for final products intended for outside [e.g., new cars] where exposure to storm water does not result in the discharge of pollutants)	NEC II.6	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	7	Are there any materials stored or contained in open, deteriorated, or leaking storage drums, tanks, barrels, and similar containers?	NEC II.7	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	8	<b>Worksheet 1: SIC Codes/Activity Codes and Industrial Activities</b>		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	9	<b>SIC/NAICS Code or Activity Code (Mark all that apply)</b>		<b>Industrial Activity where significant materials* are/could be exposed to stormwater</b>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	10	<b>SIC</b>	<b>NAICS</b>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	11	<b>Sector A: Timber Products</b>		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	12	<input type="checkbox"/> 2411	1133	Log Storage & Handling (wet deck storage areas authorized only if no chemical additives are used)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	13	<input type="checkbox"/> 2421	3211, 3219	General Sawmills and Planning Mills
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	14	<input type="checkbox"/> 2426	3211, 3219	Hardwood Dimension and Flooring Mills
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> 2429	3211, 3219	Special Products Sawmills, Not Elsewhere
							<input type="checkbox"/> Manufacturing/processing areas <input type="checkbox"/> Treatment chemical storage areas <input type="checkbox"/> Treated wood and residue storage areas <input type="checkbox"/> Wet and dry decking areas <input type="checkbox"/> Untreated wood and residue storage areas <input type="checkbox"/> Treatment Equipment storage areas <input type="checkbox"/> Soils, treatment equipment, or materials contaminated by past use of chlorophenolic,

Figure 7. Facility Assessment Report Section B and Worksheet 1 for identifying industrial activity exposure

### 3.2.3 Potentially Significant Pollutant Exposure

A facility not engaged in a defined industrial activity may be subject to SPDES permitting if NYSDEC determines that it contributes “. . . to a violation of a water quality standard or is a significant contributor of pollutants to waters of the United States” per 40 CFR Part 122.26(a)(1)(v). Part IV.H(1)(iii)(2 and 3) of the City’s MS4 permit requires that the City list such facilities in its I/C Facility Inventory and inspect them according to Part IC.H(2) of the MS4 permit. Use I/C database question prompts to identify potentially significant contributions of pollutants and record the observations in Section C *Potentially Significant Pollutant Exposure* of the Facility Assessment Worksheet (Figure 8).

Worksheet 2: Potentially Significant Pollutant Source Assessment							
1. Is the facility within 2,000 feet of an impaired waterbody? (Yes/No) _____ If yes:							
a. Identify potentially significant sources of POCs to impaired waters (i.e., phosphorus, nitrogen, floatables) that are exposed to stormwater and/or have the potential to be released with stormwater discharges:							
Multiple pallets storing bags/containers of fertilizer							
Multiple large stockpiles of topsoil, mulch, or green waste							
Multiple large stockpiles of trash, litter, or recyclables							
Storage areas with multiple open drums or containers of oil, grease, or petroleum product							
Other: _____							
b. Identify potentially significant pollutant loads that are exposed to stormwater and/or have the potential to be released with stormwater discharges:							
Multiple large stockpiles of garbage							
Multiple large salt stockpiles							
Outdoor storage of salvaged/scrap automobiles and parts							
Other: _____							
c. Identify other areas exposed to stormwater where materials are stored or used in a manner that allows potentially significant pollutant loads to be released to the MS4 or an impaired waterbody? Describe each area and the pollutants present.							
<u>Area Description</u>	<u>Yes</u>	<u>No</u>	<u>N/I</u>	<u>N/A</u>	<b>C. Potentially Significant Pollutant Exposure</b>		
1.					Use Worksheet 2 to identify Potentially Significant POCs to Impaired Waters and Potentially Significant Pollutant Loads to MS4 and record findings here.	<b>Citation(s)</b>	<b>Comments</b>
2.					1 Proximity to impaired waterbody (from GIS):		
3.					<input type="checkbox"/> > 2,000 ft <input type="checkbox"/> < 2,000 ft <input type="checkbox"/> Adjacent		
4.					2 Exposure to POCs:		
5.					<input type="checkbox"/> Limited <input type="checkbox"/> Moderate <input type="checkbox"/> Limited		
					3 Control of exposed sources:		
					<input type="checkbox"/> Effective <input type="checkbox"/> Moderate <input type="checkbox"/> Limited		
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4 Are there observed sources of pollutants that impair local waterbodies? (If YES, go to sub-items 4a; if NO, go to next section)		
					4a Pollutant Causing Impairment:		
					<input type="checkbox"/> Floatables <input type="checkbox"/> Phosphorus <input type="checkbox"/> Nitrogen <input type="checkbox"/> Other _____		

Figure 8. Facility Assessment Report Section C and Worksheet 2 for identifying potentially significant pollutant Sources

### 3.2.4 Effluent/Receiving Water/Visual/MS4 Drainage Observations

During the walkthrough you should visually confirm the drainage patterns around the site, particularly whether the site drains into the City’s MS4 or into a receiving waterbody or the City’s combined sewer system. Document in Section D (*Effluent/Receiving Water/Visual/ms4 Drainage Observations*) of the Facility Assessment Report (**Figure 9**) the presence and location of visible outlets (catch basins, dry wells, outfalls) .

Illustrate the location of stormwater inlets (e.g., catch basins) and drainage patterns on a map or aerial photograph of facility property, as well as locations where surface runoff from the facility flows into a City right-of-way or directly into a receiving water. Investigate rooftop drainage patterns if they present a potential pollution source. Rooftop runoff is generally directed through downspouts either on the surface (and then routed to surface inlets by overland flow) or directly into the MS4 through a subsurface connection. Show areas of industrial activities and/or potentially significant pollutant sources to determine the discharge point for stormwater discharges from such areas and whether the discharges mix with stormwater from other portions of the facility or from off-site areas. If the discharge point from the facility cannot be confirmed through the above steps, conduct a dye test following procedures using the NYC IDDE Guidance Manual as well EPA’s Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessment ([https://www3.epa.gov/npdes/pubs/idde\\_manualwithappendices.pdf](https://www3.epa.gov/npdes/pubs/idde_manualwithappendices.pdf)).

Document any visible evidence of non-stormwater (dry-weather) flows along the surface, in storm drain inlets, and/or at visible stormwater outfalls. If dry-weather flow is present, note the presence of pollutant indicators like oily sheens, odors, flow discoloration, or unnatural algae blooms. Note also whether to recommend those dry-weather flows for further investigation by the facility manager/owner.

Yes	No	N/I	N/A	<b>D. Effluent/Receiving Water/Visual/MS4 Drainage Observations</b> Select all observed during the facility walkthrough.	Citation(s)	Comments
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	1 Does the facility discharge directly to a waterbody? (If YES, go to sub-items 1a; if NO, go to next item 2) 1a If yes, name of the waterbody: _____		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	2 Does the facility discharge directly to a Storm Sewer/MS4?		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	3 Are there visible dry wells on site? (If YES, go to sub-items 3a; if NO, go to next item 4) 3a <input type="checkbox"/> If yes, please indicate the approximate location and flow path (attach map and/or sketch if necessary): _____		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	4 Are there visible catch basins on site? (If YES, go to sub-items 4a; if NO, go to next item 5) 4a <input type="checkbox"/> If yes, please indicate the approximate location and flow path (attach map and/or sketch if necessary): _____		
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	5 Does visual evidence exist of non-stormwater flows or materials entering catch basins and/or flowing away from the facility? (If YES, go to sub-items 5a; if NO, go to next item 6) 5a If yes, please describe: _____ _____		

Figure 9. Facility Assessment Report, Section F, for documenting visual observations and MS4 drainage confirmation

### 3.2.5 Addressing and Enforcement of IDDE Findings at a Facility

If during the assessment process, you encounter an illicit discharge or spill, which appears to be a one-time occurrence, adhere to the following procedure, as practiced by NYC DEP ERU (Emergency Response Unit). If you encounter a situation in which another agency must be notified, notify DEP’s Emergency Communications Center (ECC) first. ECC will then provide guidance on how to proceed.

1. Inform facility to cease the discharge IMMEDIATELY.
2. Take appropriate pictures and/or video of the illegal discharge/spill.
3. Record the time and date of incidence.
4. Provide a detailed description of the occurrence, such as pipe discharge or overflow from tanks, accident, human error, poor housekeeping, etc.
5. Issue a Commissioner’s Order to prohibit further discharges, effective immediately.
6. Issue a Commissioner’s Order to submit plans on how future discharges will be prevented by a certain due date, if necessary.
7. Issue a Commissioner’s Order to clean-up spilled material from sidewalk, street, catch basin or storm drain by certain due date.
8. Issue NOV for the discharge if affecting the NYC Sewer System (sewer manholes, catch basins, storm drains).
9. If spill or illegal discharge impacts soil, then notify ECC.
  - a. ECC will ask for the name of the caller, location, contact person name and phone number and the type of spill/ reason for call.

- b. ECC will then make referrals to other city agency or NYSDEC for appropriate investigation.
  - c. Document in the I/C Facility Case File, the Service # provided during this call and all pertinent information.
10. Follow up after the due date to verify compliance with the Commissioner's Order issued.
  11. Issue further NOVs if CO not complied with by due date.
  12. Re-inspect for compliance; if facility is in compliance, case can be closed-out after ECB hearing.

When the I/C Program proceeds with enforcement actions, communicate with the DEP BWT IDDE Unit.

If during the assessment process, you encounter an illicit discharge or spill, which appears to be the result of a recurring condition or weather related recurrence, the Commissioner's Order issued as prescribed above, must instruct the facility to develop and implement Best Management Practices (BMPs) to prevent the continuation of the event. If applicable, provide brochure for typical BMPs.

### 3.3 Assessment Debriefing

An assessment debriefing with the facility manager/owner will provide a final opportunity to answer questions and gather additional information. Be prepared to discuss what was observed during the on-site assessment and potential follow-up actions. First, share the SIC/NAICS Codes, related industrial activities, and/or potentially significant pollutant sources associated with business operations identified during the on-site assessment and their relationship to Industrial Stormwater SPDES permitting requirements. Be prepared to discuss the following items with the facility manager/owner:

- The specific industrial activities and potentially significant sources of pollutants observed, including any visual evidence of potential dry weather discharges or receiving water impacts.
- Actions the City is required to take under its MS4 permit based on the observations.
- SPDES Permitting options and requirements;
- Sector-specific requirements;
- Options for No-Exposure Certification (if applicable);
- Steps to apply for SPDES coverage; and
- Areas of exposure found on site and potential solutions.

After discussion, provide another copy of the educational brochure about SPDES permitting requirements that was sent in advance of the assessment, along with applicable NYSDEC web site addresses and contact information. Inform the facility manager/owner that DEP will send a follow-up letter shortly with a summary of the assessment observations and encourage the facility manager/owner to contact NYSDEC to determine SPDES permit applicability and application requirements. NYSDEC will make the final determination of permit eligibility based upon the City's assessment report and the facility manager/owner's response. Emphasize that DEP is available for a follow-up phone call if the facility manager/owner needs clarification after receiving the letter. Make clear that DEP will provide the facility assessment observations to NYSDEC concurrently to the facility receiving the mailing of the assessment follow-up letter. Facilities are expected to take action immediately.

If the on-site assessment clearly reveals that SPDES permitting requirements are not applicable to the facility, document the opinion for review by the DEP project manager. The outcome of these assessments will also be provided to NYSDEC.

### 3.3.1 Industrial Commercial Violation and Enforcement Procedures

1. Once the I/C Checklist is officially completed and reviewed, if you identify an issue of non-compliance, with guidance from DEP Legal and BWT IDDE Units, issue a Commissioner's Order (CO), an NOV or another enforcement action best applicable to restore compliance to the situation.
2. Using the I/C system, select the Enforcement Details Tab.
  - a. You will then be able to select "Add Violation." From this window, then begin to fill in/select appropriate information to input, generating an enforcement action(s).
3. Inform the DEP I/C Project Manager that a CO and/or NOV was created for a facility in the I/C system, citing an issue of non-compliance found/observed during the inspection/assessment.
4. The DEP I/C Project Manager will then review the violation information input in the I/C system. The DEP I/C Project Manager will address and clarify any concerns about the violation.
5. The DEP I/C Project Manager will then inform DEP BWT Legal of pending violation in the I/C System by selecting the option on the screen for legal review. This option is to be selected at all times unless otherwise directed by the DEP Project Manager.
6. DEP BWT Legal will review the pending violation and provide any necessary direction or guidance prior to the enforcement action's being served on the facility.
7. After BWT Legal authorizes proceeding with the enforcement action(s), either mail or hand deliver the enforcement action(s) to the facility. You must deliver NOVs in person. If after three unsuccessful attempts, you cannot deliver the summons in person, inform the DEP I/C Project Manager and discuss direction for alternative service. You can either mail or deliver in person to the facility Commissioner's Orders. If you mail the Commissioner's Order, you must mail it first class with certified priority. Photograph the envelope that you will mail, noting the date, time and name of person who is mailing the Commissioner's Order and add to case file.
8. If, during a site assessment/inspection, you encounter an IDDE situation that warrants immediate attention and correction, immediately inform the facility to cease discharge and document the situation. Inform the I/C Program administration and DEP's Emergency Communications Center for further instructions.

## 4 Post-Assessment Activities

### 4.1 Complete Facility Assessment Report

Complete the Facility Assessment Report by the time you conclude the on-site assessment, as described in the previous section. Upon completion of the on-site assessment, you should verify that all items in the Facility Assessment Report have been answered and any additional information such as field notes or photographs have been attached to the report.

### 4.2 Notify Facility of Assessment Results

Send a follow-up letter to the facility to reiterate the general assessment results and potential next steps. The facility will have 90 days from letter mailing date to seek DEC permit coverage and proactively respond

to any observations noted. **Appendix C** includes a sample follow-up letter that you may use to inform the facility manager/owner of the results of the assessment. Space is provided within the form letter to indicate one of the following three types of outcomes:

- **No Potentially Significant Pollutants Found.** The Letter will summarize the results of the assessment, explain why you observed that there were no industrial activities or potentially significant pollutant sources subject to SPDES requirements, and state that the facility will be removed from the City's I/C Facility Inventory unless these observations are not accepted by NYSDEC, which will ultimately determine if permit coverage is necessary.
- **Potentially Significant Pollutants Found.** The letter will summarize the results of the assessment and describe the industrial activities and/or potentially significant pollutant sources exposed to stormwater at the facility. The letter will document MSGP sector-specific activities observed during the assessment associated with the identified SIC/ NAICS code. For facilities that do not clearly fall under one of the MSGP sectors, but you have observed a significant amount of POCs, the report will note this and DEP will refer to DEC for proper SPDES coverage determination. The Letter will state that DEP is available for a follow-up phone call should the facility have questions; remind the facility that the City's MS4 permit requires the City to report assessment results to NYSDEC for a determination of SPDES permit coverage; state that the facility will continue to be listed on the City's I/C Facility Inventory pending the NYSDEC determination;, and encourage the facility to self-report to NYSDEC to receive a determination of SPDES permit coverage.
- **No Industrial Activity Exposure Found.** The letter will summarize assessment results, describe the industrial activities found at the facility, and identify the specific measures observed that prevent exposure of these industrial activities to stormwater. The Letter should also state that DEP is available for a follow-up phone call should the Facility have questions, remind the Facility that the City's MS4 permit requires the City to report assessment results to NYSDEC for a determination of SPDES permit coverage, state that the facility will continue to be listed on the City's I/C Facility Inventory pending the NYSDEC determination, and encourage the Facility to self-report (i.e., submit the No-Exposure Exemption Certification to NYSDEC).

Review the assessment outcome with the DEP project manager and agree upon the appropriate response before informing the facility manager/owner or NYSDEC. If necessary, follow-up with the facility manager/owner to clarify ambiguities of the assessment and to answer any questions the facility manager/owner may have. Additionally, encourage self-reporting and explain the potential next steps.

#### 4.3 Log Observations in Dynamics 365- Industrial Commercial Database

Microsoft CRM Dynamics 365 is the technology used to design the I/C computer database solution that will be used for all aspects of the I/C program. This program is accessible both in the field and in the office to obtain and input information regarding any facility in the I/C inventory. This program allows for inspectors, supervisors, DEP PMs, Administration and Legal to interact and share all necessary information from adding facilities to the inventory, to inspections, review, approvals, enforcement and transmittal of the program's finding to DEC.

You will receive an email to notify you that your supervisor has assigned an inspection to you. Open Dynamics 365, click on “My Schedule” to review and prepare for the facility assessment. Once at the facility location, again open the program, scroll to the “My Schedule” tab, open and click the inspection number link, which will allow the assessment checklist to open. Enter replies to the questions found on this checklist to generate a completed facility checklist. You can take pictures and upload them to the case file if needed. Submit the completed checklist to the supervisor for review. After the supervisor reviews and accepts the entered information, the supervisor will submit the forms to DEP for review. If you observe an issue of non-compliance during the assessment, DEP BWT Legal will be available for legal counsel via the enforcement tab found on the program’s dashboard.

At the end of each quarter, the DEP Project Manager will confirm that assessed facilities have been appropriately logged into the IC database. The accompanying Dynamics 365 user manual will provide further detailed steps for all users of this program.

#### 4.4 Update I/C Database

Dynamics 365 will update the database through each completed step of the process. The process can be viewed on the program’s dashboard’s seven tabs; Inspection, Book/Schedule, Perform Inspection, Enter Results, Submit, Review and Approve. All users with rights and privileges to enter, amend and review information will have access to entered information, as legally appropriate. The accompanying Dynamics 365 user manual will provide further detailed steps for all users of this program.

If NYSDEC issues a permit or a no exposure certification to the facility, the system will indicate additional facility information is available for review to the City. The City will then take appropriate steps as needed to properly include this information to the case file.

#### 4.5 Notify NYSDEC

DEP will provide NYSDEC with assessment results for all inspected unpermitted facilities, including those that may exhibit evidence of industrial activities and/or potentially significant pollutants exposed to stormwater and potentially subject to SPDES permitting requirements. The results will also indicate if stormwater from these facilities enters the City’s MS4 (and therefore is under DEP MS4 jurisdiction) or if the facility drains directly to the waterway (and therefore under NYSDEC jurisdiction).

For each inspected facility, the DEP PM will send an email letter to NYSDEC notifying the agency of the completed field assessment. The letter should include a copy of the Facility Assessment Report and a copy of the follow-up letter sent to the facility (see Section 4.2). This letter will automatically be generated concurrently to the mailing of the facility’s follow-up letter and sent to the email addresses provided by NYSDEC to DEP.

#### 4.6 Newly MSGP Covered Facilities

The I/C system will notify you when new facilities gain coverage under MSGP. Note this automatic notification will be contingent upon NYSDEC’s adding the MS4 identifier to its spreadsheet in the Region 2 MSGP dropbox. Otherwise, you will need to rely on facilities’ submitting proof of coverage through DEP’s MSGP portal, or to check the MSGP dropbox quarterly. Once DEP receives coverage confirmation from NYSDEC, you will send the facility the notification letter. These facilities will need to be inspected within

three months of receiving an acknowledgment letter from NYSDEC. The inspection will follow the IC\_SOP Permitted facilities.