

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Office of Internal Audit
625 Broadway, 9th Floor, Albany, New York 12233-1060
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April 22, 2021

The Honorable Thomas P. DiNapoli
Comptroller
Office of the State Comptroller
110 State Street, 15th Floor
Albany, NY 12236

Dear Honorable DiNapoli

In accordance with the provisions of Section 170 of the Executive Law, the Department of Environmental Conservation (DEC) has taken, or will be taking, the following steps to implement the recommendations contained in the Office of the State Comptroller's audit report 2019-S-54, entitled *Compliance with the Sewage Pollution Right to Know Act and Monitoring and Enforcement of State Pollutant Discharge Elimination System Permit Requirements*.

Recommendations:

1. Initiate prompt enforcement action to register POSSs with the Department and NY-Alert.

DEC requests identification of POSSs on SPDES applications and performs outreach to encourage POSS registrations. Additionally, in November 2020, DEC initiated informal enforcement action seeking registration by potential POSSs. Formal enforcement action against potentially unregistered facilities will be initiated when outreach and voluntary registrations have been deemed unsuccessful and documentation of unregistered POSSs and unreported overflow events warrant such action.

2. Improve reporting required by the ACT, including but not limited to:

- **Developing a risk- or sample-based approach for verifying timeliness of reported overflows to NY-Alert;**
- **Reviewing and verifying the electronic spreadsheet used to record historical overflow data to ensure information maintained and reported to the public is accurate; and**
- **Identifying dry weather overflow events that require five-day written reports and obtaining the report when necessary or waiving the requirement when appropriate.**

Training will be provided by DEC staff to reinforce the importance of accurate and timely reporting. In addition, DEC has requested that the New York State

Department of Information Technology Services ensure the accuracy of recorded times of discharge on historical reports posted to our website. DEC is also planning for the implementation of an electronic five-day reporting system that will aid in the tracking, accessibility, and provision of five-day reporting.

3. Monitor and take timely enforcement action for facilities that don't submit required reports or plans.

DEC staff will receive training on existing enforcement guidance, prioritizing non-compliance, and initiating/documenting follow-up actions for facilities that do not submit required reports or plans. In addition, DEC continuously addresses and prioritizes instances of noncompliance.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew B. Fischler". The signature is fluid and cursive, with a long horizontal stroke at the beginning.

Andrew B. Fischler
Director, Office of Internal Audit