



**Department of
Environmental
Conservation**

Responsiveness Summary

For

Public Comments Received

On the

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

SPDES MULTI-SECTOR GENERAL PERMIT
FOR STORMWATER DISCHARGES
ASSOCIATED WITH

INDUSTRIAL ACTIVITY

Permit No. GP-0-23-001

Issued Pursuant to Article 17, Titles 7, 8 and Article 70
of the Environmental Conservation Law

March 2023

Introduction

On March 8, 2023, the New York State Department of Environmental Conservation (Department) issued the State Pollutant Discharge Elimination System (SPDES) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP) (GP-0-23-001). The final GP-0-23-001 will be effective March 8, 2023. The final GP-0-23-001 replaces the previous MSGP, GP-0-17-004, which expired on February 28, 2023.

On August 28, 2022, the Department publicly noticed a draft of GP-0-23-001, for public review and comment, in the Environmental Notice Bulletin (ENB). On August 30, 2022 and August 31, 2022, the Department publicly noticed a draft of GP-0-23-001, for public review and comment, in statewide newspapers. The Department provided a thirty (30) day comment period. The comment period was extended, by request, and ended on October 17, 2022.

This responsiveness summary generally addresses all comments timely received. Unless noted as paraphrased, the comments in the responsiveness summary are direct quotations. The comments are organized to follow the format of the final GP-0-23-001 with general comments addressed at the beginning of the responsiveness summary. Copies of comments timely received are included at the end of this responsiveness summary. A list of commenters is referenced at the end of each comment. Timely comments were received from:

1. Christina Falk (Water Action Compliance Assistance & Planning, LLC (WACAAP))
2. Virginia Wong (EPA Region 2)
3. Paul Eisen (Proactive Environmental Solutions)
4. Amy Cassidy (City of New York)
5. Ronald L. Epstein (NY Construction Materials Association, Inc. (NYCMA))
6. Maryann Ashworth (PW Grosser)
7. Julie V. Silva Palmer (Atlantic Salt)
8. Theresa Colabella (Richmond Environmental)

Part I – Coverage under this Permit

Eligibility

Comment 1-1 - Part I.B.1

Part I.B.1 was revised so several conditions of eligibility are grouped under a new subsection (1.a). If this was intentional, consider revising for clarity by:

- adding “including those:” to the end of the phrase in Part I.B.1. a, and
- adding “discharging to,” to the beginning of Part I.B.1.a(2). (WACAAP)

Response 1.1

The suggested changes were made in the final GP-0-23-001.

Ineligibility

Comment 1-2 - Part I.C

NYSDEC should include a further requirement to not allow discharges which would affect historic places such as it protects such places in the NYSDEC Construction General Permit and the NYSDEC MS4 Permit and return language that was found in the NYSDEC 2012 MSGP Part I D.6. (EPA Region 2)

Response 1-2

No changes were made in the final GP-0-23-001 in response to this comment. As part of the issuance of the final GP-0-23-001, the Department consulted with the Office of Parks, Recreation & Historic Preservation (OPRHP). OPRHP responded on August 19, 2022, stating “the OPRHP understands that this permit is applicable to stormwater discharges associated with the operation of industrial facilities. New construction associated with these facilities will require an individual SPDES permit or coverage under the SPDES General Permit for Stormwater Discharges from Construction Activities. Consequently, these new construction projects will receive a full Section 14.09 review in the context of that permitting.” See also Response to Comment 1.5 of the Responsiveness Summary of GP-0-17-004 (March 2018).

Terminating Coverage

Comment 1-3 - Part I E.1.d Termination of Coverage

Does the language in this section intend to be analogous with the federal language found at EPA 2021 MSGP Section 1.4.2.4 stating that a Notice of Termination (NOT) is required when “You obtained coverage under an individual or alternative general permit for all discharges required to be covered by an NPDES permit...”? If not, please add a requirement that addresses this issue. (EPA Region 2)

Response 1-3

No changes were made in the final GP-0-23-001 in response to this comment. The language in Part IE.1.d of the final GP-0-23-001 is analogous to EPA’s 2021 MSGP Section 1.4.2.4.

Part II - Effluent Limitations

Good Housekeeping

Comment 2-1 - Part II A.2.c

Include the restriction of “dry weather discharges” from dumpsters as per the language in the EPA 2021 MSGP Section 2.1.2.2.c (last sentence of the section). (EPA Region 2)

Response 2-1

No changes were made in the final GP-0-23-001 in response to this comment. In accordance with Part I.C.1 of the final GP-0-23-001, dry weather discharges from dumpsters are a non-stormwater discharge not authorized by the final GP-0-23-001.

Comment 2-2 - Part II A.4

EPA suggests supplying a contact/emergency number(s) in the case of a spill or release such as in the EPA 2021 MSGP Section 2.1.2.4 (last paragraph) (EPA Region 2)

Response 2-2

No changes were made in the final GP-0-23-001 in response to this comment. The Federal and State emergency numbers are already listed under Part VI.A.3.b of the final GP-0-23-001.

Comment 2-3 - Part II A.7

Many facilities discharge to a body of water that consists of salt water. We recognize the benefit of good housekeeping practices, believing that such practices should be implemented in areas containing Salt Storage Piles. However, we think is not necessary to go beyond good housekeeping practices (e.g., diversions, containment) to minimize exposure, especially when a site only discharges to a saltwater body. (Proactive Environmental Solutions)

Response 2-3

No changes were made in the final GP-0-23-001 in response to this comment. The fact that the facility discharges to a marine environment does not alter the requirements of the final GP-0-23-001. The final GP-0-23-001 requires that the owner or operator implement good housekeeping and control measures, so that the discharge of pollutants are minimized. If the discharge of pollutants is not minimized, then one of the following may be necessary: implementation of more advanced control measures and structural controls (*Part V.A.2* of the final GP-0-23-001); apply for an individual permit (*Appendix G.7* of the final GP-0-23-001); or execute an Order on Consent.

Employee Training

Comment 2-4 - Part II.A.8.a & b

The Department should combine paragraphs Part II.A.8 (a) and (b) (Proactive Environmental Solutions)

Response 2-4

The suggested change was not made in the final GP-0-23-001. The language in the final GP-0-23-001 is clear and concise.

WQBELs and Impaired Waters

Comment 2-5 – Part II.C.1.a

We believe it can and should be assumed that compliance with all the conditions of the permit should be sufficient evidence to conclude that the facility is probably not causing or contributing to a violation of water quality standards as contained in 6 NYCRR Parts 700-705. Also, the facility annually certifies that it complies with the provisions of its discharge permit. If the Department (or the public) believes that stormwater discharges authorized by compliance with this permit are causing, have the reasonable potential to cause, or are contributing to a violation of the water quality standards, the burden of proof should be on the entity making such a claim to provide supporting evidence. If such evidence is provided, the permitted facility should be given the opportunity to comment on the evidence before any enforcement action is initiated. (Proactive Environmental Solutions)

Response 2-5

No changes were made in the final GP-0-23-001 in response to this comment. Compliance with the conditions of the final GP-0-23-001 “will reasonably protect classified water use and assure compliance with applicable water quality standards.” (6 NYCRR 750-2.1(b) and Appendix G of the final GP-0-23-001). Additionally, the owner or operator has a Duty to Comply (Appendix G.1 of the final GP-0-23-001 and 6 NYCRR 750-2.1(e) and (h)), which states:

The owner or operator, and all contractors or subcontractors, must comply with all terms and conditions of this SPDES general permit. Any non-compliance with the terms and conditions of this SPDES general permit constitutes a violation of the New York State Environmental Conservation Law, and its implementing regulations, and is grounds for enforcement action. Filing of a request for termination of coverage under this SPDES general permit, or a notification of planned changes or anticipated non-compliance, does not limit, diminish or stay compliance with any terms and conditions of this SPDES general permit.

Comment 2-6 – Part II.C.2 Water Quality Based Effluent Limitations, Impaired waters

Include a provision for any additional requirements for impaired waters with an EPA approved or established TMDL. This provision should require that the

discharge complies with any additional requirements that may be included in the TMDL and consistent with any WLAs that apply to the discharge.
(EPA Region 2)

Response 2-6

The suggested changes were not made in the final GP-0-23-001. At the time of issuance of the final GP-0-23-001 there are no TMDLs with Waste Load Allocations (WLA) for MSGP facilities. Upon EPA approval of a TMDL, which contains WLAs for MSGP facilities, the Department could propose a permit modification to include the appropriate WLAs.

Comment 2-7 – Part II.D

(Paraphrased) The incorporation of Part 490 Projected Sea-Level Rise provisions into the revised permitting process represents a substantial departure from past statewide DEC practice and warrants significant outreach on operational impacts and required mitigation actions. This is particularly the case given the lack of prior experience applying the generalized data contained in Part 490 to permittees statewide in a major regulatory program. Given the land use and building codes in place at the time existing approved facilities were constructed, redesigning current material storage structures and outdoor storage to address potential Sea-Level rise for is not practical or feasible. (NYCMA, PW Grosser, City of New York)

Response 2-7

No changes were made in the final GP-0-23-001 in response to this comment. The revisions and updates proposed are legally mandated as both the Community Risk and Resiliency Act (CRRRA) and the Climate Leadership and Community Protection Act (CLCPA) apply to activities covered by “major permits” for regulatory programs subject to the Uniform Procedures Act (UPA). The MSGP is a major permit and is included under the UPA. Additionally, 6 NYCRR Part 490 establishes projections of sea-level rise in three specified geographic regions in the State, (Mid-Hudson, New York City/Lower Hudson and Long Island), over various time intervals, but does not impose any requirements on any entity.

Each time the MSGP is renewed, owners or operators are required to re-evaluate the BMPs used at their site and update their SWPPP prior to submitting for coverage under the new MSGP. If a facility is potentially impacted by future physical climate risk, Part II of the final GP-0-23-001 provides a catalog of BMPs to consider for implementation. As stated in the opening paragraph of Part II.D of the final GP-0-23-001, this part does not require or prescribe specific BMPs to be implemented. However, Part II.D. of the final GP-0-23-001 requires consideration of all BMPs, whether determined to be appropriate or not, must be documented in the SWPPP. Most of the BMPs listed are changes to operations, which do not require financial investment. To satisfy the requirements of the final GP-0-23-001, if an owner or operator cannot implement the listed BMPs due to

cost, space constraints of the site, operational challenges, etc, the owner or operator must document those reasons in its SWPPP.

Comment 2-8 – Part II.D

6 NYCRR Part 490 – the range of elevation increases for a single location 1-10 inches make designing to a potential sea level rise for items such as material storage structures, elevating and/or securing floatable structures, storing material above floodwaters, and permanently reducing or eliminating outdoor storage a challenge. For new facilities, these requirements fall more appropriately under the jurisdiction of the local building code and the flood hazard area code of the municipality. (PW Grosser)

Response 2-8

No changes were made in the final GP-0-23-001 in response to this comment. Pursuant to Section 17-a of CRRA, Chapter 355 of the Laws of 2014 (as amended by Section 9 of the Climate Leadership and Community Protection Act, Chapter 106 of the Laws of 2019), the final GP-0-23-001 requires owners or operators seeking MSGP coverage to demonstrate they have considered future physical climate risks due to sea-level rise, storm surge, seiches and flooding.

Comment 2-9 – Part II.D

Is a seiche actually something that needs to be planned for? It sounds like a relatively unusual event and designing BMPs for atmospheric changes in lake water elevation is ridiculous. (PW Grosser)

Response 2-9

A seiche is a prolonged, standing wave oscillating through a body of water such as a lake or bay brought on by rapid changes in atmospheric pressure or high sustained winds from one direction. Flooding and erosion are common during this rare, but very intense, event.

No changes were made in the final GP-0-23-001 in response to this comment. Each time the MSGP is renewed, owners or operators are required to re-evaluate the BMPs used at their site and update their SWPPP prior to submitting for coverage under the new MSGP. If a facility is potentially impacted by future physical climate risk, Part II of the final GP-0-23-001 provides a catalog of BMPs to consider for implementation. As stated in the opening paragraph of Part II.D of the final GP-0-23-001, this part does not require or prescribe specific BMPs to be implemented. However, Part II.D. of the final GP-0-23-001 requires consideration of all BMPs, whether determined to be appropriate or not, must be documented in the SWPPP. Most of the BMPs listed are changes to operations, which do not require financial investment. To satisfy the requirements of the final GP-0-23-001, if an owner or operator cannot implement the listed BMPs due to cost, space constraints of the site, operational challenges, etc, the owner or operator must document those reasons in its SWPPP.

Part III – Stormwater Pollution Prevention Plans

Potential Pollutant Sources

Comment 3-1 - Part III.A.3

In this section, please include the federal requirements found at EPA 2021 MSGP Sections 6.2.3.4, “Unauthorized Non-Stormwater Discharges Evaluation”, and 6.2.3.5, “Salt Storage”. (EPA Region 2)

Response 3-1

The suggested change was not made in the final GP-0-23-001. Part III.A.3 of the final GP-0-23-001 requires that the SWPPP identify each area at the facility where industrial materials or activities are exposed to stormwater, or from which authorized non-stormwater discharges originate. This includes baghouses and process wastewater devices. Part V.B.1.a of the final GP-0-23-001 requires the elimination of unauthorized non-stormwater discharges. Like EPA’s 2021 MSGP Section 6.2.3, Part III.A.6 of the final GP-0-23-001 requires that the site map include the location of potential pollutant sources. Like EPA’s 2021 MSGP Section 6.2.3.4, Part III.A.7.f of the final GP-0-23-001 includes the documentation requirements for evaluation of non-stormwater discharges.

Site Map

Comment 3-2 - Part III.A.6.a

Part III.A.6.a ‘North arrow’ was added to the site map requirements, also add a scale requirement (PW Grosser)

Response 3-2

The suggested addition was made in the final GP-0-23-001.

Stormwater Controls

Comment 3-3 - Part III.A.7.f(1)

Part III.A.7.f(1) requires: *‘The SWPPP must include a certification that all discharges have been tested or evaluated for the presence of non-stormwater discharges. A copy of the certification must be included in the SWPPP at the facility.’*

We believe this could be misunderstood to require that every discharge that ever occurs must be tested or evaluated for the presence of non-stormwater discharges. (Proactive Environmental Solutions)

Response 3-3

Changes were made in the final GP-0-23-001 in response to this comment. The word “discharges” was replaced by “outfalls,” clarifying that the certification requirement applies to all outfalls not all discharges.

Comment 3-4 - Part III.A.7.h

Part III.A.7.h states that the SWPPP “must describe BMPs selected” so as to minimize “[t]racking or blowing of raw, final, or waste materials from exposed areas to areas of no exposure...”. The City believes NYSDEC meant to state the opposite—that tracking or blowing of raw, final, or waste materials from areas of no exposure to exposed areas should be minimized. NYSDEC should correct this in the final permit. Or, if it is not an error, NYSDEC should explain why minimizing tracking from exposed areas to areas of no exposure is beneficial. (City of New York)

Response 3-4

No changes were made in the final GP-0-23-001 in response to this comment. However, the language with the reference to the implementation of the BMP in Part III.A.7.h of the final GP-0-23-001 was removed. That requirement is in Part II.A.11, though, which requires that areas of the facility that are not exposed to stormwater and have no industrial activity must be managed such that tracking of raw, final, or waste materials be kept to a minimum.

Comment 3-5 - Part III.A.7.j

Part III.A.7.j requires SWPPPs to provide that all stormwater management practices the owner or operator determines to be reasonable and appropriate or that are required by state or local authority, be “designed and maintained in accordance with the New York State Stormwater Management Design Manual (2015).” *Id.*, pg. 26. The City requests this provision also reference compliance with the New York City Stormwater Manual, which provides a comprehensive overview of New York City stormwater management requirements and aligns with the New York State Stormwater Design Manual. (City of New York)

Response 3-5

The suggested changes were not made in the final GP-0-23-001. The final GP-0-23-001 is a statewide SPDES general permit and, therefore, the Department's Stormwater Management Design Manual (2015) is the acceptable document for all of New York State. If a municipality has its own stormwater guidance document, it can include that as a requirement to be used as part of its local regulation, in addition to any documents as required by the final GP-0-23-001.

Comment 3-6 - Part III.A.7.k Salt Storage

Salt Storage Is Eligible for General Permit Coverage Under EPA Regulations. (Atlantic Salt)

Response 3-6

Changes were made in the final GP-0-23-001 in response to this comment. The requirement in Part I.C.10 was removed to eliminate any confusion. However, in relevant part, Part I.A.1 of the final GP-0-23-001 states: “Coverage under this permit can be obtained in all areas of New York State where the *Department* implements CWA §402, where facilities:

b. Have a *primary industrial activity* that has a Standard Industrial Classification (SIC) code listed in Appendix B”

“Primary Industrial Activity” is defined in the final GP-0-23-001 as: *the operation that generates the most revenue or employs the most personnel is the operation in which the facility is primarily engaged. In situations where the vast majority of on-site activity falls within one SIC code, that activity may be the primary industrial activity. The primary industrial determination is based on the value of receipts or revenues or, if such information is not available for a particular facility, the number of employees or production rate for each process may be compared.*”

Therefore, to be eligible for coverage under the final GP-0-23-001, a facility must have a primary industrial activity that has a Standard Industrial Classification (SIC) code that is listed in Appendix B of the final GP-0-23-001. These SIC codes are consistent with the SIC codes provided in EPA’s 2021 MSGP.

The industrial wholesale of salts is included in the definition of SIC code 5169. SIC code 5169 is not listed in the final GP-0-23-001 or EPA’s 2021 MSGP, thus is not an eligible activity to be covered under MSGP.

Comment 3-7 - Part III.A.7.k Salt Storage

Regional Salt Depots in marine environments should remain eligible for general permit coverage. (Atlantic Salt)

Response 3-7

No changes were made in the final GP-0-23-001 in response to this comment. See Response to Comment 3-6. The fact that the facility discharges to a marine environment does not alter the Response to Comment 3-6.

Comment 3-8 - Part III.A.8

We don’t believe facilities should be required to keep all the information specified in 8.a (1) thru (7) in their SWPPP. We presume that Discharge Monitoring Reports, as submitted to NetDMR, are available to NYSDEC should they be needed for any reason. Facilities can print copies from NetDMR whenever there is a need to do so. Supporting documentation (chain of custody records, laboratory reports) for years of sampling, can be kept in a separate electronic file folder where the information can be retrieved for anyone having a need for this information. Similarly, facilities should be able to electronically store Quarterly Visual Monitoring Reports, Annual Certification Reports, and monitoring waivers in an electronic file folder designated for such purposes by each facility and separate from the SWPPP. It would be expected that all these reports and data could be easily retrieved if such information were to be required for any reason. We believe the SWPPP should be a “Plan” for facility personnel to reference regarding stormwater management practices to be employed at the facility, not a “filing cabinet” compilation of records, reports and data, making it difficult to use

as a ready reference to key requirements and stormwater management practices. (Proactive Environmental Solutions)

Response 3-8

The suggested change was made in the final GP-0-23-001. Language was added in Part III of the final GP-0-23-001 allowing for the digital storage and availability of the SWPPP. GP-0-23-001 allows for Discharge Monitoring Reports (DMRs) and Annual Certification Reports (ACRs) to be readily accessible from the electronic system.

Comment 3-9 - Part III.A.9,10 & 11

We do not believe it is necessary to include all this information (permit documents, Department correspondence, inspection schedule and documentation, corrective action documentation) in the SWPPP. We do believe it is reasonable to require that all this additional information be available (either electronically or via hard copy) should an inspection or any other event require such information. Again, we believe the SWPPP should be used a “Plan” for facility personnel who might need to reference it for stormwater management practices or requirements. It should not be transformed into a “filing cabinet” of documentation that would be challenging to keep up-to-date, and too voluminous for ease of use. (Proactive Environmental Solutions)

Response 3-9

No changes were made in the final GP-0-23-001 in response to this comment. GP-0-17-004 required that the SWPPP contain the elements lists in Part III.A.9, 10 & 11. All documents required in Part III.A.9, 10 & 11 of the final GP-0-23-001 are still required to be in the SWPPP. See Response to Comment 3-8 which addresses digital storage.

Comment 3-10 - Part III.A.9

Permit Documents, “and all correspondence with the Department.” Add text to clarify that this is correspondence specific to stormwater and the SPDES MSGP, not all permit programs. (PW Grosser)

Response 3-10

The suggested change was made in Part III.A.9 of the final GP-0-23-001.

Comment 3-11 - Part III.A.12

Update the Table on pages 27-28 to have a different heading for the column on the right side. There is no submission deadline specified in any row below the heading “Submission Deadline”. (Proactive Environmental Solutions)

Response 3-11

The suggested change was made in the final GP-0-23-001. The table heading reads “Record Retention Requirement”.

Comment 3-12 - Part III.A.12

We would suggest “Documentation Requirement” as an alternative label. Please replace “Retain documentation on-site with SWPPP.” with “Retain documentation on-site.” wherever that “Documentation Requirement” is present. (Proactive Environmental Solutions)

Response 3-12

Changes were made to the final GP-0-23-001. The permit requirement now reads: “To Retain Documentation with the SWPPP”.

Comment 3-13 - Part III.A.12

For Storm Event Data Form entry in Table, EPA suggests adding language to clarify that the Storm Event Data Form is required for Quarterly Visual Monitoring and Benchmark Monitoring (sometimes permittees do it for benchmark monitoring but not for Quarterly Visual Monitoring). (EPA Region 2)

Response 3-13

The suggested change was made to Part IV.D.3 in the final GP-0-23-001, but not to the table in Part III.A.12. It is more appropriate to make the change in Part IV.D.3 is where the requirement to document storm event data is located in the final GP 0-23-001 rather than the table in Part III.A.12 which lists the documentation that must be kept with the SWPPP.

Signature and Stormwater Pollution Prevention Plan Availability

Comment 3-14 - Part III.C

The prior MSGP required permittees to keep a copy of the SWPPP on-site at the facility. Part III.C of the Draft Renewal Permit suggests a SWPPP does not need to be kept on-site at the facility and can instead be maintained at a number of locations, including on-site, at a different physical location, or on the web. NYSDEC should clarify where a copy of the SWPPP must be maintained to ensure consistent compliance. (City of New York)

Response 3-14

The suggested change was not made in the final GP-0-23-001. The SWPPP must be kept in one or more of the areas listed in Part III.C of the final GP-0-23-001.

Comment 3-15 - Part III.C.2.c

(Paraphrased) If copying of documents is to be at requester’s expense, we believe it makes more sense to re-word the first sentence as follows: The owner or operator must make a copy of the SWPPP available to the public within fourteen (14) days of receipt of the written request and payment for the copying. (Proactive Environmental Solutions)

Response 3-15

Changes were made in the final GP-0-23-001 in response to this comment.

Comment 3-16 - Part III.A.7.f(1)(e)

Part III.A.7.f(1)(e) includes the required discharge certification documentation to include a list of “outfalls or on-site drainage points”. Part IV.A.1.a(3) and Part IV.C.2 include the inspection of dry weather inspection of outfalls. Non-stormwater discharges may occur from areas of a facility’s perimeter that are not identified as outfalls. Consider replacing the text in Part IV.A.1.a(3) and Part IV.C.2 with the instruction in Part III.A.7.f(1)(e) or otherwise specify a dry weather inspection must include the facility perimeter as well as other locations such as floor drains from which unauthorized/prohibited discharges may be conveyed off-site. (WACAAP)

Response 3-16

Changes were made in the final GP-0-23-001 as a response to this comment. Part III.A.7.f(1)(e) of the final GP-0-23-001 was changed to include only “outfall locations” so that is consistent with Part IV.A.1.a(3) and Part IV.C.2. However, the commenters suggested language revisions were not incorporated into the final GP-0-23-001. Part IV.A.1.a(6) requires the inspection of evidence of, or the potential for, pollutant entering or discharging from the drainage system. Part IV.C.1 requires an inspection to determine the presence of non-stormwater discharges to the stormwater drainage system.

Additionally, Part IV.A.2 requires reporting on the location(s) of discharge of pollutants from the site. If pollutants are found to be discharging at a location not identified in the SWPPP, corrective actions must be taken in accordance with Part V.

Part IV – Inspections and Monitoring

Comprehensive Site Compliance Inspection

Comment 4-1 - Part IV.A.1

Change the inspection frequency from “once per year” to “quarterly” as per the EPA 2021 MSGP Section 3.1.4. (EPA Region 2)

Response 4-1

The suggested change was not made in the final GP-0-23-001. Part IV.B. of the final GP-0-23-001 requires quarterly Routine Inspections, in addition to the annual Comprehensive Site Compliance Inspection required in Part IV.A. of the final GP-0-23-001.

Comment 4-2 - Part IV.A.1

Add the additional requirement of inspecting “control measures used to comply with the effluent limits contained in this permit” as per the EPA 2021 MSGP Section 3.1.2.5. (EPA Region 2)

Response 4-2

Changes in the final GP-0-23-001 were made in response to this comment. Part IV.A.1.a(8) of the final GP-0-23-001 requires that “*Stormwater BMPs identified in the SWPPP must be inspected to ensure that they are operating correctly.*”

Routine Inspections

Comment 4-3 - Part IV.A.2.a(5)(h)

The wording in this section is confusing. Perhaps this subparagraph should begin as follows: *Lack of any incidents of noncompliance. ...* (Proactive Environmental Solutions)

Response 4-3

The suggested change was not made in the final GP-0-23-001. The language in the final GP-0-23-001 is clear and concise.

Comment 4-4 - Part IV.A.2.a.3

Part IV A.2.a.3: Please change “The date(s) of...” to “The date(s) and time(s) of...” as per EPA 2022 MSGP Section 3.1.6.1. (EPA Region 2)

Response 4-4

The suggested change was made in the final GP-0-23-001.

Comment 4-5 - Part IV A.2.a.(5)(a) and (b)

Please change “The location(s) and description(s) of...” in each of these sections as EPA 2021 MSGP Section 3.1.6.4.a requires the description of any stormwater discharge occurring at the time of inspection. (EPA Region 2)

Response 4-5

The suggested change was made in the final GP-0-23-001. Changes were made in the final GP-0-23-001 in response to this comment. Part IV A.2.a.(5)(a) and (b) also includes “description(s) of.”

Quarterly Visual Monitoring

Comment 4-6 - Part IV E

Quarterly visual monitoring – add instruction for how to conduct this monitoring – when it is light out, let the sample sit for a minimum of 5 minutes, etc. (PW Grosser)

Response 4-6

The suggested change was not made in the final GP-0-23-001. Guidance on how to conduct the quarterly visual monitoring can be found at the Department’s website.

Comment 4-7 - Part IV E

(Paraphrased) Under Part IV.E.5, facilities whose Quarterly Visual Monitoring (QVM) indicates the presence of stormwater pollution are required to implement certain corrective actions and, after implementing such corrective actions, must perform additional visual inspections “during the first qualifying storm event.” Id., pg. 35. Such a requirement is very prescriptive and will be difficult to implement. It is recommended that NYSDEC account for the fact that the first qualifying storm event may happen during off-hours, which would prevent a visual inspection from occurring. It is also recommended that the QVM form should be amended to include a section to note if the inspection is to address a previous exceedance, and have that exceedance, the corrective action, and results noted on the following QVM, but not to add an interim report during the next qualifying storm event. (City of New York) (Richmond Environmental)

Response 4-7

Changes in the final GP-0-23-001 were made in response to this comment. Part IV.E.5 of the final GP-0-23-001 requires that “[a]n additional visual inspection must be performed during a qualifying storm event’ after corrective actions have been implemented. The final GP-0-23-001 contains all the requirements suggested by the commenter. The QVM form simply repeats those requirements and has been updated accordingly.

Part V – Corrective Actions

Comment 5-1 Part V

In Part V Corrective Actions, the first sentence should be clearer regarding which permit is being violated. (Proactive Environmental Solutions)

Response 5-1

Changes were made in the final GP-0-23-001 in response to this comment. Part V. of the final GP-0-23-001 requires “[f]ailure to document and take the necessary corrective actions are violations of this permit.”

Part VI - Reporting and Retention of Records

Comment 6-1 – Part VI.A.2.a(1)

There are a couple of problems with the language in Part VI.A.2.a(1). The statement: “the owner or operator must report the following information” We suggest replacing “report” with “record” as “report” indicates that it must go to DEC which is not the case; And there are too many acronyms POC should be spelled out. (PW Grosser)

Response 6-1

With respect to recording/reporting, the suggested changes were not made in the final GP-0-23-001. Part VI.A.2.a(1) of the final GP-0-23-001 requires specific actions when there is an exceedance of a numeric effluent limitation, or exceedance of a benchmark monitoring cutoff concentration of the impairing Pollutant of Concern (POC) for discharges to impaired waterbodies. Both types

of exceedances require the need for a corrective action form to be submitted to the Department. In contrast, Part V.C of the final GP-0-23-001 states: “Unless required by Part VI.A.2.a(1) or as requested by the Department, the corrective action documentation is not required to be submitted and should be kept with the facility’s SWPPP.” Therefore, exceedances to benchmark monitoring cutoff concentrations that are not for discharges to impaired waterbodies must only be documented in the facility’s SWPPP and not sent into the Department. The permit reference in Part V.C has been corrected. However, in the final GP-0-23-001, the acronym POC is spelled out to indicate Pollutant of Concern.

Part VII - Sector Specific Requirements

General Requirements

Comment 7-1 - Sector AD

EPA suggests that NYSDEC add “Sector AD”, “Stormwater Discharges Designated by the Commissioner as Requiring Permits”, to Part VII of the draft NYSDEC MSGP which enables NYSDEC to designate a discharge not designated for coverage by the other sectors but allows for the discharger to be permitted under the NYSDEC MSGP as per Section 8.AD of the EPA 2021 MSGP. (EPA Region 2)

Response 7-1

The suggested changes were not made in the final GP-0-23-001. Sector AD was removed in GP-0-17-004. Previously, Sector AD was “included in the MSGP GP-0-12-001 and reserved for industrial facilities whose activities were not specifically listed in 40 CFR 122.26 but where the Department determined it appropriate for permit coverage due to site-specific circumstances [ECL] section 17-0808(2)(d)).” Inclusion of this sector provided “an option for permit coverage. However, a general permit is not appropriate to impose such individualized requirements.” See also the Response to Comment 7-1 of the Responsiveness Summary of GP-0-17-004 (March 2018),

Comment 7-2 - Sectors with Benchmark monitoring for Fe

DEC should follow EPA’s lead and eliminate Benchmark Monitoring thresholds for Iron. (Atlantic Salt)

Response 7-2

The suggested changes were not made in the final GP-0-23-001. Benchmark monitoring cutoff concentrations are included in the final GP-0-23-001 for pollutants where there is a reasonable potential to be present in the discharge and is a measure of the effectiveness of the BMPs required to be developed and implemented in accordance with SWPPP. New York State has a water quality standard for iron (see 6 NYCRR 703.5) and has elected to continue the benchmark monitoring cutoff concentrations from GP-0-17-004.

Sector A

Comment 7-3 – Sector A

Add to this sector of the NYSDEC draft MSGP the requirements found in the EPA 2021 MSGP Sections 8.A.4.2, “Inventory of Exposed Materials”, 8.A.4.3, “Description of Stormwater Management Controls”, and 8.A.5, “Additional Inspection Requirements”. (EPA Region 2)

Response 7-3

The suggested changes were not made in the final GP-0-23-001. Language similar to EPA’s 2021 MSGP Section 8.A.4.2 is in Sector A under Summary of Potential Pollutant Sources of the final GP-0-23-001. Sector A - Additional Non-Numeric Effluent Limits of the final GP-0-23-001 contains the “Description of Stormwater Management Controls” from EPA’s 2021 MSGP Section 8.A.4.3. Sector A – Inspections of the final GP-0-23-001 contains the “Additional Inspection Requirements” from EPA’s 2021 MSGP Section 8.A.5 .

Sector D

Comment 7-4 – Sector D

EPA suggests clarifying or providing some FAQs to explain which facilities fit into 40 CFR 443 Subpart A SIC Code 2951 and 2952 (Table VII-D-1) and which fit Table VII-D-2 – Asphalt Paving and Roofing Materials. EPA believes that confusion exists at typical asphalt paving plants on which table applies to them. (EPA Region 2)

Response 7-4

The suggested changes were not made in the final GP-0-23-001. In the administration of the MSGP program in New York State, the Department has not found that there is confusion with which table applies to facilities with a primary SIC Code of 2951 and 2952. Table VII-D-1 contains Numeric Effluent Limits, which apply only to those Asphalt Paving and Roofing Materials facilities that are subject to 40 CFR Part 443 Subpart A. Table VII-D-2 is Benchmark monitoring cutoff concentrations for **all** Asphalt Paving and Roofing Materials facilities

Sector E

Comment 7-5 – Sector E

Add to this sector the requirement found in the EPA 2021 MSGP Sections 8.E.3.1, “Drainage Area Site Map”, and 8.E.3.2, “Discharge Testing”. (EPA Region 2)

Response 7-5

With respect to Drainage Area Site Map, see Response to Comment 3-1.

Discharge Testing – The suggested change was not made in the final GP-0-23-001. Prohibitions of Non-Stormwater Discharges in Sector E of the final GP-0-

23-001 includes the requirements found in EPA's 2021 MSGP 8.E.3.2 for "Discharge Testing".

Sector G

Comment 7-6 – Sector G

Add to this sector the requirements found in the EPA 2021 MSGP Sections 8.G.4.2, "Additional Technology-Based Effluent Limits Applicable Only to the Construction of Staging Areas for Structures and Access Roads", 8.G.4.3, "Water Quality-Based Requirements Applicable to Earth-Disturbing Activities Conducted Prior to Active Mining Activities", 8.G.4.4, "Inspection Requirements Applicable to Earth-Disturbing Activities Conducted Prior to Active Mining Activities", 8.G.5.2, "Stormwater controls", and 8.G.6.6, "Certification of permit coverage for commingled non-stormwater discharges". (EPA Region 2)

Response 7-6

The suggested changes were not made in the final GP-0-23-001. Part VII Sector G of the final GP-0-23-001 requires the design, installation, inspection, maintenance and repair of erosion and sediment controls to conform to the New York Standards and Specifications for Erosion and Sediment Control (2016). This manual has comprehensive construction phase standards. These requirements are the same as those, noted in the comment, from EPA's 2021 MSGP.

Comment 7-7 – Sector G

Sector G – Definitions: Add the definition for "Earth disturbing activities" as per the EPA 2021 MSGP Section 8.G.3.2. (EPA Region 2)

Response 7-7

The suggested change was not made in the final GP-0-23-001. Part VII Sector G of the final GP-0-23-001 continues to use terminology that is commonly used in the mining industry in New York State. The definition of "Exploration and Construction Phase" in Sector G of the final GP-0-23-001 includes language similar to "Earth Disturbing Activities" in EPA's 2021 MSGP Section 8.G.3.2.

Comment 7-8 – Sector G

Part VII Sector G – Erosion & Sediment Control Plan: Add to this section the requirements found at EPA 2021 MSGP Section 8.G.4.1.9, "Site stabilization requirements for earth-disturbing activities performed for purposes of mine site preparation as defined in 8.G.3.2(a) (i.e., not applicable to construction of staging areas for structures and access roads as defined in 8.G.3.2(b))" (EPA Region 2)

Response 7-8

The suggested change was not made in the final GP-0-23-001. Part VII Sector G of the final GP-0-23-001 requires the design, installation, inspection, maintenance and repair of erosion and sediment controls to conform to the New York Standards and Specifications for Erosion and Sediment Control (2016). This

manual has comprehensive construction phase standards. These requirements are the same as those in EPA's 2021 MSGP Section 8.G.4.1.9.

Sector J

Comment 7-9 – Sector J - Definitions

Part VII Sector J – Definitions: Add the definition of “earth disturbing activities” as found in the EPA 2021 MSGP Section 8.J.3.2 (EPA Region 2)

Response 7-9

The suggested change was not made in the final GP-0-23-001. Part VII Sector J of the final GP-0-23-001 requires the design, installation, inspection, maintenance and repair of erosion and sediment controls to conform to the New York Standards and Specifications for Erosion and Sediment Control (2016). This manual has comprehensive construction phase standards. These requirements are the same as those in EPA's 2021 MSGP Section 8.J.3.2.

Comment 7-10 – Sector J

Part VII Sector J: Add to this sector the requirements found at EPA 2021 MSGP Sections 8.J.4, “Inspection Requirements Applicable to Earth-Disturbing Activities Conducted Prior to Active Mining Activities”, 8.J.5, “Technology-Based Effluent Limits for Active Mining Activities”, and 8.J.6, “Additional SWPPP Requirements for Mining Operations”. (EPA Region 2)

Response 7-10

The suggested changes were not made in the final GP-0-23-001. Language comparable to Section 8.J.4 of EPA's 2021 MSGP is in Part VII Sector J of the final GP-0-23-001 which applies to all stages of mining activity. Part VII Sector J of the final GP-0-23-001 includes the technology based effluent limits required in EPA's 2021 MSGP Section 8.J.5. Language comparable to EPA's 2021 MSGP Section 8.J.5.1 is in Part II.A.8 of the final GP-0-23-001. Language comparable to EPA's 2021 MSGP Section 8.J.5.2 is in Part II.A.6 of the final GP-0-23-001. Language comparable to EPA's 2021 MSGP Section 8.J.5.3 is in Part IV of the final GP-0-23-001. Language comparable to Section 8.J.6 in EPA's 2021 MSGP is in Part III of the final GP-0-23-001.

Comment 7-11 - Sector J

DEC should review and revise the draft SPDES MSGP renewal so that it does not conflict with various federal Mine Safety and Health Administration (MSHA) requirements. For example, MSHA provisions prohibit access to quarries when dark, unless the quarry is specifically lit for work, and prohibits access to unplowed areas. These federal restrictions limit the number of hours during which quarry outfalls may be sampled without violating MSHA safety rules. The draft SPDES MSGP, including, in particular, Sector J, should be revised to accommodate MSHA limitations. At a minimum, DEC should provide a waiver for certain conditions so that the owners of such facilities may conform with federal safety requirements. (NYCMA)

Response 7-11

Changes were made in the final GP-0-23-001 in Part IV.G.1 and Sector J in response to this comment. Sector J has been updated to specify that the Adverse Climatic Conditions Waiver form can be used if a storm event occurs during hours that the outfall is inaccessible per MSHA regulations. Additionally, to remove confusion, examples of when the Adverse Climatic Conditions Waiver can be used were removed in Part IV.G. of the final GP-0-23-001.

Comment 7-12 – Sector L

Part VII Sector L – Prohibitions: NYSDEC should, in this section, add the equivalent to the federal requirement found at EPA 2021 MSGP Section 8.L.3.2, “Prohibition Stormwater Discharges from Open Dumps”. The federal requirement prohibits stormwater discharges from open dumps as defined under RCRA. The state should require the same as per the NYSDEC hazardous waste program. (EPA Region 2)

Response 7-12

The suggested changes were not made in the final GP-0-23-001. An “open dump” is not a type of permitted facility under 6 NYCRR Part 360 and cannot operate under NYSECL section 27-0707. The final GP-0-23-001 does not include prohibitions for all activities that are not allowed by other laws.

Comment 7-13 – Sector M

Mercury spill kits are required for facilities covered under Sector N, some of which collect mercury switches from End-of-Life Vehicles (ELVs). Auto salvage operations covered under Sector M collect mercury switches as part of the ELV decommissioning process. Consider adding the mercury spill kit requirement for Sector M facilities. (WACAAP)

Response 7-13

Changes were made in the final GP-0-23-001 in response to this comment. Sector M of the final GP-0-23-001 requires that Mercury Spill Kits must be provided in vehicle dismantling and maintenance areas.

Comment 7-14 – Sector M and Sector N

In regard to the overlap of auto salvage and recycling activities, please clarify in the permit text, response to comments, fact sheet or guidance document, whether GP-0-23-001 will require best management practices only or also require coverage under Sector M for the following examples of dismantling activities; and which N Subsectors must be included in the NOI for each of the following common variations in industrial activity:

1. A facility that accepts End of Life Vehicles (ELVs), depresses the roof to allow safe stacking of vehicles and ships off-site to a facility that decommissions them. This type of facility doesn't drain fluids or remove any other parts (other than batteries as a fire prevention measure).

2. A facility that crushes ELVs for scrap that have been decommissioned at another facility before acceptance. Some residual fluids remaining in the motor or other parts are captured in the crusher and stored at the facility before being picked up by an approved hauler. Crushed vehicles are sold as scrap. Crushed vehicles are sold as scrap.
3. A facility that accepts ELVs, collects and stores fluids; removes mercury switches, if present; and removes parts (including but not limited to batteries and catalytic converters) for sale to specialized recyclers and sends decommissioned ELVs to a shredder. (WACAAP)

Response 7-14

Each scenario is relisted with the clarification to the overlap of auto salvage and recycling activities. Any change, however slight to the scenario as written, may change the Department's response.

1. *A facility that accepts End of Life Vehicles (ELVs), depresses the roof to allow safe stacking of vehicles and ships off-site to a facility that decommissions them. This type of facility doesn't drain fluids or remove any other parts (other than batteries as a fire prevention measure).*
 - As presented in the comment, this is an industrial activity under Sector N for scrap and waste recycling activities. Sector M is not applicable because there are no auto parts being sold.
2. *A facility that crushes ELVs for scrap that have been decommissioned at another facility before acceptance. Some residual fluids remaining in the motor or other parts are captured in the crusher and stored at the facility before being picked up by an approved hauler. Crushed vehicles are sold as scrap.*
 - As presented in the comment, these are industrial activities under Sector N-3 and N-5 for scrap and waste recycling activities including the fluid capture and storage. Sector M is not applicable because there are no auto parts being sold.
3. *A facility that accepts ELVs, collects and stores fluids; removes mercury switches, if present; and removes parts (including but not limited to batteries and catalytic converters) for sale to specialized recyclers and sends decommissioned ELVs to a shredder.*
 - As presented in the comment, these are industrial activities under Sector N-3, N-4, N-5 and Sector M. Sector N-3 and N-5 are applicable for scrap and waste recycling activities including the fluid capture and storage. Sector N-4 is applicable because the facility operates a shredder. Sector

M is applicable because the sale of auto parts regardless if the sale is to a specialized recycler.

Comment 7-15 – Sector N

Part VII Sector N: Under the heading “Additional Non-Numeric Effluent Limits” sub-heading “Inspections” add an additional bullet reading “or any other areas where waste is generated, received, stored, treated, or disposed of and that are exposed to either precipitation or stormwater” to this section as found at EPA 2021 MSGP Section 8.N.5.1, “Inspection Additional Requirements”. (EPA Region 2)

Response 7-15

The suggested changes were not made in the final GP-0-23-001. Part IV.B of the final GP-0-23-001 requires quarterly routine inspections of all areas of the facility where industrial materials or activities are exposed to precipitation or stormwater runoff. This includes areas where waste is generated, received, stored, treated or disposed of and that are exposed to precipitation, all of which are in EPA’s 2021 MSGP Section 8.N.5.1.

Comment 7-16 – Sector N

Part VII Sector N – Table VII-N-1: EPA suggests modifying Table VII-N-1 or adding a Table VII-N-2 to call attention to the PCB pollutant benchmark of 65 ng/L per Arochlor where the operator is required to make adjustments to the BMPs. This is different than the prominent 200 ng/L per Arochlor effluent limit listed in Table VII-N-1. Currently the 65 ng/L benchmark is in the footnote and facilities may easily miss the footnote benchmark (EPA Region 2)

Response 7-16

The suggested changes were not made in the final GP-0-23-001. The benchmark of 65 ng/L applies to a subset of Arochlors. The footnote in Table VII-N-1 identifies the required implementation of additional BMPs (required in Part II of the final GP-0-23-001) should the results of the lab analysis detect >65 ng/l for an Arochlor in that subset. The numeric effluent limit of 200 ng/l remains.

Comment 7-17 – Sector N

Parenthetical text in the first bullet in the Applicability section of Part VII.N says, “(including but limited to facilities with activities described by SIC code 5093).” I believe this is a typo and was meant to say including but not limited to... (WACAAP)

Response 7-17

No changes were made in the final GP-0-23-001 in response to this comment. The language in the Applicability Section of Part VII.N is similar to the language in the federal regulation at 40 CFR 122.26(b)(14)(vi) as the industrial category *is limited to* SIC 5093 and SIC 5015.

Comment 7-18 – Sector N

Clarification on Applicability/Eligibility for Construction and Demolition (C&D) debris transfer stations is needed. Facilities identified as C&D transfer stations and described under SIC Code 4953 accept a mixed wastestream from which recyclables are separated before disposal of non-recyclables. In addition to the kind of materials that are commonly associated with C&D, these facilities may (but not always) also accept landscaping refuse and non-putrescible waste like furniture from municipal curbside collection and other sources. The following conditions and definitions related to eligibility in Part 1.A.1.b, Part 1.B.1, Part VII.N, and Appendix B make it difficult for operators to determine whether this activity is required to obtain coverage under the MSGP, and if so, how to identify the activity in the Notice of Intent:

1. Both Part I.A.1.b and Part I.B.1.a specify that facilities with primary industrial activities listed in Appendix B are eligible for coverage under the MSGP, but SIC code 4953 is not included in Appendix B. To resolve this gap, consider adding SIC code 4953 to the SIC codes in Appendix B. Since 40 CFR 122.26(b)(14)(vi) does not restrict the definition of recycling activities to SIC code 5093, (i.e. “including but not limited to those classified as Standard Industrial Classification 5015 and 5093;”), the addition of SIC code 4953 would clarify the requirement without conflicting with the applicability criterion in Part I.A.1.a.
2. Part VII.N describes recycling activities covered under Subsector N-2 to include “transfer stations, landfills and other facilities that receive a mixed wastestream of non-recyclable and recyclable wastes”. C&D transfer stations have activities consistent with this definition; however, the column Activity Represented in Appendix B includes “Transfer Stations Accepting Household Recyclables”. This definition is not consistent with the description of C&D transfer stations because they are primarily engaged in acceptance of materials that are not necessarily household recyclables. If the Department intends to include C&D transfer stations in Subsector N-2, consider adding the description used in Part VII.N Subsector Descriptions to the activity description Appendix B. (WACAAP)

Response 7-18

The USEPA does not define Standard Industrial Classification (SIC) Codes. The USEPA uses the US Department of Labor (USDOL) Occupational Safety and Health Administration (OSHA) SIC code system. OSHA defines SIC Code 4953 in the SIC Manual as “[e]stablishments primarily engaged in the collection and disposal of refuse by processing or destruction or in the operation of incinerators, waste treatment plants, landfills, or other sites for disposal of such materials.” In no part of the definition is recycling mentioned. It is strictly disposal categories. OSHA defines SIC Code 5093 in the SIC Manual as “Establishments primarily engaged in assembling, breaking up, sorting, and wholesale distribution of scrap and waste materials. This industry includes auto wreckers engaged in

dismantling automobiles for scrap. However, those engaged in dismantling cars for the purpose of selling secondhand parts are classified in Industry 5015.”

1. See Response to Comment 7-17. Additionally, to be eligible for coverage under the final GP-0-23-001, a facility must have a primary industrial activity that has a Standard Industrial Classification (SIC) code that is listed in Appendix B of the final GP-0-23-001. These SIC codes are consistent with the SIC codes provided in EPA’s 2021 MSGP.
2. No changes were made to Appendix B of the final GP-0-23-001 in response to this comment. The descriptions of the SIC codes in Appendix B are general.

Comment 7-19 – Sector N-5

The definition of Subsector N-5 includes “facilities engaged in the reclaiming and recycling of liquid wastes such as used oil, anti-freeze, mineral spirits, industrial solvents and liquid wastes.”

Reclaiming and recycling of fluids have specific definitions. Reclamation is removing impurities to restore it to use. Recycling is turning it into lubricant oil or other product after the original product reached its end of life. This isn’t what scrap metal and other recyclers do as part of equipment maintenance, or when they drain fluids as part of the decommissioning process. Such operations collect fluids from equipment and vehicles used on site and store it until an approved hauler transports the fluids to a reclaimer, recycler, or intermediate facility. Does the Department intend to require facilities that collect fluids as part of equipment maintenance and/or the decommissioning of ELVs to obtain coverage under Subsector N-5? (WACAAP)

Response 7-19

No changes were made in the final GP-0-23-001 in response to this comment. Subsector N-5 applies to facilities that collect waste fluids and store them onsite for later transfer to a recycler or reclaimer. In the scenario, as presented in the comment, N-5 requirements are secondary to the facilities primary activity, which would be Sector M.

Comment 7-20 – Sector N

Consultants, permittees and other parties have diverse interpretations of applicability of Sector M, N, and N subsector requirements for activities associated with dismantling motor vehicles for scrap. Consider adding clear language to articulate whether facilities engaged in vehicle dismantling, other than pick and pull type operations which clearly fall under Sector M, must simply incorporate “applicable industry specific” best management practices, or whether coverage under Sector M, which includes BTEX benchmark monitoring, is required.(WACAAP)

Response 7-20

No changes were made in the final GP-0-23-001 in response to this comment. Consistent with SIC Code 5093, Sector M of the final GP-0-23-001 states that any facility primarily engaged in dismantling motor vehicles for scrap is classified in Sector N.

Comment 7-21 – Sector N

The Special Conditions section of Part VII.N in GP-0-17-004 states:

“If any vehicle dismantling activities occur at this facility, the owner or operator must also comply with applicable industry specific requirements outlined in Sector M – Automobile Salvage Yards.”

The same language was added under a new subheading Co-Located Industrial Activities under the Special Conditions Section in Draft GP-0-23-001. Consider revising the statement to clarify whether a facility must simply implement best management practices set forth in Part VII.M or whether coverage under Sector M with associated benchmark monitoring is also necessary. (WACAAP)

Response 7-21

Changes were made in the final GP-0-23-001 in response to this comment. The language in the Special Conditions section of Part VII.N states that all requirements of Sector M apply. This includes benchmark monitoring and implementation of BMPs. The Special Conditions of section of Part VII.N reads:

“If any vehicle dismantling activities for the purpose of selling parts occur at this facility, the owner or operator must identify Sector M on the Notice of Intent and, also comply with all the requirements in Sector M - Automobile Salvage Yards.”

Comment 7-22 – Sector N

The Applicability section of GP-0-23-001 Part VII.M Automobile Salvage Yards includes the following sentence, not found in previous versions of the MSGP: “Facilities primarily engaged in dismantling motor vehicles for scrap are classified in Sector N (SIC Code 5093).” If this means Sector N only, it seems to conflict with the above Sector N Special Conditions statement that “any vehicle dismantling activities” require compliance with Sector M-specific requirements. Does this statement mean that coverage under Sector M is not necessary for facilities that accept and decommission ELVs if they are not pick and pull operations? Consider revising this statement for clarity and consistency with the Special Conditions section of Part VII.N Co-Located Industrial Activity section in Draft GP-0-23-001. (WACAAP)

Response 7-22

No changes were made in the final GP-0-23-001 in response to this comment. Sector M facilities are those facilities whose primary SIC Code is 5015 (Used

Motor Vehicle Parts). These are facilities primarily engaged in the distribution at wholesale or retail of used motor vehicle parts. This industry includes facilities primarily engaged in dismantling motor vehicles for the purpose of selling parts. Sector N facilities are those whose primary SIC Code is 5093. These are facilities primarily engaged in dismantling motor vehicles for scrap. If the ELVs are being dismantled for scrap, and no parts are recovered for resale, then these facilities must comply with the requirements of Sector N. (See Response to Comment 7-21)

Comment 7-23 – Sector N-4

The definition of facilities required to obtain coverage under Subsector N-4 was changed from, “Facilities included in other Sector N subsectors that operate a shredder,” in GP-0-17-004 to “Auto-Shredders” in Draft GP-0-23-001. Please clarify whether Subsector N-4 coverage, best management practices and monitoring requirements are applicable to shredders that do not process automobiles. (WACAAP)

Response 7-23

Changes were made in the final GP-0-23-001 in response to this comment. The term “Auto” has been removed from the section entitled “Additional Sub-sector specific Non-Numeric Effluent Limits.” The BMPs in this section apply to all shredders at Sector N-4 facilities, including auto-shredders. No changes were made to the monitoring requirements for Sector N-4 facilities.

Comment 7-24 Sector S Good Housekeeping

Part VII Sector S: Add to this sector the federal requirement found at EPA 2021 MSGP Section 8.S.5.4, “Documentation of Control Measures Used for Management of Runoff” (EPA Region 2)

Response 7-24

The suggested change was not made in the final GP-0-23-001. Sector S – Good Housekeeping Measures of the final GP-0-23-001 includes the BMPs in EPA’s 2021 MSGP Section 8.S.5.4.

Comment 7-25 Sector T

Part VII Sector T: Add to this sector the federal requirements at EPA 2021 MSGP Section 8.T.5.3, “Wastewater and Wash Water Requirements”. (EPA Region 2)

Response 7-25

The suggested change was not made in the final GP-0-23-001. Sector T of the final GP-0-23-001 prohibits discharges of Wastewater and Vehicle and Equipment wash water. This is the same as the requirements in EPA’s 2021 MSGP Section 8.T.5.3. Discharges of Wastewater and Vehicle and Equipment wash water must be covered by another SPDES permit.

Comment 7-26 Sector U

Part VII Sector U - Table VII-U-1: EPA suggests adding TSS, BOD, COD, TN, and TP benchmarks for SIC Codes 2011 to 2024 similar to Fats and Oil Products in Sector U 2074-2079. EPA Enforcement has been to some problematic, poultry, egg, dairy and ice cream makers we advise monitoring of their stormwater for pollutant benchmarks (EPA Region 2)

Response 7-26

The suggested changes were not made in the final GP-0-23-001. EPA's MSGP 2021 does not require facilities with SIC codes 2011 to 2024 to perform benchmark monitoring for TSS, BOD, COD, TN, and TP.

Part VIII - Appendices

Appendix A

Comment 8-1 Appendix A Acronyms

Appendix A – Acronyms: EPA suggests that NYDEC add the following acronym as found in the EPA 2021 MSGP for clarity; CWT, “Centralized Waste Treatment” (EPA Region 2)

Response 8-1

The suggested change was made in the final GP-0-23-001. Appendix A of the final GP-0-23-001 includes acronym for Centralized Waste Treatment (CWT) as found in EPA's 2021 MSGP.

Comment 8-2 Appendix A Definitions

Appendix A – Definitions: EPA suggests that NYSDEC add the following four (4) definitions as found in the EPA 2021 MSGP for clarity; facility or activity, feasible, non-stormwater discharges, and stormwater control. (EPA Region 2)

Response 8-2

One suggested change was made in the final GP-0-23-001. Appendix A of the final GP-0-23-001 includes the definition of “Facility or activity” as found in EPA's 2021 MSGP. The term “Feasible” is no longer used in the final GP-0-23-001. The other terms noted in the comment are defined elsewhere in the final GP-0-23-001.

Comment 8-3 Appendix A Definitions

Appendix A – Definitions: Impaired Water– An impaired water, as defined under 40 CFR 130.2(j), has been identified by a State or U.S. EPA pursuant to Section 303(d) of the Clean Water Act as not meeting applicable State water quality standards. Impaired waters include both waters with approved or established TMDLs, and those for which a TMDL has not yet been approved or established. (Provide a link to where impaired waters and TMDLs can be found). (EPA Region 2).

Response 8-3

The suggested change was not made in the final GP-0-23-001. Including a specific weblink in a SPDES permit is not appropriate since a weblink can become outdated.

Comment 8-4 Appendix A Definitions

Under the Draft Renewal Permit, the definition of “other wastes” no longer includes “salt.” Id., at 172. The City requests NYSDEC clarify why it was removed from that definition. (City of New York)

Response 8-4

No changes were made in the final GP-0-23-001 in response to this comment. The definition of “Other Wastes” in Appendix A of the final GP-0-23-001 is the same as the definition of “Other Wastes” in New York State Environmental Conservation Law Section 17-0105(6) and 6 NYCRR 700.1(a)(40).

Comment 8-5 Appendix F

NYSDEC should update the Pollutants of Concern for Impaired waterbodies in Appendix F and the NYSDEC Google Earth layers for impaired waterbodies with the 2018 references. (City of New York)

Response 8-5

No changes were made in the final GP-0-23-001 in response to this comment. Appendix F of the final GP-0-23-001 reflects the pollutants of concern causing the impairment for the Integrated Reporting Category (IRC) Categories 5 and 5 Alternative waters (Impaired Waterbodies listed on the Final 2018 New York State Section 303(d) List) and IRC Category 4a waters.

Google Earth is no longer a lookup tool for the MSGP. Instead, the Impaired Waterbodies Applicable to MSGP and the Priority waterbodies are available as separate GIS layers on the Stormwater Interactive Mapper, which is available on the Department's webpage. Guidance on how to use the Stormwater Interactive Mapper is also available on the Department's webpage.

Comment 8-6 Appendix G

Add the standard condition found in EPA 2021 MSGP Appendix B “Permit Action”, B.6 to Appendix G – Standard Permit Conditions (EPA Region 2).

Response 8-6

The suggested change was not made in the final GP-0-23-001. Parts G.1 “Duty to Comply,” G.5 “Reopener Clause,” and G.13 “Requiring Another General Permit or Individual SPDES Permit,” all in the final GP-0-23-001, contain the same information as Appendix B “Permit Action,” B.6 in EPA’s 2021 MSGP.

General Comments on the Permit

Comment GC-1 – Preface to the Permit

There is no Preface like there is in GP-0-17-004. (PW Grosser)

Response GC-1

No changes were made in the final GP-0-23-001 in response to this comment. The Preface in the fact sheet to the final GP-0-23-001 is similar to what had previously been included in the permit.

Comment GC-2 – NODI Codes (Part IV.F.3.d)

The Department needs to provide the NYS-approved list of NODI codes and instructions on how to report parameters that are below the reporting limit. Though this information is available, it needs to be presented to the SPDES MSGP community in the permit to improve reporting compliance and reduce unnecessary NOV's which would lighten all of our loads. (PW Grosser)

Response GC-2

No changes made in the final GP-0-23-001 in response to this comment. NODI Codes are part of the EPA system for reporting DMRs. They are used to report specific situations when the required analytical monitoring cannot be reported. The acceptable NODI codes are listed on EPA's NY CDX webpage. Because they are part of an EPA system, and could be changed by EPA, NODI codes cannot be listed in the final GP-0-23-001.

Comment GC-3

For consideration - under the Definitions sections in the current and Draft version of the MSGP, the definition of Qualified Person and Qualified Professional have not changed. However, it is reasonable to require, and here recommended, to add a competency requirement for both the Qualified Person and the Qualified Professional beyond the training requirements listed in GP-0-17-004 and Draft GP-0-23-001 (see language below). I would propose to add a competency requirement for the Owners/Operators, much like the UST Operator Class A/B/C training, relative to the person's role within the organization. The UST Operator training includes a NYSDEC issued two-hour timed online exam for personnel, a passing score is required to receive certification. Staff with less authority are required to be trained by Certified Operators. Whether on-line or in-person training is conducted, an assessment of the knowledge gained from the training must be applied and renewed, perhaps on a timeline corresponding with the renewal of the MSGP. (Richmond Environmental)

Response GC-3

No changes were made in the final GP-0-23-001 in response to this comment. The definitions of "Qualified Person" and "Qualified Professional" in the final GP-0-23-001 are based on the definition of "Qualified Personnel" in EPA's 2021 MSGP.