



Department of
Environmental
Conservation

FACT SHEET

for

NEW YORK STATE

DEPARTMENT OF ENVIRONMENTAL
CONSERVATION

SPDES GENERAL PERMIT

for

STORMWATER DISCHARGES

from

MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4s)

Permit No. GP-0-24-001

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

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Expiration Date: January 2, 2029

Preface

Pursuant to Section 402(p) of the Clean Water Act (CWA), 40 CFR 122.26, 40 CFR 122.32(a), and 6 NYCRR 750-1.4(b), discharges of stormwater to surface waters of the State from small municipal separate storm sewer systems (MS4s)¹ must be authorized by a National Pollutant Discharge Elimination System (NPDES) permit or by a state permit program. New York's State Pollutant Discharge Elimination System (SPDES) program is an approved program with permits issued in accordance with title 8 of Article 17 of the Environmental Conservation Law (ECL). The New York State Department of Environmental Conservation (Department) regulates stormwater in accordance with ECL Section 17-0808. Pursuant to ECL Section 70-0117(6) and 6 NYCRR 750-1.21(b), the Department issues a SPDES general permit to cover discharges of stormwater from MS4s to surface waters of the State.

As required by 40 CFR 123.35, New York State has criteria to designate MS4 Operators other than those described in 40 CFR 122.32(a)(1) as regulated MS4s. MS4s located in automatically designated areas, and those additionally designated by the Department are to be covered under the SPDES stormwater discharge control program.

Background

Due to several factors explained more in this section of the fact sheet, it has been over ten (10) years since the Department's MS4 general permit has been issued with significant changes. In 2010, several environmental groups filed a petition under Article 78 of the New York Civil Practice Laws and Rules challenging GP-0-10-002. As the litigation was still in the appeals process when GP-0-10-002 was due for renewal in 2015, the Department issued GP-0-15-003, essentially unchanged from GP-0-10-002. That litigation concluded on May 5, 2015 in the Department's favor.

On October 30, 2016, more than 180 days prior to the expiration of GP-0-15-003 on April 30, 2017, the Department proposed to renew and modify GP-0-15-003 through publicly noticing the draft GP-0-17-002. Thus, May 1, 2017, GP-0-15-003 has been administratively extended under the New York State Administrative Procedure Act (SAPA) §401 and 6 NYCRR 621.11(l). In response to public request, the public notice and comment period for the draft GP-0-17-002 was extended from the statutory minimum thirty (30) days (ECL 17-0805(1)(b)) to ninety (90) days. The Department estimated that it received over 2,000 comments on the draft GP-0-17-002. The Department considered all comments made on the draft GP-0-17-002 and made significant changes as detailed in a revised draft permit, draft GP-0-22-002, and associated fact sheet. The Department publicly noticed the draft GP-0-22-002 on January 12, 2022 for thirty (30) days, the statutory minimum (ECL 17-0805(1)(b)). The public comment period for the draft GP-0-22-002 was then extended for an additional forty (40) days. The Department estimated that it received over 1,200 comments on the draft GP-0-22-002. Based on these comments, changes were made in the permit and associated fact sheet. Changes are explained in the responsiveness summary.

¹ A small MS4 is defined in 40 CFR 122.26(a)(1)(v), 122.26(b)(8), and 122.26(b)(16)-(19).

The permit number was updated from GP-0-22-002 to GP-0-24-001 to correlate with the effective date of the permit. The Department has issued the final GP-0-24-001 three (3) weeks prior to the effective date. This gives MS4 Operators more time to comply with permit requirements ahead of the schedule of compliance. GP-0-24-001 will be effective for a five (5) year term.

Structure

In the final GP-0-24-001, “MS4” represents the small municipal separate storm sewer conveyance system, while “MS4 Operator” represents the person, persons, or legal entity that obtains coverage and is responsible for the MS4. “MS4 Operator type” differentiates the organizational structure of the MS4 Operators,² corresponding to implementation of the requirements in the final GP-0-24-001.

The final GP-0-24-001 also uses specific language to denote the responsibilities of the MS4 Operator in satisfying all parts of the final GP-0-24-001, as well as 40 CFR 122.26 and 122.34. The administrative responsibilities of the MS4 Operator, with respect to gaining and maintaining coverage under the final GP-0-24-001, are referred to as “terms and conditions” (e.g., submission of a Notice of Intent (NOI), maintaining coverage, and development of a Stormwater Management Program (SWMP) Plan). The final GP-0-24-001 contains permit requirements for the MS4 Operator to meet the terms and conditions.

The six (6) minimum control measures (MCMs) specified within the final GP-0-24-001 are consistent with 40 CFR 122.34(a). The MCMs represent the non-numeric effluent limitations of the general permit to reduce the discharge of pollutants to the maximum extent practicable (MEP), protect water quality, and generally satisfy the Clean Water Act. The MS4 Operator must implement the permit requirements for each MCM, as specified in final GP-0-24-001. The permit requirements consist of best management practices (BMPs).

COVID-19

On March 7, 2020, Governor Andrew Cuomo declared a State of Emergency for the State of New York in response to the growing number of cases of SARS-CoV-2, commonly referred to as COVID-19. The State of Emergency and the virus, declared as a pandemic by the World Health Organization, placed substantial burdens on the economy of local governments across the State. Many local governments shifted their priorities to addressing the pandemic. In response to the pandemic, and the associated municipal burdens, the Department delayed the public notice of draft GP-0-22-002 and proposed in the draft GP-0-22-002:

- Required electronic submissions for all forms unless meeting the requirements of a waiver; and
- Extended timeframes for compliance.

² Traditional land use, traditional non-land use, or non-traditional.

Basis of Permit

Several parts of the permit have been reorganized to 1) assist the Department in complying with the Phase II Remand Rule and 2) facilitate compliance by the MS4 Operators in reducing the discharge of pollutants to the MEP.

Phase II Remand Rule

In 2014, several environmental groups, many of which also challenged GP-0-10-002, petitioned the United States Court of Appeals for the Ninth Circuit to force the United States Environmental Protection Agency (USEPA) to make changes to the regulations governing small MS4s.³ Through resolution of that petition, on January 6, 2016, the USEPA proposed the Phase II Remand Rule, revising the small MS4 regulations. On December 9, 2016, the USEPA finalized the rule making and it became effective on January 9, 2017.⁴

Under the USEPA's Comprehensive General Permit approach, detailed in the final Phase II Remand Rule, the permitting authority (in New York, that is the Department) must articulate, in sufficient detail, within the text of the general permit, what is required to meet the minimum statutory and regulatory requirements (i.e., MEP), and to ensure that the applicable requirements are enforceable and understandable to the MS4 Operator and the public. The stormwater management program (SWMP), developed by the MS4 Operator, reflects the applicable requirements for the MCMs contained in the general permit. Under the Comprehensive General Permit approach, the NOI will only serve as a notice of the intention of the MS4 Operator to gain coverage to discharge in accordance with the general permit and would not contain any requirements specific to compliance with the general permit.

In anticipation of developing a general permit to comply with the Comprehensive General Permit approach, and potential impacts to MS4 Operators, the Department established a subcommittee to advise the Department on contemplated changes for the draft renewal of GP-0-15-003. This subcommittee consisted of representatives of MS4 coalitions, non-traditional MS4 Operators, state-wide agencies, watershed protection committees, and environmental groups.

In the fall of 2018, after the conclusion of the public notice and comment period on the draft GP-0-17-002, the Department engaged an expanded version of the subcommittee, referred to as the MS4 Stakeholder Workgroup. The purpose of the MS4 Stakeholder Workgroup was to provide feedback on areas of the draft GP-0-17-002 where the Department received a substantial amount of comments. These comments, both from MS4 Operators and environmental groups, identified areas of the draft GP-0-17-002 where more specificity was needed to meet the Comprehensive General Permit approach. Potential options were discussed with the MS4 Stakeholder Workgroup for

³ Environmental Defense Center, et al v USEPA, 344 F.3d 832 (9th Cir 2003).

⁴ "National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System General Permit Remand Rule" (Final Rule). 40 CFR 122, Vol. 81, No. 237, (December 9, 2016) p. 89320. Available from: <https://www.govinfo.gov/content/pkg/FR-2016-12-09/pdf/2016-28426.pdf>.

these areas. Recommendations were incorporated into the draft GP-0-22-002 when there was a consensus among the MS4 Stakeholder Workgroup members or to reflect the best professional judgment of the Department where there was no consensus.

In conformance with the Comprehensive General Permit approach and 40 CFR 122.28(d), the final GP-0-24-001 contains all terms and conditions, MCMs, and related requirements. This includes responsibilities of the MS4 Operator, such as specific tasks, BMP design requirements, performance requirements, schedules for implementation and maintenance, and frequency of actions.

The Phase II Remand Rule also changed 40 CFR 122.34(a), requiring “terms and conditions that satisfy the requirements of this section must be expressed in clear, specific, and measurable terms.” The USEPA developed model permit language for what is “clear, specific, and measurable” and compiled several examples where small MS4 general permits have already included requirements that would be consistent with the Phase II Remand Rule.

In drafting GP-0-22-002, the Department identified areas of GP-0-15-003 and the draft GP-0-17-002 where additional clarity or specificity was needed to meet the Phase II Remand Rule and consulted with the following USEPA guidance:

- MS4 Permit Improvement Guide;⁵
- MS4 General Permit Compendium: Examples of Six Minimum Control Measure Provisions;⁶
- Municipal Separate Storm Sewer System Permits—Post-Construction Performance Standards & Water Quality-Based Requirements: A Compendium of Permitting Approaches;⁷ and
- Center for Watershed Protection’s guide on Illicit Discharge Detection and Elimination (IDDE): A Guidance Manual for Program Development and Technical Assistance.⁸

To comply with the Phase II Remand Rule, the final GP-0-24-001 differentiates between MS4 Operators and those which are newly designated in obtaining permit coverage, mapping, legal authority, and post-construction stormwater management practice inventory and inspection tracking.

⁵ USEPA. 2010. MS4 Permit Improvement Guide. Office of Water. Office of Wastewater Management. Available from: http://water.epa.gov/polwaste/npdes/stormwater/upload/ms4permit_improvement_guide.pdf

⁶ USEPA, 2016. MS4 Compendium: Examples of Six Minimum Control Measure Provisions. Office of Wastewater Management, Water Permits Division. Available from: https://www.epa.gov/sites/production/files/2017-01/documents/part1-epa_compendium_of_ms4_general_permit_requirements_508.pdf

⁷ USEPA. 2014. Municipal Separate Storm Sewer System Permits—Post-Construction Performance Standards & Water Quality-Based Requirements: A Compendium of Permitting Approaches. Office of Water, Water Permits Division. https://www3.epa.gov/npdes/pubs/sw_ms4_compendium.pdf

⁸ Center for Watershed Protection and Robert Pitt. 2004. Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assessments. Available from: https://www3.epa.gov/npdes/pubs/idde_manualwithappendices.pdf

Maximum Extent Practicable (MEP)

In accordance with Clean Water Act 402(p)(3)(B)(iii) and ECL 17-0808(3)(c), since 2003, the MS4 General Permit has required MS4 Operators to achieve MEP. The USEPA views the MEP standard as an iterative process; that is, MEP should continually adapt to current conditions and the effectiveness of BMP implementation. To satisfy the Phase II Remand Rule, and meet MEP, the final GP-0-24-001 provides specific requirements, timeframes, and methodologies, building upon previous permit requirements. Further discussion of the issues can be found under Major Topics Identified with the draft GP-0-17-002. The final GP-0-24-001 requires the MS4 Operators to: 1) implement BMPs for the MCMs to reduce the discharge of pollutants to the MS4, 2) track information collected through implementation of the BMPs and 3) adjust the BMPs in the SWMP accordingly to improve the SWMP effectiveness in protecting water quality.

The following is an example of when implementation of BMPs in one MCM impacts another MCM. The final GP-0-24-001 requires MS4 Operators to conduct monitoring location inspection and sampling. An MS4 Operator may have recorded a few illicit discharges. Based on the presence of illicit discharges, the MS4 Operator must update the SWMP Plan and may choose to include additional public education (e.g., distribution of flyers to residents about the illicit discharge) or outreach (e.g., stenciling “Dump no waste, drains to waterway” on catch basins tributary to where the illicit discharges were found) to provide a clear message and prevent future illicit discharges at the source. Thus, reducing the number of illicit discharges.

The following is an example of when implementation of BMPs in one MCM impacts the same MCM. An MS4 Operator may notice that its catch basins’ sumps are filling with leaves. To address this, the MS4 Operator may decide to increase its street sweeping to prevent leaves from being washed into the catch basins. Thus, reducing the need for catch basin clean out.

Water Quality Standards

Unchanged from GP-0-15-003 and draft GP-0-17-002, the final GP-0-24-001 includes required MCMs that will reduce the discharge of pollutants to the MEP. Parts I through V and X of the final GP-0-24-001 apply to all MS4 Operators. The MCMs for traditional land use MS4 Operators are in Part VI; MCMs for traditional non-land use control MS4 Operators and non-traditional MS4 Operators are in Part VII. The additional requirements within the MCMs for all MS4 Operators discharging to impaired waters are in Parts III.B, Part VIII (impaired waters without an approved TMDL), and Part IX (impaired waters with an approved TMDL).

In accordance with 6 NYCRR 750-2.1(b) and 40 CFR 122.34, the Department expects that compliance with the terms and conditions of the permit will reduce the discharge of pollutants to the MEP, to protect water quality, and to satisfy the appropriate water quality requirements of the CWA. This is consistent with the most recent Massachusetts and New Hampshire MS4 General Permits issued by the USEPA.

Major Topics Identified with Draft GP-0-17-002

Through the public notice and comment period on draft GP-0-17-002, as well as the Stakeholder Workgroup and outreach, the Department received feedback from municipal leaders, elected officials, state-wide agencies, non-traditional MS4 Operators, coalition leaders, environmental groups, and the general public. This feedback was considered in development of the draft GP-0-22-002. Some of the major topics raised regarding draft GP-0-17-002 included:

Permit Flexibility: MS4 Operators commented that the draft GP-0-17-002 included more prescriptive requirements than what was included in previous iterations of the MS4 general permit. Therefore, MS4 Operators requested that the Department make changes to enable them to use their best professional judgment in implementing water quality protection procedures that are appropriate to the level of development, financial resources, and priority water quality conditions of their communities. To the contrary, the USEPA and environmental groups believed the changes made in the draft GP-0-17-002 satisfied the Phase II Remand Rule.

Allocation of Resources: MS4 Operators commented that the draft GP-0-17-002 did not appropriately consider resources necessary to comply with the general permit terms and conditions. According to their comments, the draft GP-0-17-002 would require significant resources over and above what is feasible for municipal operations budgets. The MS4 Operators also indicated much of the draft GP-0-17-002 required additional efforts and personnel resources for tracking and reporting rather than allocation of funds to stormwater management and system maintenance to improve water quality. Conversely, environmental groups commented that the provisions introduced in the draft GP-0-17-002 must be fully implemented regardless of necessary resources.

Exceedance of Maximum Extent Practicable (MEP): The commenters all acknowledged that the Department must ensure the reduction of pollutants to the MEP, while also complying with the Phase II Remand Rule. However, MS4 Operators stated that available surface water quality data, waterbody assessments, and pollutant load modeling were insufficient to justify conditions in the draft GP-0-17-002, and, as a result, the draft GP-0-17-002 exceeded the MEP. To the contrary, environmental groups submitted support for the concepts of the draft GP-0-17-002 but noted the areas which required further detail to satisfy the Phase II Remand Rule.

Compliance Schedule: In many instances in the draft GP-0-17-002, MS4 Operators commented that time frames given for implementation of the conditions were unrealistic and unachievable. MS4 Operators requested that the Department consider the difficulties in simultaneously achieving deliverables for MS4 Operators, while preparing budgets, plans, and securing board approvals before implementation. On the other hand, environmental groups noted that the draft GP-0-17-002 failed to comply with legal requirements for compliance schedules by neglecting to include interim requirements for compliance items that extend more than nine (9) months into the future.

Department Response: For topics not covered above, the Department inferred silence as support for the proposed conditions of the draft GP-0-17-002. Significant changes to address the major topics identified above were made, though, in response to the public input on the draft GP-0-17-002, resulting in the draft GP-0-22-002. For comments received during public review of the draft GP-0-22-002, a responsiveness summary has been issued with the final GP-0-24-001. In that responsiveness summary, the Department only responded to comments received on the draft GP-0-22-002; the Department did not respond to comments received on the draft GP-0-17-002. The Department considered the comments received on the draft GP-0-17-002 when developing the draft GP-0-22-002 and changes in response are further explained in this fact sheet.

Electronic Submissions

On October 22, 2015, the USEPA published the NPDES Electronic Reporting Rule (eRule), which required MS4 Operators to submit NOIs and reports electronically to the Department beginning December 21, 2020.⁹ Since then, the USEPA finalized the eRule Phase 2 extension of the NPDES eRule¹⁰ giving MS4 Operators until December 21, 2025 to comply with the eRule. To comply with the eRule, the final GP-0-24-001 requires electronic reporting using nForm which is the format acceptable to the Department (6 NYCRR 750-2.5(e)), unless an MS4 Operator meets the requirements for a waiver (40 CFR 127.15).

In accordance with 40 CFR 127.16(a) and 127.24, the final GP-0-24-001 requires electronic submission of the NOI and all other reports (e.g., annual reports, interim progress certifications, and interim progress reports). Electronic submission of the NOI and all other reports is consistent with the intent of 40 CFR Part 127 and 6 NYCRR 750-2.5(e). The final GP-0-24-001 only allows paper submittal of an NOI and all other reports after a properly completed waiver has been submitted to and approved by the Department. The Department requires the MS4 Operator to submit an Application for Electronic Submittal Waiver demonstrating that the MS4 Operator meets the requirements for a waiver (40 CFR 127.15). The requirements and process for a waiver from electronic submission of the NOI are in Part II.B. of the final GP-0-24-001 and the requirements and process for a waiver from electronic submission of reports are in Part V.B.1.b. of the final GP-0-24-001.

The electronic reporting requirements and processes in the final GP-0-24-001 are the same as those in draft GP-0-17-002. GP-0-15-003 did not contain electronic reporting requirements as it was issued before the eRule.

Timeframes for Compliance

In accordance with 6 NYCRR 750-1.14, the timeframes in the final GP-0-24-001 reflect the shortest time reasonable for an MS4 Operator to complete permit requirements. GP-

⁹ "NPDES eReporting." USEPA, December 21, 2015. <https://www.epa.gov/compliance/npdes-ereporting>.

¹⁰ "NPDES eRule Phase 2 Extension." USEPA, September 23, 2020. <https://www.epa.gov/compliance/npdes-electronic-reporting-rule-phase-2-extension>.

0-15-003 included timeframes within the permit for requirements to be completed but did not include that information in table format. The draft GP-0-17-002 introduced the use of a table to summarize and better organize the timeframes to complete draft general permit requirements. Timeframes for the completion of permit requirements are embedded throughout the final GP-0-24-001, including Part IX; therefore, the final GP-0-24-001 does not contain the table. As part of the MS4 Toolbox on the Department website, there is a Compliance Items Summary tool presented as a table for the permit requirements with fixed timeframes. Permit requirements which are dependent on other activities are not included (e.g., corrective actions for illicit discharges). If there are any discrepancies, the permit conditions control over the Compliance Items Summary tool.

Obtaining Permit Coverage (Part II. of the final GP-0-24-001)

In accordance with 40 CFR 122.33(b), 40 CFR 122.28(b)(2)(ii), and 6 NYCRR 750-1.21(d)(1), all MS4 Operators must submit an NOI to obtain coverage under the general permit. For newly designated MS4 Operators, the deadline to submit a complete NOI is 180 days from written notification from the Department. In accordance with 40 CFR 122.34(a)(1), the final GP-0-24-001 provides newly designated MS4 Operators time to fully comply with the conditions of the permit and to implement necessary BMPs, based on the date of their coverage.

In the NOI, the newly designated MS4 Operator certifies that the MS4 Operator agrees to develop the SWMP in accordance with the timeframes in the final GP-0-24-001 and certifies that they have read and agrees to comply with the requirements of the final GP-0-24-001. MS4 Operators continuing coverage must submit a complete NOI to the Department by the effective date of the final GP-0-24-001. In the NOI, the MS4 Operators continuing coverage certifies that they have read and agreed to comply with the requirements of the final GP-0-24-001 and will update the SWMP to meet the final GP-0-24-001 in accordance with the timeframes in the general permit.

In the draft GP-0-22-002, newly designated MS4 Operators' effective date of coverage (EDC) would have been effective sixty (60) days after the submission of the complete NOI. In the final GP-0-24-001, newly designated MS4 Operator's EDC is the date of submission of the complete NOI.

In the draft GP-0-22-002, the deadline to submit a complete NOI for MS4 Operators continuing coverage would have been thirty (30) days prior to the effective date of the permit (EDP). In the final GP-0-24-001, the deadline to submit a complete NOI for MS4 Operators continuing coverage is forty-five (45) days from the EDP.

In the draft GP-0-22-002, the EDC for MS4 Operators continuing coverage would have been sixty (60) days after the submission of the complete NOI. In the final GP-0-24-001, the EDC for MS4 Operators continuing coverage is the EDP so all MS4 Operators continuing coverage will have the same compliance schedule. The final GP-0-24-001 allows for up to sixty (60) days of interim coverage for MS4 Operators continuing coverage, but that does not affect EDP or the compliance schedule.

The final GP-0-24-001 does not require newly designated MS4 Operators or MS4 Operators continuing coverage to publicly notice their permit coverage because the final GP-0-24-001 follows the Comprehensive General Permit approach.

The above accounts for the time between the issuance and effective dates of the final GP-0-24-001.

NOI Content

In accordance with 40 CFR 122.28(b)(2)(ii), the NOI shall include:

- a. Legal name and address of the MS4 Operator;
- b. Receiving waterbodies; and
- c. Municipal Separate Storm Sewer System (MS4) NPDES Permit-Related Information of 40 CFR Part 127 Appendix A.

The NOI does not need to include the type of facility or discharges as this general permit only addresses stormwater discharges from MS4s.

Storm Water Management Program (SWMP) (Part IV. of the final GP-0-24-001)

Pursuant to 40 CFR 122.34(b)(2)(ii) and 122.34(a)(2), the final GP-0-24-001 continues to require MS4 Operators to develop, implement, and enforce a SWMP to reduce the discharge of pollutants to the MEP, that may enter into and be discharged from their MS4. The SWMP may involve coordination between several departments or agencies (i.e., some tasks may need to be completed by the department of public works, administrative staff, parks and recreation, etc. staff). The SWMP provides the framework for compliance with the final GP-0-24-001. Previous iterations of the general permit generally addressed updates to be made to the SWMP. To meet the Phase II Remand Rule, Part IV.B. of the final GP-0-24-001 specifically states that the SWMP must be adjusted within the parameters of the final GP-0-24-001, as new information becomes available, to best address water quality issues and reduce the discharge of pollutants to the MEP. The SWMP is a consolidation of all the MS4 Operator's relevant ordinances or other regulatory requirements, as well as the description of all programs and procedures (including standard forms to be used for reports and inspections) that will be implemented and enforced to comply with the general permit.

Alternative Implementation Options (Part IV.A.1. of the final GP-0-24-001)

In accordance with 40 CFR 122.33(b)(1)(i) and 122.35, MS4 Operators may opt to enter into Alternative Implementation Options to complete specific SWMP components included in the final GP-0-24-001 (e.g., implementation of MCM 6 BMPs, such as maintenance of roads, removal of snow, cleaning of storm sewer systems, sweeping of streets, etc.). Those Alternative Implementation Options include other MS4 Operators, consultants, businesses, Regional Stormwater Entities (RSE), or coalitions. This approach is unchanged from GP-0-15-003 and draft GP-0-17-002 and provides a cost-effective means of development, implementation, and enforcement of the SWMP

components through cooperative efforts where resources can be shared, and duplication of effort is avoided. MS4 Operators are encouraged to form and utilize the Alternative Implementation Options.

Should the MS4 Operator choose to utilize Alternative Implementation Options, the final GP-0-24-001 requires the MS4 Operator to have a legally binding written agreement with the cooperating entity, specifying the services to be provided to the MS4 Operator by that entity. The Department does not enforce these legal agreements.

Regardless of whether an MS4 Operator utilizes Part IV.A.1, the legally responsible party identified on the NOI is solely responsible for complying with the terms and conditions of the MS4 General Permit and is liable for any violations or penalties rendered by the Department for noncompliance with the MS4 General Permit or the Environmental Conservation Law.

Entities other than MS4 Operators do not need to obtain coverage under the MS4 General Permit.

If an Alternative Implementation Option is used, the final GP-0-24-001 requires an agreement that is signed and dated and includes a certification statement that explains that the MS4 Operator is responsible for compliance with the final GP-0-24-001. A sample certification statement can be found here:

“I certify under penalty of law that I understand and agree to comply with the terms and conditions of the (MS4 Operator’s name) *stormwater* management program and agree to implement any corrective actions identified by the (MS4 Operator’s name) or a representative. I also understand that the (MS4 Operator’s name) must comply with the terms and conditions of the New York State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from the Municipal Separate Storm Sewer Systems, GP-0-24-001 (MS4 GP) and that it is unlawful for any person to directly or indirectly cause or contribute to a violation of water quality standards. Further, I understand that any non-compliance by (MS4 Operator’s name) will not diminish, eliminate, or lessen my own liability.”

SWMP Plan (Part IV.B. of the final GP-0-24-001)

In accordance with 40 CFR 122.34(a) and (b), and Part IV of the final GP-0-24-001, the MS4 Operator is required to develop a written SWMP Plan that describes how the MS4 Operator will meet the requirements in the final GP-0-24-001 to reduce the discharge of pollutants to the MEP. The SWMP Plan requirements in the final GP-0-24-001 include small changes from GP-0-15-003 and draft GP-0-17-002 for better overall readability and clarity in requirements. GP-0-15-003 and the draft GP-0-17-002 required that the SWMP Plan be updated but did not specify a timeframe necessary to complete the update. In accordance with the Phase II Remand Rule, the final GP-0-24-001 requires that the SWMP Plan be updated annually by April 1. For ease of administration, this April 1 date correlates the public review and comment period of the SWMP Plan and

draft annual report. This allows for the SWMP Plan to be updated based on public feedback received on the draft annual report and the SWMP Plan.

The final GP-0-24-001 continues to require the SWMP Plan be maintained as a hard copy or electronically, although electronic storage is recommended. In accordance with 6 NYCRR 750-2.5(c)(1), the MS4 Operator must keep the SWMP Plan for at least five (5) years after it is generated. Documentation that MS4 Operators must include in the SWMP Plan is identified throughout the final GP-0-24-001. The SWMP Plan must state what requirements are not applicable, if any, and include the rationale for that determination. This applies to all MS4 Operator types.

Since the SWMP Plan requirements are embedded throughout the final GP-0-24-001, a table in the final GP-0-24-001 is not necessary. However, as part of the MS4 Toolbox on the Department website, there is a SWMP Plan Components tool presented as a table. If there are any discrepancies, the permit conditions control over the SWMP Plan Components tool.

Stormwater Program Coordinator (Part IV.B.1. of the final GP-0-24-001)

Although the GP-0-15-003 did not specifically include a requirement to designate a Stormwater Program Coordinator, it was implied that an individual would need to be designated to oversee cohesive implementation of the general permit. The draft GP-0-17-002 specifically required written designation of a Stormwater Program Coordinator who:

- is knowledgeable in the principles and practices of stormwater management, the requirements of the permit, and the SWMP;
- oversees the development, implementation, and enforcement of the SWMP;
- coordinates all elements of the SWMP to ensure compliance with the permit; and
- compiles all necessary information required by this permit and to implement the permit.

The final GP-0-24-001 continues to require that the MS4 Operator designate, in writing, a Stormwater Program Coordinator whose responsibilities are also the same as those outlined in draft GP-0-17-002. To meet the Phase II Remand Rule, the final GP-0-24-001 requires the MS4 Operator to identify the individual, by name and title. It is possible that the Stormwater Program Coordinator fulfills another role in addition to the Stormwater Program Coordinator.

The duties of Stormwater Program Coordinator, responsible for coordinating all permit requirements, are not the same as the duties of the staff responsible for and/or capable of enforcement action. However, it is possible that the same individual completes both permitting and enforcement tasks.

Mapping (Part IV.D of the final GP-0-24-001)

For this section of the fact sheet, mapping is broken out into the following sub-sections:

- a. Background
- b. Comprehensive System Mapping

- c. Mapping in Phases
- d. Implementation
- e. Mapping using GIS

- a. **Background:** Pursuant to 40 CFR 122.34(b)(3)(i)(A), MCM 3 in GP-0-15-003 required MS4 Operators to map the location of their outfalls and preliminary sewersheds. In the draft GP-0-17-002, all mapping requirements were moved to a mapping section of the permit. To allow for greater accuracy in mapping, and to reflect changes in technology over the past decade, the draft GP-0-17-002 proposed to require the location of outfalls to be updated where necessary. Likewise, the draft GP-0-17-002 proposed to require updates to sewersheds as MS4 Operators collect more information about their MS4s. In addition, in order to develop a map, which could serve as a planning tool for the entire permit, the draft GP-0-17-002 proposed to require that the map include: 1) mapped elements which are publicly available (e.g., names and location of all surface waters of the State), and 2) elements which the MS4 Operator would be required to map (e.g., catch basins). While the USEPA was in support of a comprehensive map, comments received on the draft GP-0-17-002 from the MS4 Operators indicated: 1) confusion with the list of elements to include in the map (e.g., MS4 Operators thought they would be responsible for mapping surface waters of the State because the draft GP-0-17-002 grouped all the mapping elements together), and 2) the mapping requirements were excessive.
- b. **Comprehensive System Mapping:** Mapping is the foundation of an MS4 Operator's proper implementation of its SWMP. Comprehensive system mapping: 1) is necessary to facilitate a clear understanding of the MS4 using geographical representations; and 2) serves as a planning tool, allowing for prioritization of efforts geared towards improving water quality and increases efficiency of program implementation. MS4 Stakeholder Workgroup representatives supported comprehensive system mapping.

The final GP-0-24-001 requires MS4 Operators to develop and maintain comprehensive system mapping of the MS4 Operator's automatically designated areas, unless otherwise specified. As was presented in the draft GP-0-17-002, Part IV.D. of the final GP-0-24-001 continues to organize all mapping components in a mapping section. In response to the comments on the draft GP-0-17-002 regarding resources necessary to complete mapping requirements, the final GP-0-24-001 clearly identifies which data elements are publicly available (i.e., mapped components which MS4 Operators have access to and do not need to map themselves). Table 1 includes sources MS4 Operators can use to download and/or view the basemap information.

Table 1. Sources of basemap information.

Dataset	Available to Download GIS Data from the NYS GIS Clearinghouse ^a			Available to View on the Stormwater Interactive Map ^b
	Data Owner	Link	Coverage Extent	
Automatically Designated Area	NYS Department of Environmental Conservation	https://data.gis.ny.gov/data/sets/2cd864d1a65d4401866e3767ac10ca50_0/about	Statewide	Yes
Additionally Designated Area^c	NYS Department of Environmental Conservation	https://data.gis.ny.gov/data/sets/23c13229b3ac47ffa176d1854471fb25_0/about	Statewide	Yes
Waterbody Classification	NYS Department of Environmental Conservation	https://data.gis.ny.gov/maps/258fe1be90ff48f385a546cdfd998e24/about	Statewide	Yes
Waterbody Inventory/Priority Waterbody List (WI/PWL)	NYS Department of Environmental Conservation	https://data.gis.ny.gov/maps/fe6e369f89444618920a5b49f603e34a/about	Statewide	Yes
TMDL watershed areas	-	-	-	Yes
Tax Parcel and/or Zoning (Land Use^d)	Each county owns their data	https://data.gis.ny.gov/maps/sharegisny::nys-tax-parcels-public/about	County	No
Roads	NYS GIS Program Office	https://data.gis.ny.gov/data/sets/sharegisny::nys-streets/about	Statewide	Yes; basemap option
Topography	USGS	https://www.usgs.gov/programs/national-geospatial-program/topographic-maps	Country-wide	Yes; basemap option

^a The NYS GIS Clearinghouse can be accessed here: <https://data.gis.ny.gov/>

^b The Stormwater Interactive Map can be accessed on the Department's website.

^c Based on criterion 3 of Additional Designation Criteria (Appendix B of the final GP-0-24-001).

^d Land use is used to determine the potential of pollutants to be discharged through the MS4. The various land uses listed in the final GP-0-24-001 matches the land uses listed on the CWP ORI field sheet. Although using tax parcel data as a surrogate for land use is efficient, it is generalized information. Local knowledge of the land use might be more detailed or up to date. Combinations of land-use (i.e., mixed land use) may also occur.

Although not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, MS4 Operators may find it helpful to scan hardcopy maps to ensure preservation of information over time and for ease of accessibility.

- c. **Mapping in Phases:** Unlike the GP-15-003 and the draft GP-0-17-002, the final GP-0-24-001 organizes information to be included in the map into two phases for completion. Phase I includes mapping elements which either: 1) provide foundational information that will be used for later permit requirements (e.g., focus areas) or 2) had permit requirements from previous iterations of the MS4 general permit pertain to them (e.g., municipal facilities). Phase II includes mapping elements which either: 1) connect mapping elements in Phase I (e.g.,

pipes) or 2) require more time for the MS4 Operator to collect (e.g., privately-owned stormwater management practices). This phased approach allows MS4 Operators to reduce the discharge of pollutants to the MEP. The inclusion of the details in the phases of the mapping requirements satisfies the Phase II Remand Rule. Although not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, inclusion of other basemap data (e.g., municipal boundaries, existing watershed boundaries, etc.) may create a more robust and functional map.

- d. **Implementation:** The Department recognizes that some requirements of the MCMs may be helpful to be done prior to, or simultaneous with, the mapping requirements even though the requirements of the MCMs have later compliance deadlines. MS4 Operators may elect to complete certain tasks sooner than the required timeframes in the final GP-0-24-001. For example, as written in the Part IV.D.2.a. of the final GP-0-24-001, mapping of publicly-owned post-construction stormwater management practices (SMPs) is a requirement under Phase I of mapping and is to be completed within three years of the EDC. Pursuant to Part VI.E.2.a. and Part VII.E.2.a, depending on the MS4 Operator type, of the final GP-0-24-001, MCM 5 requires that an MS4 Operator develop and maintain a complete inventory of all post-construction SMPs. This requirement is to be completed within five years of the EDC. The compliance deadline for the complete inventory of publicly-owned post-construction SMPs is later than the mapping for those same post-construction SMPs because the inventory includes some information which may be more difficult to obtain (e.g., reason for the post-construction SMP). Although not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, a preliminary inventory of all post-construction SMPs may streamline mapping those features.

Additionally, although also not required by the final GP-0-24-001 as it is not necessary to reduce the discharge of pollutants to the MEP, an MS4 Operator may decide to include, as attributes, all the required inventory information while mapping so the information is recorded in one location and has a geographic context (e.g., post-construction SMP inventory information to be included as attributes of mapped post-construction SMPs in the comprehensive system mapping). Any opportunity to collect mapping information simultaneously, regardless of the phase of mapping, will alleviate duplicative efforts by the MS4 Operator for future mapping timeframes. For example, stormwater structures (e.g., catch basins and manholes) and publicly-owned post-construction SMPs can be mapped simultaneously and within three years of the effective date of the permit, particularly if they are in close proximity to each other. Although not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, MS4 Operators with adjacent MS4s could share information to satisfy mapping requirements.

Summary of Mapping Implementation

Table 2 has been provided to help MS4 Operators with implementation of the final GP-0-24-001.

Table 2. Summary of mapping implementation.

Designation Criteria ^a	Part of Permit				
	VI	VII	VIII, to an MS4 outfall	VIII, to an ADA MS4 outfall ^b	IX
Automatically Designated Area	X	X	X		X
Additionally Designated Area, subject to Criterion 1	X	X			X
Additionally Designated Area, subject to Criterion 2	X	X			
Additionally Designated Area, subject to Criterion 3				X	

^a Designation criteria are in Appendix B of the final GP-0-24-001.

^b ADA MS4 outfalls are explained in Part VIII. of the final GP-0-24-001 and the List of Impaired Waters section of this fact sheet.

- e. **Mapping using Geographic Information Systems (GIS):** As discussed in the MS4 Stakeholder Workgroup, the complexity and size of the MS4 will likely drive the format (electronic or hard copy) appropriate for the comprehensive system mapping. More complex systems will likely benefit from electronic geographic information systems (GIS) to maintain information, while paper maps (e.g., as-builts) may be sufficient for smaller, less complex systems. The final GP-0-24-001 does not specify the format for the comprehensive system mapping but does require that the chosen map format allow the MS4 Operator to develop a map demonstrating a clear understanding of the MS4. The final GP-0-24-001 does not prohibit the use of multiple tools to comply. For example, the coordinated use of as-builts, the stormwater interactive map, and an in-house GIS could be used to satisfy the permit requirements. However, in accordance with Part VIII and Part IX of the final GP-0-24-001, MS4 Operators discharging to impaired waters must complete MS4 mapping in electronic GIS format. GIS mapping is required in Part VIII and Part IX for a variety of reasons including: to more accurately determine where to implement the enhanced requirements and transferability of data in preparation for the development of TMDLs.

Legal Authority (Part IV.E. of the final GP-0-24-001)

The legal authority requirements in the final GP-0-24-001 are the same as those in GP-0-15-003 and draft GP-0-17-002. To satisfy 40 CFR 122.34(b)(3)(i)(B), the final GP-0-

24-001 continues to require MS4 Operators to develop and maintain adequate legal authority to control how the MS4 is used and to prohibit non-stormwater discharges. To satisfy 40 CFR 122.34(b)(4)(i)(A) and 40 CFR 122.34(b)(5)(i)(B), the final GP-0-24-001 continues to require MS4 Operators to develop and maintain adequate legal authority to ensure that construction activities are effectively controlled and include post-construction runoff controls for new development and redevelopment projects with proper operation and maintenance (O&M).

The Department recognizes that traditional MS4 Operators and non-traditional MS4 Operators will have different legal authority available to them. Non-traditional MS4 Operators often cannot pass “ordinances” or may not have enforcement authority like a typical municipality, so legal authority may consist of other mechanisms such as policies, procedures, standards, or specific contract language. Although these differences exist, all MS4 Operators must have the legal authority to develop, implement, and enforce its SWMP. Part IV.E of the final GP-0-24-001 provides the details for the legal authority required for the various types of MS4 Operators. Specifically, useful for non-traditional and traditional non-land use MS4 Operators, the final GP-0-24-001 continues to allow all MS4 Operators the ability to adopt a legal mechanism equivalent to the model local laws specified in Part IV.E.1. The USEPA Stormwater Phase II Final Rule Fact Sheet 2.1 for how traditional non-land use control MS4 Operators and non-traditional MS4 Operators can implement their legal authority provides additional support for this approach.

Who Is Responsible if the Small MS4 Operator Lacks the Necessary Legal Authority?

Some regulated small MS4s may lack the necessary legal authority to implement one or more of the required minimum control measures that comprise the Phase II stormwater management program. For example, a local government that is a small MS4 operator may be in a State that does not have an enabling statute that allows local regulatory control of construction site runoff into the sewer system. Another example is a State DOT that may not have the legal authority to require and enforce controls on illicit discharges into its system. In these situations the small MS4 is encouraged to work with the neighboring regulated small MS4s. As co-permittees, they could form a shared stormwater management program in which each permittee is responsible for activities that are within their individual legal authorities and abilities.

Enforcement Response Plan (Part IV.F. of the final GP-0-24-001)

To reduce the discharge of pollutants to the MEP, it is critical that the MS4 Operator have the legal authority to initiate a range of enforcement actions to address the variability and severity of noncompliance, as is required by Part IV.E. of the final GP-0-24-001. As required by Part VI.F.1.b, the MS4 Operator must consider the following

enforcement responses to individual violations: magnitude and duration of the violation, effect of the violation on the receiving water, compliance history of the operator, and good faith of the operator in compliance efforts. Particularly for construction sites, enforcement actions must be timely in order to be effective.

GP-0-15-003 required enforcement measures for violations which were found within the individual MCM sections of the permit. The requirement for MS4 Operators to develop and implement an Enforcement Response Plan (ERP) was introduced in draft GP-0-17-002 and continues to be included in the final GP-0-24-001. The enforcement measures for violations in GP-0-15-003 and the ERP requirements of the draft GP-0-17-002 have been simply consolidated in the final GP-0-24-001 to satisfy the Phase II Remand Rule. The ERP must address repeat and continuing violations through progressively stricter responses (i.e., escalation of enforcement) as needed to achieve compliance with the general permit.

Reporting (Part V.B. of the final GP-0-24-001)

Annual Reports (Part V.B.2. of the final GP-0-24-001)

The annual reporting requirements in the final GP-0-24-001 are in accordance with 40 CFR 122.34(d)(2) and, in substance, are the same as those in GP-0-15-003 and draft GP-0-17-002. To satisfy the Phase II Remand Rule, the final GP-0-24-001 defines the Reporting Year as January 3 of the current year to January 2 of the following year. The annual reporting requirements apply to both MS4 Operators continuing coverage and those newly designated.

Because interim coverage expires sixty days (60) after EDP, March 4, 2024, the annual report that would have been due June 1, 2024, pursuant to GP-0-15-003 is no longer required. However, the requirement to retain records for five (5) years remains in the final GP-0-24-001.

Considering the effective date of the final GP-0-24-001, if authorization to discharge is granted on or before September 30, those newly designated *MS4 Operators* are required to submit their first annual report by April 1 of the following year, in accordance with the final GP-0-24-001. For example, if an MS4 Operator is granted authorization on September 1, 2024, the MS4 Operator must submit an annual report to the Department by April 1, 2025. The annual report would include information from September 1, 2024, to January 2, 2025. If authorization to discharge is granted after September 30, those newly designated *MS4 Operators* are not required to submit their first annual report by April 1 of the following year, in accordance with the final GP-0-24-001. For example, if an MS4 Operator is granted authorization on October 1, 2024, the MS4 Operator must submit an annual report to the Department by April 1, 2026. The annual report would include information from October 1, 2024 to January 2, 2026.

Part IV.A.1. of the final GP-0-24-001 also continues to allow MS4 Operators to collaborate to comply with the general permit. Such efforts are noted on the annual report. Those available approaches are more fully discussed in Alternative Implementation Options of this Fact Sheet.

Interim Progress Certifications (Part V.B.3. of the final GP-0-24-001)

Interim Progress Certifications were not previously included in GP-0-15-003 or draft GP-0-17-002 but were introduced in draft GP-0-22-002 and remain in the final GP-0-24-001 to satisfy 6 NYCRR 750-1.14 and 40 CFR 122.34(d)(1). Interim Progress Certifications are the evaluation of the MS4 Operator's compliance with the final GP-0-24-001, for elements of the permit which are required to be completed with a date beyond nine (9) months. The interim compliance items may be: 1) stand-alone compliance items (e.g., the development of a municipal facility inventory), or 2) completed in sequence to build up to a final compliance item (e.g., mapping components that are required to be mapped within three (3) years, with others required to be mapped within five (5) years, but, together, are used to develop the comprehensive system mapping). The Interim Progress Certification form must be submitted electronically (Part V.B.1 of the final GP-0-24-001) and semi-annually (Part V.B.3. of the final GP-0-24-001). Submission of the annual report is not a substitute for submission of the Interim Progress Certification. For more information on this, see the Timeframes for Compliance section of this fact sheet.

TMDL Implementation Progress Reporting

Both GP-0-15-003 and the draft GP-0-17-002 included a requirement for MS4 Operators located within TMDL watersheds specified in Part IX. to submit Interim Progress Reports to demonstrate progress made towards pollutant load reductions as specified in their respective implementation plans. The final GP-0-24-001 continues to include this requirement; however, the information previously required for submission in the Interim Progress Reports is an addendum to the Interim Progress Certification form. Part V.B.3.b. of the final GP-0-24-001 requires MS4 Operators located within the watersheds listed in Table 3 to submit this additional information.

SWMP Evaluation (Part V.C. of the final GP-0-24-001)

Pursuant to 40 CFR 122.34(d)(1), the final GP-0-24-001 requires the MS4 Operator to evaluate the SWMP for compliance with the terms and conditions of the general permit, including the effectiveness or deficiencies of components of the individual SWMP Plan, and the status of achieving the general permit requirements.

Minimum Control Measures (MCMs)

The Designation Criteria for Identifying Regulated MS4s (Appendix B of the final GP-0-24-001) serves as the basis for determining where permit requirements are implemented. The MCMs in Part VI. and Part VII, depending on the MS4 Operator type, must be implemented in certain designated areas as specified in the final GP-0-24-001 (Part IV.C) to reduce the discharge of pollutants to the MEP. Part VIII. and Part IX. build off Part VI. and Part VII. to address specific water quality concerns.

Part VI. of the final GP-0-24-001

The final GP-0-24-001 includes requirements that ensure MS4 Operators develop¹¹ and implement, the six (6) MCMs. All MCMs are implemented within the automatically designated areas and within the additionally designated areas that are subject to Criterion 1 or 2 of the Additional Designation Criteria (Appendix B of the final GP-0-24-001).

Consistent with GP-0-15-003, and earlier versions of the general permit, the final GP-0-24-001 also applies to MCM 4 and MCM 5 within the additionally designated areas that are subject to Criterion 3 of the Additional Designation Criteria (Appendix B of the final GP-0-24-001).

Part VII. of the final GP-0-24-001

The final GP-0-24-001 includes requirements that ensure MS4 Operators develop¹² and implement, the six (6) MCMs. All MCMs are implemented within the automatically designated areas and within the additionally designated areas that are subject to Criterion 1 or 2 of the Additional Designation Criteria (Appendix B of the final GP-0-24-001).

Part VIII. of the final GP-0-24-001

Part VIII. requirements must be implemented in addition to the applicable requirements of the six (6) MCMs in Part VI. or Part VII, depending on the MS4 Operator type. Part VIII. requirements apply in the sewersheds which discharge to the impaired waters listed in Appendix C. All MCMs are implemented within the automatically designated area. For MS4 Operators subject to Part VI. and Part VIII. requirements, MCM 4 and MCM 5 are implemented within an additionally designated area subject to Criterion 3 of the Additional Designation Criteria (Appendix B).

Neither Criterion 1 nor 2 of the Additional Designation Criteria (Appendix B of the final GP-0-24-001) apply to the impaired waters listed in Appendix C. Therefore, those criteria are not included in the description of where the MCMs are implemented.

Part IX. of the final GP-0-24-001

Part IX. requirements must be implemented in addition to the applicable requirements of the six (6) MCMs in Part VI. or Part VII, depending on the MS4 Operator type. Part IX. requirements apply in the watersheds which discharge to the TMDL waterbodies listed in Table 3 of the final GP-0-24-001. All MCMs are implemented within the automatically designated area and within the additionally designated areas that are subject to Criterion 1 of the Additional Designation Criteria (Appendix B of the final GP-0-24-001).

Criterion 1 of the Additional Designation Criteria (Appendix B of the final GP-0-24-001) applies to the TMDL watersheds. Therefore, neither Criterion 2 nor 3 of the Additional

¹¹ A definition for the word “develop” was added to the final GP-0-24-001 to clarify permit requirements for MS4 Operators with either continuing coverage or a newly designated entity.

¹² A definition for the word “develop” was added to the final GP-0-24-001 to clarify permit requirements for MS4 Operators with either continuing coverage or a newly designated entity.

Designation Criteria (Appendix B of the final GP-0-24-001) are included in the description of where the MCMs are implemented.

Summary of MCM Implementation

Table 3 has been provided to help MS4 Operators with implementation of the final GP-0-24-001.

Table 3. Summary of MCM Implementation.

Designation Criteria ^a	Part of Permit					
	VI	VI, MCM 4 and MCM 5	VII	VIII	VIII, MCM 4 and MCM 5	IX
Automatically Designated Area	X		X	X		X
Additionally Designated Area, subject to Criterion 1	X		X			X
Additionally Designated Area, subject to Criterion 2	X		X			
Additionally Designated Area, subject to Criterion 3 ^b		X			X	

^a Designation criteria are in Appendix B of the final GP-0-24-001.

^b Criterion 3 of the Additional Designation Criteria (Appendix B of the final GP-0-24-001) only applies to towns, villages, and cities.

Although not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, MS4 Operators may find it helpful to implement the permit requirements outside of the automatically designated area in anticipation of the automatically designated area growing based on 1) updates to census information or 2) the completion of separation initiatives by CSO communities. For example, an MS4 Operator may include all municipal facilities, both within and outside of the automatically designated area, in the municipal facility inventory.

The six MCMs are required in 40 CFR 122.34 and are the same as those in GP-0-15-003 and the draft GP-0-17-002; however, there are changes to the permit requirements as noted below under the specific MCM. Many of the changes were made in response to concerns with the draft GP-0-17-002 and the draft GP-0-22-002, as identified by the MS4 Operators, to reduce the discharge of pollutants to the MEP.

“Programs:” The final GP-0-24-001 continues to include permit requirements for monitoring locations inspection and sampling, illicit discharge track down, illicit discharge elimination, construction oversight, post-construction SMP inspection and maintenance, municipal facilities, and municipal operations. However, to satisfy the Phase II Remand Rule and reduce the discharge of pollutants to the MEP, these requirements have been re-organized and presented as “programs” in the final GP-0-24-001. The following list of permit requirements applies to all of those “programs:”

- 1) Procedures which will be used to complete the task, including any timelines and documentation needed;
- 2) Training on procedures for a certain task;¹³
- 3) Documenting the names/titles and contact information for the people who have completed the training; and
- 4) Updating procedures, as needed.

For example, in the final GP-0-24-001, MCM 3 includes an illicit discharge track down program. The illicit discharge track down program includes:

- 1) Procedures used for illicit discharge track down;
- 2) Training on how to complete illicit discharge track downs;
- 3) Documentation of the individuals who have been trained to complete the track downs; and
- 4) Updating illicit discharge track down procedures.

Inventory: The final GP-0-24-001 includes inventories for monitoring locations, construction sites, post-construction SMPs, and municipal facilities. The timeframes for the inventories are set in order to complete the inspections by the compliance deadlines in the final GP-0-24-001. For example, MS4 Operators must inventory the monitoring locations within three (3) years of the EDC to support the monitoring locations inspection and sampling which must be completed within five (5) years of the EDC. Specific information collected as part of inventories was introduced in the draft GP-0-22-002. In the final GP-0-24-001, specific inventory information continues to be required for permit components with the addition of "Receiving waterbody [Waterbody Inventory/Priority Waterbody List] Segment ID" (WI/PWL Segment ID). The Department added this requirement to include this information in all inventories so MS4 Operators could more accurately determine if there was a discharge from the MS4 to a water listed in Appendix C and, therefore, subject to Part VIII. permit requirements.

Prioritization: Similarly, for ease of implementation by the MS4 Operators, the final GP-0-24-001 reorganized the permit requirements for the prioritization of monitoring locations, construction sites, and municipal facilities. The following list of permit requirements applies to all these prioritizations:

- 1) Criteria used for the prioritization;
- 2) The requirement to prioritize previously unprioritized permit components; and
- 3) The requirement to update the prioritizations in the inventory annually.

For example, in the final GP-0-24-001, MCM 4 includes the prioritization of constructions sites. The construction site prioritization includes:

- 1) Construction sites prioritized based on a list of criteria;
- 2) The requirement to prioritize a construction site, which was not previously prioritized/active but becomes active; and
- 3) The requirement to update the prioritization of construction sites in the inventory annually.

¹³ The Department understands there are variations between municipal facilities which may result in varying trainings for personnel. It is up to the MS4 Operator to provide the appropriate training based on responsibilities. Additionally, this training could simply consist of providing the procedures used to complete a certain task to the individual responsible for completing the task.

By completing the mapping requirements of the final GP-0-24-001, the MS4 Operator has some of the prioritization criteria readily available.

Corrective Actions: The final GP-0-24-001 includes corrective actions to be taken in response to the detection of a pollutant source for the monitoring location inspection and sampling program, municipal facility comprehensive site assessments (as part of the municipal facility program), the municipal operations program, and the catch basin inspections. The final GP-0-24-001 differentiates between corrective actions based on the presence (e.g., monitoring location inspection and sampling program, municipal facility comprehensive site assessments, and municipal operations program) or absence (e.g., catch basin program) of an on-going source of pollution.

Where an on-going source of pollution is present, the final GP-0-24-001 contains conditions consistent with 40 CFR 122.41(d) and 6 NYCRR 750-2.7(f), which is to “take all reasonable steps to minimize or prevent any discharge in violation of the permit.” Additionally, the final GP-0-24-001 requires MS4 Operators to develop a schedule, to implement corrective actions for the illicit discharges, municipal facilities, and municipal operations, within set timeframes. Consistent with 40 CFR 122.41(d) and 6 NYCRR 750-2.7(f), these timeframes are based on the severity of the permit violation and written as either: 1) “has a reasonable likelihood of adversely affecting human health or the environment,” or 2) “does not have a reasonable likelihood of adversely affecting human health or the environment.” The Department also recognizes that some corrective actions may be able to be completed expeditiously and efficiently, while others may require coordination of resources and municipal departments to accomplish. The language in the final GP-0-24-001 is used specifically where there is an on-going source of pollution to reduce the discharge of pollutants to the MEP. The requirement for the MS4 Operator to develop a schedule, within a set timeframe, to complete the corrective actions and implement the corrective actions satisfies the Phase II Remand Rule.

The establishment of the timeframes to complete the corrective actions and implement the corrective actions satisfies the Phase II Remand Rule and reduces the discharge of pollutants to the MEP. In the final GP-0-24-001, where an on-going source of pollution is not present, timeframes for the completion of corrective actions are based on the severity of the issue (e.g., the amount of debris found in the catch basin sump). While there is not an on-going source of pollution, there is the potential to become a source of pollution. This approach of distinguishing an on-going source of pollution from a potential source of pollution also recognizes that some corrective actions may be able to be completed before the required timeframes in the final GP-0-24-001.

MCM 1 – Public Education and Outreach Program (Part VI.A. and Part VII.A. the final GP-0-24-001)

As required by 40 CFR 122.34(b)(1), GP-0-15-003 required implementation of a public education and outreach program to distribute educational materials to their

community¹⁴ about the impacts of stormwater discharges on surface waters of the State and the steps that the public can take to reduce pollutants in stormwater runoff. The draft GP-0-17-002 included this requirement, but comments received during the public notice period indicated that there was confusion about where to conduct the educational programs, whom the programs would be for, and what the educational topics should be. To satisfy the Phase II Remand Rule and reduce the discharge of pollutants to the MEP, the final GP-0-24-001 provides clearer language requiring MS4 Operators to develop and implement an education and outreach program for the public to increase awareness of pollutant generating activities and behaviors.

Focus Areas (Part VI.A.1.a. and Part VII.A.1.a. of the final GP-0-24-001): Both GP-0-15-003 and the draft GP-0-17-002 required the MS4 Operator to identify the areas with distinct pollutant generating activities in order to target education and outreach efforts towards behaviors and activities that pose the greatest risk of pollutants discharging through the MS4. However, both permits lacked clarity in the connection between the identified areas (then referred to as “areas of concern”) and subsequent permit requirements. The final GP-0-24-001 continues to include the requirement to identify specified areas, but the terminology has been updated from “areas of concern” to “focus areas.” The final GP-0-24-001 includes steps for an MS4 Operator to determine their focus area(s), target audience(s), and educational topic(s), in this order. This stepwise approach satisfies the Phase II Remand Rule and reduces the discharge of pollutants to the MEP.

Illicit Discharge Education (Part VI.A.1.d. and Part VII.A.1.d. of the final GP-0-24-001): In accordance with 40 CFR 122.34(b)(3)(i)(D), GP-0-15-003 and the draft GP-0-17-002 required illicit discharge education and/or outreach under MCM 3, illicit discharge prevention. The draft GP-0-17-002 required the MS4 Operator to develop a more proactive illicit discharge prevention program within MCM 3 with specific information required to be made available to the public on illicit discharges and how to report them. In the final GP-0-24-001, this requirement has been moved to MCM 1 and minor edits for clarity have been made. By including all education and outreach requirements under MCM 1, MS4 Operators will more easily be able to develop a comprehensive education and outreach program to reduce the discharge of pollutants to the MEP. The above-described content and approach satisfies the Phase II Remand Rule.

Program Implementation and Frequency (Part VI.A.2. and Part VII.A.2. of the final GP-0-24-001): GP-0-15-003 required an on-going education and outreach program without a specified frequency of implementation. The draft GP-0-17-002 required MS4 Operators to deliver educational messages annually to each target audience based on the areas of concern. Comments received during the public

¹⁴ Non-Traditional and Traditional Non-Land Use MS4 Operators should consider their public/community to be employees (i.e. staff, faculty), user population/visitors, clients, customers, students, tenants, and contractors or developers working for the MS4 Operator.

comment period and the MS4 Stakeholder Workgroup indicated that the frequency of implementation of educational messages exceeded the MEP.

In response to comments and to satisfy the Phase II Remand Rule, in the final GP-0-24-001, the MS4 Operator is responsible for delivering at least one educational message every five (5) years for each target audience within each focus area. For example, in a residential area, the target audience would be the residents and the MS4 Operator might choose to educate the residents on the proper use of fertilizers. The education and outreach program can be implemented in a variety of ways depending on the focus area, target audience, and/or educational goals. After mapping the focus areas, MS4 Operators can more effectively define the target audiences for each area and develop targeted educational goals for the respective audience. As stated in Part VI.A.2.c. and Part VII.A.2.c. of the final GP-0-24-001, MS4 Operators are required to adjust their public education and outreach activities directed at reducing specific pollutants from pollutant sources.

Table 4 includes examples of possible educational topics that can be used for the target audiences in appropriate focus areas.

Table 4. Examples of possible educational topics to use for target audiences.

Educational Topic	Target Audience					
	Residents	Commercial business: Owners and staff	Institutions: Managers, staff, and students	Construction: Developers, contractors, and design professionals	Industrial: Owners and staff	Traditional MS4 Operator and Non-Traditional MS4 Operator: Municipal Staff
General stormwater information	X	X	X	X	X	X
Pet and other animal waste	X	X	X	X	X	X
Lawn maintenance	X	X	X	X	X	X
Illicit discharges	X	X	X	X	X	X
Disposal of household hazardous waste	X	X	X		X	X
Proper maintenance of septic systems	X	X	X			X
Litter generation	X	X				X
Proper disposal of swimming pool water	X		X			
Stormwater management practices	X			X		
Building maintenance and the use of detergents	X	X				X
Proper application of salt		X	X		X	X
Material Storage		X	X		X	X
Proper management of solid waste and dumpsters		X	X		X	X
Proper management of parking lot surfaces		X	X		X	X
Vehicle fluid changing and maintenance		X	X			X
Proper erosion and sediment control				X		X
Requirements for coverage under the CGP				X		X
Requirements for coverage under the MSGP					X	X

Table 4 is not exhaustive but can help MS4 Operators with implementation of the final GP-0-24-001. Educational topics may vary between MS4 Operators based on their

SWMP. Sample education guidance materials are referenced on the Department's webpage. Other state pollution education materials can also be found on the USEPA website.¹⁵

MCM 2 – Public Involvement/Participation (Part VI.B. and Part VII.B. of the final GP-0-24-001)

GP-0-15-003 required MS4 Operators to include the public in the development and implementation of the SWMP. This requirement was continued in the draft GP-0-17-002 and again in the final GP-0-24-001 with minor changes for clarity. As required by 40 CFR 122.34(b)(2)(i), MS4 Operators must develop and implement a program to involve the public in activities and decisions that relate to the issues of stormwater pollution. MS4 Operators must provide opportunities for public participation including: public noticing the draft annual report, providing an opportunity to comment, and informing the public of opportunities to become more involved. Citizens who take an active role in the decision-making process take ownership in the SWMP and, therefore, are more likely to adhere to the SWMP and to help facilitate the SWMP policies. Encouraging the public to frequently participate in a voluntary capacity can provide an economic benefit by maximizing resources of the MS4 Operators and can help to shorten compliance schedules. An involved public can be a valuable resource for detection of problems and public reports can be used to better focus the SWMP toward problem areas.

Public Involvement/Participation (Part VI.B.1. and Part VII.B.1. of the final GP-0-24-001): GP-0-15-003 included a permit requirement to provide an opportunity for public involvement/participation in the development and implementation of the SWMP. The draft GP-0-17-002 built upon GP-0-15-003 and included the following list of possible stewardship activities an MS4 Operator could provide to satisfy this requirement:

1. Beach cleanups;
2. Wetland restorations;
3. Volunteer water quality monitoring;
4. Storm drain stenciling;
5. Conducting surveys;
6. Tree plantings;
7. BMP maintenance;
8. Adopt a highway/stream/lake/beach/catch basin; and
9. Educational activities including distribution of materials.

¹⁵ USEPA educational materials found and utilized here: <https://cfpub.epa.gov/npstbx/MediaCampaign.cfm>, <https://www.epa.gov/npdes/national-menu-best-management-practices-bmps-stormwater-public-education>, and <https://www.epa.gov/trash-free-waters>.

Comments received during the public comment period for the draft GP-0-17-002 suggested adding stewardship activities to the list. Although the Department agrees with the suggestion, the Department removed the list from the final GP-0-24-001 because: 1) it is not exhaustive, and 2) attempting to create an exhaustive list may prove inadequate as new/different stewardship activities are developed. The final GP-0-24-001 requires an opportunity for public involvement/participation in the development and implementation of the SWMP, which could include stewardship activities.

Consideration of Public Input (Part VI.B.2.c. and Part VII.B.2.c. of the final GP-0-24-001): Both GP-0-15-003 and the draft GP-0-17-002 required that the SWMP Plan be publicly available. In accordance with 40 CFR 122.34(b)(2)(ii), the final GP-0-24-001 continues to include this requirement. Although GP-0-15-003 and the draft GP-0-17-002 required that the MS4 Operator provide the SWMP Plan to the public, and, in essence, there would have been an opportunity for public comment, neither general permit included a specific requirement to allow the public to comment on the SWMP Plan. To satisfy the Phase II Remand Rule, the final the final GP-0-24-001 includes a specific requirement for the already established opportunity for the public to comment on the SWMP Plan. For ease of administration, the final GP-0-24-001 correlates the public review and comment period of the SWMP Plan with the requirements for public review and comment of the draft annual report. Public input on the SWMP Plan is necessary to provide adequate opportunity to the public for input on the SWMP so MS4 Operators can reduce the discharge of pollutants to the MEP.

MCM 3 – Illicit Discharge Detection and Elimination (Part VI.C. and Part VII.C. of the final GP-0-24-001)

40 CFR 122.26(b)(2) defines an illicit discharge as any discharge to an MS4 that is not composed entirely of stormwater. The IDDE requirements of the final GP-0-24-001 are in accordance with 40 CFR 122.34(b)(3)(i).

In accordance with 40 CFR 122.34(b)(3)(i), the IDDE program must include methods for prevention, detection, track-down, and elimination. The IDDE program in GP-0-15-003 largely focused the program on the mapping and inspection of outfalls, as well as the creation of procedures to track down and eliminate illicit discharges. These requirements were expanded in the draft GP-0-17-002 and maintained in a different organizational structure in the final GP-0-24-001.

Comments received during the public comment period for the draft GP-0-17-002 indicated there was a lack of clarity and consistency between the draft GP-0-17-002 and the tools MS4 Operators use to implement their IDDE programs (e.g., Center for Watershed Protection Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assistance, October 2004 (CWP 2004)¹⁶). In response, the final GP-0-24-001 clearly identifies the specific necessary

¹⁶ The Center for Watershed Protection Illicit Discharge Detection and Elimination: A Guidance Manual for Program Development and Technical Assistance, October 2004 can be found here: www.cwp.org

components of the IDDE program, satisfying the provisions of the Phase II Remand Rule. These changes also allow MS4 Operators to reduce the discharge of pollutants to the MEP because there is coordination between permit requirements and the tools used to satisfy those permit requirements.

Additionally, several parts of the IDDE program have been reorganized within the final GP-0-24-001. The legal authority requirements, found in MCM 3 of the GP-0-15-003 and the draft GP-0-17-002, have been moved to Part IV.E. Legal Authority in the final GP-0-24-001. For more on this, see the Legal Authority section of this fact sheet. Illicit discharge prevention, found in MCM 3 of GP-0-15-003 and the draft GP-0-17-002, has been moved to MCM 1 in the final GP-0-24-001. For more on this, see the Illicit Discharge Education section of this fact sheet. Mapping of outfalls, found in MCM 3 of the GP-0-15-003, was moved to the mapping section of the draft GP-0-17-002 and continues to be found in the mapping section of the final GP-0-24-001. For more on this, see the Mapping section of this fact sheet.

- 1. *Illicit Discharge Detection (Part VI.C.1. and Part VII.C.1. of the final GP-0-24-001):*** GP-0-15-003, the draft GP-0-17-002, and the final GP-0-24-001 include permit components in accordance with 40 CFR 122.34(b)(3)(i)(C) and 6 NYCRR 750-1.13. The final GP-0-24-001 builds upon the permit requirements in GP-0-15-003 and the draft GP-17-002 for illicit discharge detection to include: 1) public reporting of illicit discharges, 2) the description of monitoring locations, 3) an inventory of monitoring locations, 4) the prioritization of monitoring locations, and 5) the inspections and sampling of monitoring locations. The components of the program are described further below.

Both GP-0-15-003 and the draft GP-0-17-002 defined an outfall as the location where an MS4 discharges to either a surface water of the State or to another MS4. For clarity, which satisfies the Phase II Remand Rule, the definition of outfall was separated into newly defined terms, MS4 outfall and interconnection. The final GP-0-24-001 definition of “MS4 outfall” more closely reflects the definition of an “outfall” found in 6 NYCRR 750-1.2(a)(60), only including where an MS4 Operator’s MS4 discharges stormwater to a surface water of the State. The final GP-0-24-001 includes a separate definition of “interconnection” as any point the MS4 Operator’s MS4 is discharges stormwater to another MS4 or private storm sewer system.

Despite the changes in terminology, two things have not changed between GP-15-003 and the final GP-0-24-001: 1) MS4 Operators have already completed inspections and sampling at MS4 outfalls, as defined in the final GP-0-24-001, and 2) MS4 Operators have already completed inspections and sampling where the MS4 Operator’s MS4 is discharging stormwater to another MS4, this includes another MS4 and private storm sewer systems. Therefore, no additional requirements in the final GP-0-24-001 apply to MS4 Operators in either situation.

Under the final GP-0-24-001, as new permit requirements from GP-0-15-003, MS4 Operators must identify and conduct inspections and sampling at municipal facility

intraconnections. The term “municipal facility intraconnection” is new in the final GP-0-24-001. Also, a definition of “municipal facility intraconnection” is new to the final GP-0-24-001. However, that definition is essentially the same as what was presented in the draft GP-0-22-002 as a permit condition.

In the final GP-0-24-001, these locations are collectively referred to as “monitoring locations,” include: a) MS4 outfalls, b) interconnections, and c) municipal facility intraconnections.

- a. **Public Reporting of Illicit Discharges (Part VI.C.1.a. and Part VII.C.1.a. of the final GP-0-24-001):** Both GP-0-15-003 and the draft GP-0-17-002 required a “hotline” the public could use to report an illicit discharge. Comments received during the public comment period for the draft GP-0-17-002 indicated that MS4 Operators were concerned about costs associated with staffing for a dedicated hotline. The final GP-0-24-001 continues to require a method for the public to report illicit discharges to satisfy the Phase II Remand Rule but offers an alternative to address the concern above and allow the MS4 Operators to reduce the discharge of pollutants to the MEP. Although it is not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, MS4 Operators may find it helpful to 1) create one email or phone number that can be used for any public complaints including IDDE reports and/or reports regarding construction activity (see the MCM 5 section of this fact sheet), 2) use a pre-existing email and/or phone number be for a pre-existing municipal staff member to avoid additional costs, and/or 3) use the Stormwater Program Coordinator email and/or phone number for the reporting of illicit discharges as the Stormwater Program Coordinator may be the most capable of determining the follow-up procedures.

Lastly, as was presented in the draft GP-0-22-002, the final GP-0-24-001 continues to include the public reporting of illicit discharges in the illicit discharge detection section of MCM 3. By including all illicit discharge detection methods (i.e., public reporting or monitoring location inspection and sampling) under the illicit discharge detection section of MCM 3, MS4 Operators will be able to develop and implement a comprehensive program to reduce the discharge of pollutants to the MEP.

- b. **Description of Monitoring Locations (Part VI.C.1.b. and Part VII.C.1.b. of the final GP-0-24-001):**

The descriptions of the monitoring locations are under the Illicit Discharge Detection section of this fact sheet. The rationale for collectively calling these locations “monitoring locations” was so the permit could refer to one term consistently. By clarifying the definitions and mapping requirements for the monitoring locations in the final GP-0-24-001 satisfies the Phase II Remand Rule and, so that, the MS4 Operators reduce the discharge of pollutants to the MEP.

- c. **Monitoring Locations Inventory (Part VI.C.1.c. and Part VII.C.1.c. of the final GP-0-24-001):** Neither the GP-0-15-003, nor the draft GP-0-17-00,2 included a requirement to inventory the outfalls, although, in mapping and inspecting the outfalls, the MS4 Operators would have functionally inventoried the outfalls. To satisfy the Phase II Remand Rule, the final GP-0-24-001 explicitly includes the requirement to inventory the monitoring locations. MS4 Operators who implemented GP-0-15-003 to reduce the discharge of pollutants to the MEP, including the use of the Center for Watershed Protection (CWP) ORI Sheet for outfall inspections, already have most of the information required for the inventory.

The inventory of monitoring locations must be completed three (3) years from EDC, because the inspections of these monitoring locations must be completed five (5) years from EDC. Creating an inventory is a simplified way to consolidate a large portion of information. Additionally, the inventory is useful to have as a complete list of the monitoring locations before prioritization (Part VI.C.1.d. or Part VII.C.1.d, depending on the MS4 Operator type, of the final GP-0-24-001).

The inventory information for each monitoring location was designed to include information which may be the most useful based on the type of monitoring location (i.e., for an interconnection, it is unlikely that the location is/will be submerged in water, so that information is not required in the inventory). In the final GP-0-24-001, creating an inventory and specific information about the monitoring location as required in the inventory satisfies the Phase II Remand Rule, and, so that, MS4 Operators can reduce the discharge of pollutants to the MEP.

The inventory information required for each monitoring location differs as follows:

- i. The inventory for interconnections requires a subset of inventory information compared to that for MS4 outfalls. Additionally, it includes one piece of information that is not included in the MS4 outfall inventory, "Name of MS4 Operator receiving discharge or private storm system." This was added so the MS4 Operator can determine who they may need to contact in the instance of an illicit discharge.
- ii. The inventory for municipal facility intraconnections requires a smaller subset of inventory information compared to that for MS4 outfalls. This monitoring location has the least amount of required inventory information because the discharge is going to the MS4 Operator's own MS4 and additional information will be included in the inventory for the down-drainage monitoring location (i.e., down drainage, the MS4 Operator will inventory, prioritize, and inspect either an MS4 outfall or interconnection).

Although not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, MS4 Operators could include the inventory information that is required for MS4 outfalls in the inventory for each of the other monitoring locations for ease of implementation.

- d. **Monitoring Locations Prioritization (Part VI.C.1.d. and Part VII.C.1.d. of the final GP-0-24-001):** The GP-0-15-003 did not include prioritization of outfalls. Criteria used to prioritize outfalls was introduced in the draft GP-0-17-002 so MS4 Operators could reduce the discharge of pollutants to the MEP. Comments received during the public comment period for the draft GP-0-17-002, and during the MS4 Stakeholder Workgroup, indicated that the criteria used to prioritize outfalls were excessive and required information that the MS4 Operators did not have readily available. Some of the criteria used to prioritize outfalls presented in the draft GP-0-17-002 has been removed in the draft GP-0-22-002. The following are explanations for why the criteria were removed in the draft GP-0-22-002:
- i. One criterion for prioritizing an outfall as a high priority outfall under the draft GP-0-17-002 was that the outfalls meet the definition of “major outfall,” as defined in 40 CFR 122.26(b)(5)). To determine which outfalls were major outfalls, the MS4 Operators needed information on the size of the pipe of the outfalls, size of the drainage area to the outfalls, and land use draining to the outfalls. While under GP-0-15-003 the pipe size information was recorded for each outfall on the ORI sheet during outfall inspections, the drainage area and associated land use information was not required under a previous MS4 General Permit. Therefore, the MS4 Operators did not have that information in preparation for the prioritization criteria presented in the draft GP-0-17-002. The MS4 Operator must first have a map of the infrastructure conveying stormwater to the outfall to determine drainage area and land use, a permit requirement presented in the draft GP-0-17-002 that was not due to be completed until the end of the permit term.
 - ii. Another criterion for prioritizing an outfall as a high priority outfall under the draft GP-0-17-002 was that the outfalls service areas with “high illicit discharge potential,” as determined by applying a list of screening factors identified in Table 14 of CWP 2004. Comments indicated issues with the screening factors, specifically that some information was not required to be collected under a previous MS4 General Permit (e.g., age of infrastructure greater than 50 years). Additionally, by applying the screening factors, MS4 Operators commented that most of their outfalls would be considered high priority, effectively invalidating the purpose of prioritizing.

The Illicit Discharge Detection section of this fact sheet explains the change in terminology, outfalls to monitoring locations. The final GP-0-24-001 continues to include criteria to prioritize monitoring locations; however, the criteria have been revised from the draft GP-0-17-002 and are based on: 1) the pollutant discharge potential (e.g., monitoring locations at high priority facilities), 2) the waterbody receiving the stormwater discharge (e.g., discharging to impaired waters), and 3) the report of citizen complaints. The prioritization criteria in final GP-0-24-001 require information that either: 1) was collected under a previous MS4 general permit or 2) will be collected under the final GP-0-24-001 prior to the compliance deadline for the prioritization of monitoring locations. This approach allows the monitoring location prioritization requirements to satisfy the Phase II Remand

Rule. To better inform future permit requirements, the prioritization of monitoring locations is still required.

- e. **Monitoring Locations Inspection and Sampling Program (Part VI.C.1.e. and Part VII.C.1.e. of the final GP-0-24-001):**

Inspections and Sampling Procedures (Part VI.C.1.e.i. and Part VII.C.1.e.i. of the final GP-0-24-001): The final GP-0-24-001 continues to reference CWP 2004 as an option in establishing the methodology for conducting monitoring location inspections and sampling, the use of the Monitoring Locations Inspection and Sampling Form (adapted from the ORI sheet), and the development of inspection and sampling procedures. To satisfy the Phase II Remand Rule the final GP-0-24-001 specifically uses terminology from the CWP 2004 ORI Sheet for determining the severity of illicit discharges and proper follow-up. For example, if a monitoring location inspection indicates a “suspect” illicit discharge, “suspect” being a term used to characterize the flow at a monitoring location on the ORI sheet, the MS4 Operator must initiate illicit discharge track down procedures. In this way, the final GP-0-24-001 requirement correlates with the tool used by the MS4 Operators for permit implementation.

The draft GP-0-17-002 included a table of parameters to be sampled, “at all flowing outfalls with any physical indicator of an illicit discharge,” and their associated “action levels.” Comments received during the public comment period for the draft GP-0-17-002 indicated that this table was confusing in context with the rest of the draft permit language. The table was never intended as a permit requirement, but simply as guidance. To clarify, the table is removed in the final GP-0-24-001.

Inspections and Sampling Frequency (Part VI.C.1.e.i.a) and Part VII.C.1.e.i.a) of the final GP-0-24-001): The GP-0-15-003, draft GP-0-17-002, and the final GP-0-24-001 all include routine inspections used to detect illicit discharges in the MS4, as well as structural concerns (e.g., excessive debris build up). Under the GP-0-15-003, an “outfall reconnaissance inventory” (i.e., inspection) of all outfalls had to be conducted once a permit term and MS4 Operators were directed to CWP 2004 for guidance on conducting the inspections. In certain instances, inspections of outfalls once every five (5) years was inadequate. In the draft GP-0-17-002, with the introduction of the prioritization of outfalls, outfall inspections were required at a frequency based on their prioritization (i.e., high priority outfalls would be inspected annually and low priority outfalls would be inspected once a permit term). The draft GP-0-17-002 continued to use CWP 2004 as a guidance document while also detailing some methodology for the inspection in the draft permit. Comments received during the public comment period for the draft GP-0-17-002, and during the MS4 Stakeholder Workgroup on the draft GP-0-17-002, indicated that the methods for inspection were confusing because terminology in the draft permit was different than that in CWP 2004 and the inspection frequency was: 1) excessive (some MS4 Operators even suggested

less frequent inspections than what was required in GP-0-15-003), and 2) beyond the capabilities of the MS4 Operator's staffing and budget, exceeding MEP.

In response to the comments on the draft GP-0-17-002, the draft GP-0-22-002 adjusted the inspection and sampling frequency of monitoring locations based on their prioritization. In response to comments on the draft GP-0-22-002, the final GP-0-24-001 requires inspection and sampling to occur once every (5) years regardless of prioritization, the same frequency required under GP-0-15-003. The update to the inspection frequency allows MS4 Operators to reduce the discharge of pollutants to the MEP.

The Department understands that the number of monitoring locations and the amount of resources to complete inspections can differ greatly between MS4 Operators and between reporting years. Therefore, although not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, MS4 Operators may find it helpful to distribute monitoring location inspections over the five (5) year compliance timeframe, as opposed to postponing monitoring locations inspections until the year they are due to be complete. MS4 Operators may utilize citizen or environmental groups to monitor low priority monitoring locations.

Training (Part VI.C.1.e.ii. and Part VII.C.1.e.ii. of the final GP-0-24-001): The GP-0-15-003 did not require training for personnel conducting outfall inspections. The draft GP-0-17-002 introduced a permit requirement for annual training for those conducting outfall inspections. Comments received during the public comment period for the draft GP-0-17-002, and during the MS4 Stakeholder Workgroup, indicated that annual training was too frequent and unnecessary. To satisfy the Phase II Remand Rule and allow the MS4 Operator to reduce the discharge of pollutants to the MEP, the final GP-0-24-001 continues to include a permit requirement to train those conducting monitoring location inspection and sampling once every five (5) years.

2. *Illicit Discharge Track Down Program (Part VI.C.2. and Part VII.C.2. of the final GP-0-24-001):*

The GP-0-15-003 included the requirement to develop and enforce an illicit discharge track down program. To provide additional guidance to MS4 Operators on an appropriate program, the draft GP-0-17-002 added specific requirements for the program including: 1) training; 2) procedures; 3) progress tracking; and 4) time frames for initiating procedures. To satisfy the Phase II Remand Rule, the final GP-0-24-001 refined the illicit discharge track down program proposed in the draft GP-0-17-002 by including: 1) a record of those who have received the illicit discharge track down training, and 2) an annual update to the illicit discharge track down procedures (e.g., shorten the time frame for initiating track down procedures for suspect discharges from five days to four days). As a result of the

update to the procedures, MS4 Operators are reducing the discharge of pollutants to the MEP.

3. *Illicit Discharge Elimination Program (Part VI.C.3. and Part VII.C.3. of the final GP-0-24-001):*

The GP-0-15-003 included the requirement to develop and enforce an illicit discharge elimination program. To provide additional guidance to MS4 Operators on an appropriate program, the draft GP-0-17-002 added specific requirements for the program including: 1) time frames for initiating procedures; 2) provisions for escalating enforcement and tracking of the enforcement process; 3) provisions to confirm the illicit discharge has been eliminated; and 4) an annual evaluation of timeframes to eliminate illicit discharges with identification of improvements. To satisfy the Phase II Remand Rule, the final GP-0-24-001 refined the illicit discharge elimination program proposed in the draft GP-0-17-002 by including: 1) illicit discharge elimination procedures; 2) provisions for training on the MS4 Operator's illicit discharge elimination procedures; 3) a record of those who have received the illicit discharge elimination training; 4) how progress with illicit discharge elimination will be documented; and 5) an annual update to the illicit discharge elimination procedures. As a result of the update to the procedures, MS4 Operators are reducing the discharge of pollutants to the MEP.

Background: Construction/Post-Construction Requirements

As required by 40 CFR 122.34(b)(4)(i) and (5)(i), and similar to GP-0-15-003 and draft GP-0-17-002, the final GP-0-24-001 requires the MS4 Operator to develop, implement, and enforce a program to reduce pollutants in any stormwater runoff to the small MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The requirements applied during construction activity are contained in MCM 4, and the requirements applied to post-construction are included in MCM 5. The implementation of the construction site stormwater runoff control program promotes the proper planning and installation of post-construction SMPs, as well as reduces the discharge of pollutants to the MEP from construction related activities. To ensure this, the MS4 Operator must have proper legal authority to implement MCM 4 and MCM 5. The final GP-0-24-001 continues to require that MS4 Operators provide this compliance oversight for applicable construction activities. For more on this, see the Legal Authority section of this fact sheet.

Implementation of MCM 4 and 5: The GP-0-15-003 and the draft GP-0-17-002 required that the MS4 Operator develop and implement a program that addressed stormwater runoff to the small MS4 from construction activities that require coverage under the SPDES General Permit for Stormwater from Construction Activities, GP-0-20-001 (CGP). To clarify existing permit language, the final GP-0-24-001 requires that the MS4 Operator develop and implement a program that addresses stormwater runoff within automatically and additionally designated areas from construction

activities that require coverage under the CGP. For more on this, see the Minimum Control Measures section of this fact sheet.

The GP-0-15-003 and the draft GP-0-17-002 required that the MS4 Operator maintain an inventory of post-construction SMPs discharging to the small MS4 that have been installed since March 10, 2003, implying both publicly and privately owned post-construction SMPs. Based on confusion expressed during outreach and noted by the Department during audits, the draft GP-0-22-002 specifically included that, both Traditional Land Use Control MS4 Operators and Traditional Non-Land Use Control & Non-Traditional MS4 Operators had to ensure O&M of public and private post-construction SMPs.

In accordance with the Department's long-standing intent, the final GP-0-24-001 clarifies the types of post-construction SMPs to include in the inventory. For Traditional Land Use Control MS4 Operators, the final GP-0-24-001 specifically requires the MS4 Operator to maintain an inventory of both publicly and privately owned/operated post-construction SMPs discharging areas to the small MS4.¹⁷ This requirement is appropriate for Traditional Land Use Control MS4 Operators because these MS4 Operators have land use authority. In reviewing the resources necessary to implement the overall requirements of the final GP-0-24-001, the Department recognized that applying those same requirements to Traditional Non-Land Use Control & Non-Traditional MS4 Operators was 1) not possible due to the lack of land use authority and 2) not practicable as it would be a duplication of permit requirements being completed by Traditional Land Use Control MS4 Operators without an environmental benefit. For Traditional Non-Land Use Control MS4 Operators and Non-Traditional MS4 Operators, the final GP-0-24-001 specifically requires the MS4 Operator to maintain an inventory of only the publicly owned/operated post-construction SMPs discharging to the small MS4.¹⁸

SWPPP Review (Part VI.D.6. and Part VII.D.6. of the final GP-0-24-001): In accordance with 40 CFR 122.34(b)(4)(i)(D), GP-0-15-003 and draft GP-0-17-002 both required that, before coverage under the CGP, an MS4 Operator review and accept a stormwater pollution prevention plan (SWPPP). Both GP-0-15-003 and draft GP-0-17-002 also required that MS4 Operators must then inspect all construction sites and enforce compliance with that SWPPP. In accordance with 40 CFR 122.34(b)(4)(i)(B), the SWPPP must be in conformance with the requirements of the CGP including: the New York State Standards and Specifications for Erosion & Sediment Controls, November 2016 (NYS E&SC 2016) and the New York State Stormwater Management Design Manual, January 2015 (NYS SWMDM 2015), or equivalent.

MCM 5 of GP-0-15-003 and draft GP-0-17-002 required MS4 Operators to: 1) incorporate into the SWPPP review procedures, additional elements to ensure all

¹⁷ Details regarding the location of implementation of the MCMs can be found in the Minimum Control Measure section of this fact sheet.

¹⁸ Details regarding the location of implementation of the MCMs can be found in the Minimum Control Measure section of this fact sheet.

post-construction SMPs meet the sizing criteria contained in the NYS SWMDM 2015; 2) ensure the SWPPP includes adequate provisions for long term maintenance as required by the CGP; and 3) have an O&M plan that identifies the entity that will be responsible for the long-term O&M of each practice. However, these requirements have been relocated to the SWPPP review section of MCM 4. Consolidation of the SWPPP review was done to ensure SWPPP review was completed prior to construction occurring, as identified in the public comment period of draft GP-0-17-002. Additionally, these changes satisfy the Phase II Remand Rule and allow MS4 Operators to reduce the discharge of pollutants to the MEP.

MCM 4 – Construction Site Stormwater Runoff Control (Part VI.D. and Part VII.D. of the final GP-0-24-001)

GP-0-15-003 required the MS4 Operator to develop and maintain a construction site inventory of active sites and to perform regularly scheduled inspections. The draft GP-0-17-002 expanded upon this by specifying what must be included in the inventory, as well as criteria used to prioritize active construction sites. Positive feedback was received during the public comment period and from the MS4 Stakeholder Workgroup regarding the increased detail in the construction site inventory and the prioritization introduced in the draft GP-0-17-002. Because of this, many of the requirements in MCM 4 of the draft GP-0-17-002 remain the same in the final GP-0-24-001.

Public Reporting of Construction Site Complaints (Part VI.D.2. and Part VII.D.2. of the final GP-0-24-001): In accordance with 40 CFR 122.34(b)(4)(i)(E), the draft GP-0-17-002 included a requirement for MS4 Operators to have a way to receive public complaints about construction sites. The final GP-0-24-001 continues to require a method for the public to report construction activity issues to satisfy the Phase II Remand Rule but offers options for implementation to allow the MS4 Operators to reduce the discharge of pollutants to the MEP. Although it is not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, MS4 Operators may find it helpful to 1) create one email or phone number that can be used for any public complaints including IDDE reports (see the MCM 3 section of this fact sheet) and/or reports regarding construction activity, 2) use a pre-existing email and/or phone number be for a pre-existing municipal staff member to avoid additional costs, and/or 3) use the Stormwater Program Coordinator email and/or phone number for the reporting of construction activity related complaints as the Stormwater Program Coordinator may be the most capable of determining the follow-up procedures.

Construction Site Inventory & Inspection Tracking (Part VI.D.4. and Part VII.D.4. of the final GP-0-24-001): GP-0-15-003 includes the requirement for the MS4 Operator to maintain an inventory of active construction sites to conduct inspections more effectively. The draft GP-0-17-002 built upon this by requiring more information to be collected about the construction site for the inventory, satisfying the Phase II Remand Rule. The final GP-0-24-001 continues to require a construction site inventory with the level of detail presented in the draft GP-0-17-002. However,

the inventory information included in the draft GP-0-17-002 has been refined in the final GP-0-24-001, to meet the Phase II Remand Rule, and specifically includes: the location of the project; owner/operator information; receiving waterbody name; WI/PWL segment ID; the prioritization of the construction site; when the SWPPP was approved by the MS4 Operator; inspection history; and the status of the construction site/project. These inventory requirements allow MS4 Operators to oversee construction sites and reduce the discharge of pollutants to the MEP.

Construction Site Prioritization (Part VI.D.5. and Part VII.D.5. of the final GP-0-24-001): GP-0-15-003 did not include a prioritization of construction sites. The final GP-0-24-001 includes prioritization criteria for construction sites, similar to the Vermont Construction General Permit risk-based standard,¹⁹ which was included in the draft GP-0-17-002. The prioritization of construction sites is based on criteria which can be used to evaluate the impact a construction site may have on a waterbody. This information can be used to better inform future permit requirements for construction sites.

Additionally, the Stormwater Interactive Map includes a suite of tools, including a measurement tool, which can be used to determine the distance from lakes, ponds, rivers, and streams which are prioritization criteria.

Pre-Construction Meeting (Part VI.D.7. and Part VII.D.7. of the final GP-0-24-001): An addition to the final GP-0-24-001 is a specific list of individuals who need to be present during a pre-construction meeting. This was not included within GP-0-15-003 or the draft GP-0-17-002. These changes were made to draft GP-0-22-002 in response to comments submitted during the public notice period of draft GP-0-17-002, and from the MS4 Stakeholder Workgroup, to make the requirement satisfy the Phase II Remand Rule and to reduce the discharge of pollutants to the MEP.

Construction Site Inspections (Part VI.D.8. and Part VII.D.8. of the final GP-0-24-001): In accordance with 40 CFR 122.34(b)(4)(i)(F) requires procedures for site inspection and enforcement of control measures. While GP-0-15-003 required that “all sites must be inspected where the disturbance is one acre or greater,” that permit did not specify the frequency of inspection. The draft GP-0-17-002 specified that high priority construction sites must be inspected every thirty (30) days based on their potential risk to water quality. The draft GP-0-22-002 continued to require inspections of construction sites prioritized based on potential risks to water quality. In the draft GP-0-22-002, high priority construction sites had to be inspected every thirty (30) days and low priority construction sites had to be inspected once a Reporting Year.

¹⁹ The Vermont Construction Stormwater Discharge Permits can be found here: <https://dec.vermont.gov/watershed/stormwater/permit-information-applications-fees/stormwater-construction-discharge-permits>

The final GP-0-24-001 includes annual inspection regardless of prioritization for construction sites. An inspection frequency is necessary to comply with the Phase II Remand Rule, as well as to ensure that construction site discharges are addressed to reduce the discharge of pollutants to the MEP.

The final GP-0-24-001 no longer requires MS4 Operators to utilize the qualified inspector's weekly inspection reports as the basis to inspect sites at a lesser frequency as all construction site inspections are required annually.

MCM 5 – Post-Construction Stormwater Management (Part VI.E. and Part VII.E. of the final GP-0-24-001)

In accordance with 40 CFR 122.34(b)(5)(i)(A), the final GP-0-24-001 continues to include GP-0-17-002 elements, such as SWPPP Review, post-construction SMP inventory and inspection tracking, and post-construction SMP inspection and maintenance. In accordance with 40 CFR 122.34(b)(5)(i)(C), the MS4 Operator ensures the reduction of the discharges of pollutants to the MEP by developing and maintaining an inventory of post-construction SMPs and inspecting the post-construction SMPs to ensure long-term O&M. In conformance with the Phase II Remand Rule and to reduce the discharge of pollutants to the MEP, the final GP-0-24-001 refines GP-0-15-003 MCM 5 requirements. These refinements include: more detailed oversight inspection requirements; inventory and inspection information to be maintained for all applicable post-construction practices that are designed and maintained in conformance with the applicable NYS SWMDM 2015 or equivalent; training requirements for individuals overseeing inspections; and inspection guidance to use.

Post-Construction SMP Inventory & Inspection Tracking (Part VI.E.2. and Part VII.E.2. of the final GP-0-24-001): To effectively conduct inspections and maintain both private and public post-construction SMPs, GP-0-15-003 required MS4 Operators to have an inventory of post-construction SMPs and track maintenance activities within the inventory. The draft GP-0-17-002 specified information to include in the inventory for each post-construction SMP. Comments received during the public comment period for the draft GP-0-17-002, and during the MS4 Stakeholder Workgroup, indicated that information regarding privately owned SMPs can be difficult to obtain in some cases and difficult to maintain regularly compared to publicly owned post-construction SMPs.

Similar to the draft GP-0-17-002, the final GP-0-24-001 continues to require a single inventory with the same information for both publicly and privately owned/operated post-construction SMPs for Traditional Land-Use MS4 Operators and publicly owned/operated post-construction SMPs for Traditional Non-Land-Use Control & Non-Traditional MS4 operators. This approach ensures that all post-construction SMPs are being maintained to the level necessary to function properly. To satisfy the Phase II Remand Rule, and to ensure MS4 Operators can reduce the discharge of pollutants to the MEP, the inventory information must be included by using either: 1) the MS4 Operator maintenance records, or 2) verification of maintenance records

(by visual, written, or verbal confirmation) from the owner of the public or private post-construction SMP. The verification of inventory information addresses the comments received on the draft GP-0-17-002.

Although not required by the final GP-0-24-001, as it is not necessary to reduce the discharge of pollutants to the MEP, MS4 Operators may find it helpful to include post-construction SMPs which were constructed prior to March 10, 2003, in the post-construction SMP inventory.

Post-Construction SMP Inspection & Maintenance Program (Part VI.E.4. and Part VII.E.4. of the final GP-0-24-001): GP-0-15-003 required inspections and maintenance of post-construction SMPs by trained staff. To satisfy the Phase II Remand Rule, and to ensure MS4 Operators can reduce the discharge of pollutants to the MEP, the final GP-0-24-001 includes provisions for training individuals responsible for inspection and maintenance of post-construction SMPs. On March 31, 2017, the Department finalized the New York State Department of Environmental Conservation Maintenance Guidance: Stormwater Management Practices, March 31, 2017 (NYS DEC Maintenance Guidance 2017),²⁰ developed with the Center for Watershed Protection. NYS DEC Maintenance Guidance 2017 is utilized by design professionals and staff of the MS4 Operator in the development and review of O&M plans for post-construction SMPs, as well as a reference for ongoing inspections and maintenance of existing practices. The final GP-0-24-001 requires NYS DEC Maintenance Guidance 2017 to be used in specific instances but allows for an equivalent tool to be used for post-construction SMP inspections.

The draft GP-0-17-002 specified that MS4 Operators must inspect post-construction SMPs at the frequency specified in the O&M plan of the approved SWPPP. The final GP-0-24-001 expands upon this by specifying that, for practices where an associated SWPPP is not on file, MS4 Operators must follow the frequencies outlined in the NYS DEC Maintenance Guidance 2017. This change was made in response to public feedback received during the draft GP-0-17-002 public comment period, and the MS4 Stakeholder Workgroup, which expressed the concern that older practices installed prior to the adoption of the local law for erosion and sediment control often contain limited information on file, including the original project SWPPP. Using the NYS DEC Maintenance Guidance 2017 to complete inspections satisfies the Phase II Remand Rule and allows the MS4 Operators to reduce the discharge of pollutants to the MEP.

GP-0-15-003 and the draft GP-17-002 required documentation and timeframes for corrective actions. The final GP-0-24-001 continues to require documentation of specific data elements and time frames for corrective actions (details can be found in the Enforcement Response Plan Section of this fact sheet).

²⁰ The maintenance guidance is available on the Department website.

MCM 6 – Pollution Prevention & Good Housekeeping (Part VI.F. and Part VII.F. of the final GP-0-24-001)

As specified in 40 CFR 122.34(b)(6)(i), GP-0-15-003 established the basis for MS4 Operators to develop and implement a pollution prevention and good housekeeping program for municipal facilities and municipal operations. The pollution prevention and good housekeeping program ensures the MS4 Operator's own activities, at municipal facilities or during municipal operations, do not contribute pollutants to surface waters of the State. GP-0-15-003 largely focused the program on assessments of municipal facilities and municipal operations and determining BMPs to reduce the discharge of pollutants to the MEP. In the draft GP-0-17-002, these requirements were expanded and presented as a comprehensive pollution prevention and good housekeeping program made up of: 1) facilities and operations assessment, 2) BMPs of all municipal operations and facilities, 3) municipal facilities,²¹ and 4) municipal infrastructure operations & maintenance. Comments received during the public comment period for the draft GP-0-17-002, and during the MS4 Stakeholder Workgroup, indicated the draft GP-0-17-002 requirements exceeded MEP.

The final GP-0-24-001 continues to require the development and implementation of the pollution prevention and good housekeeping program. However, the final GP-0-24-001 reorganized MCM 6 into fewer, distinct sections: 1) BMPs,²² 2) municipal facilities, and 3) municipal operations & maintenance.²³ The following paragraphs provide additional detail about those succinct sections of MCM 6 in the final GP-0-24-001.

Although both municipal facilities and municipal operations were defined separately in the draft GP-0-22-002, both definitions included a non-exhaustive list of municipal facilities and municipal operations, respectively. The final GP-0-24-001 continues to include a definition of municipal facilities. However, the Department removed the list of municipal facilities from the definition final GP-0-24-001 because: 1) it is not exhaustive, and 2) attempting to create an exhaustive list may prove inadequate as new/different municipal facilities are added. Some examples of municipal facilities are: airports, landfills, recycling facilities, cemeteries, golf courses, municipal buildings, parks, public works, fire stations, and police stations. The final GP-0-24-001 continues to include a definition of municipal operations. However, an exhaustive list of municipal operations, which must be addressed, has been relocated from the definition to the text in the final GP-0-24-001.

NYS Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP, GP-0-23-001): GP-0-15-003 and the draft GP-0-17-002 included conditions for MS4 Operators with MSGP municipal facilities to gain

²¹ Including the municipal facility inventory, prioritization, municipal facility specific SWPPPs, and assessments.

²² The best management practices (BMPs) have been moved to the beginning of MCM 6 in the draft GP-0-22-002, as they apply to both municipal facilities and municipal operations.

²³ In the draft GP-0-22-002, as opposed to having a section of MCM 6 dedicated to assessments, both municipal facilities and municipal operations & maintenance include subsections for respective assessment requirements.

coverage under that MS4 permit. The approach in previous permits did not add any additional conditions providing environmental protection beyond those in the MSGP. Therefore, the Department changed course and MSGP municipal facilities are no longer eligible for coverage under the final GP-0-24-001. If an MS4 Operator is operating an MSGP facility, the facility needs to gain coverage under the MSGP. This approach in the final GP-0-24-001 streamlines both the permitting and compliance aspects of the MSGP.

- 1. Best Management Practices (BMPs) (Part VI.F.1. and Part VII.F.1. of the final GP-0-24-001):** GP-0-15-003 required the implementation of BMPs for all municipal facilities and operations but did not include a list of BMPs to use. A list of BMPs was added to the draft GP-0-17-002 and continues to be included in the final GP-0-24-001, although refined from the list in the draft GP-0-17-002 to satisfy the Phase II Remand Rule. The reduction of the discharge of pollutants to the MEP is achieved through the implementation of the BMPs, designed to minimize the discharge of pollutants associated with all municipal facilities and operations. Also, a number of provisions in this section in the draft GP-0-17-002 were removed for the final GP-0-24-001 because they were duplicative with other requirements of this section.

The draft GP-0-22-002 included a BMP for erosion and sediment controls in order to minimize onsite erosion and sedimentation, requiring those controls to be in accordance with New York State, Standards and Specifications for Erosion & Sediment Control, November 2016 (NYS E&SC 2016). The final GP-0-24-001 requires the MS4 Operator to consider the NYS E&SC 2016. This means the NYS E&SC 2016 can be used for ideas on how to control erosion and sedimentation but does not require all exposed areas to meet the standards of NYS E&SC 2016.

- 2. Municipal Facilities (Part VI.F.2. and Part VII.F.2. of the final GP-0-24-001):**

Municipal Facility Inventory (Part VI.F.2.b. and Part VII.F.2.b. of the final GP-0-24-001): GP-0-15-003 did not include a requirement to inventory the municipal facilities, although, in assessing the municipal facilities, the MS4 Operators would have functionally inventoried the municipal facilities. The draft GP-0-17-002 built upon GP-0-15-003 by adding a specific requirement to inventory the municipal facilities. The municipal facility inventory requirement from draft GP-0-17-002 was retained but adjusted in the final GP-0-24-001. For example, the final GP-0-24-001 requires MS4 Operators to collect particular information that more closely aligns with the Department's guidelines in grant funding such as the size of the municipal facility. MS4 Operators who implemented GP-0-15-003 may already have some of the information required for the inventory.

The municipal facility inventory serves as a tool for MS4 Operators to organize information about the municipal facilities. The inventory helps MS4 Operators better characterize the sites that are municipally operated and manage their potential to contribute stormwater pollutants to the MS4 or surface water of the State. In the final GP-0-24-001, creating an inventory and documenting specific information about the

municipal facility satisfies the Phase II Remand Rule, and, so that, MS4 Operators can reduce the discharge of pollutants to the MEP.

Municipal Facility Prioritization (Part VI.F.2.c. and Part VII.F.2.c. of the final GP-0-24-001): GP-0-15-003 did not include prioritization of municipal facilities. Criteria used to prioritize municipal facilities was introduced in the draft GP-0-17-002. The draft GP-0-17-002 required MS4 Operators to prioritize municipal facilities within three (3) years of the EDC and base the prioritization on the type of municipal facility (e.g., a DPW garage, park, town hall, etc.), with the type of municipal facility as an indicator of the pollutant generating potential. The USEPA commented on the draft GP-0-17-002 indicating that the three (3) years for the municipal facility prioritization was too long. Comments received during the public comment period for the draft GP-0-17-002, and during the MS4 Stakeholder Workgroup, indicated using the type of municipal facility to prioritize municipal facilities would not mitigate the potential impact to water quality because this method of prioritization assumes certain types of municipal facilities inherently have a greater potential to generate pollution and/or impact water quality without considering other factors.

The final GP-0-24-001 continues to use criteria to prioritize municipal facilities; however, the criteria have been revised from the draft GP-0-17-002 based on the comments received. Municipal facility prioritization is based on the activities occurring at the municipal facility which are the indicator for pollutant generating potential. The updated prioritization criteria satisfy the Phase II Remand Rule and allows the MS4 Operator to adjust the SWMP based on the prioritization to reduce the discharge of pollutants to the MEP. The final GP-0-24-001 did not change the three (3) years to complete the municipal facility prioritization because in restructuring the draft GP-0-22-002, there are permit requirements that are required before (e.g., the mapping of municipal facilities) and after (e.g., development of the high priority municipal facility specific SWPPP) the prioritization.

Prioritization allows MS4 Operators to focus their efforts on municipal facilities with the potential to discharge pollutants. High priority municipal facilities have activities occurring on site with pollutant generating potential which are exposed to stormwater (e.g., uncovered fueling performed at the facility). Low priority municipal facilities do not have activities occurring on site with pollutant generating potential which are exposed to stormwater (e.g., covered fueling performed at the facility). The prioritization of a municipal facility determines the need to conduct wet weather visual monitoring and produce a municipal facility specific SWPPP.²⁴ This prioritization approach satisfies the Phase II Remand Rule and allows MS4 Operators to reduce the discharge of pollutants to the MEP.

Assessments (Part VI.F.2.d.ii. and e.ii. and Part VII.F.2.d.ii. and e.ii. of the final GP-0-24-001): GP-0-15-003 required the MS4 Operator to conduct a municipal facility self-assessment every three years but did not specify the contents of the assessment. The draft GP-0-17-002 addressed this by: 1) providing the Municipal

²⁴ Required only for high priority municipal facilities.

Facility/Operation Assessment form to complete the municipal facility comprehensive site assessments, and 2) requiring wet weather visual monitoring, dry weather outfall inspections, and comprehensive site assessments at a frequency based on the municipal facility's prioritization²⁵ (i.e., high priority municipal facilities required quarterly wet weather visual monitoring and low priority municipal facilities did not require wet weather visual monitoring). Comments on the draft GP-0-17-002 indicated the frequency of assessments exceeded MEP.

In response to comments, on the draft GP-0-17-002, the frequency of assessments was reduced for the draft GP-0-22-002. The frequency of assessments for low priority municipal facilities did not change, but the frequency of assessments for high priority municipal facilities were further reduced, due to resource intensiveness, in the final GP-0-24-001. The final GP-0-24-001 requires MS4 Operators to conduct the following assessments at high priority municipal facilities: 1) wet weather visual monitoring once every five (5) years, 2) monitoring location inspection and sampling once every five (5) years, as required by MCM 3 of the final GP-0-24-001, and 3) comprehensive site assessments once every five (5) years. Therefore, comprehensive site assessments occur once every (5) years regardless of prioritization.

The final GP-0-24-001 continues not to require benchmark monitoring, which is a condition of the MSGP, at high priority municipal facilities. This is appropriate because MSGP facilities are more likely to generate pollutants than high priority municipal facilities.

Municipal Facility Specific SWPPP (Part VI.F.2.d.i. and Part VII.F.2.d.i. of the final GP-0-24-001): GP-0-15-003 did not require the development of municipal facility specific SWPPPs. The draft GP-0-17-002 required high priority municipal facilities to develop and maintain a municipal facility specific SWPPP for the stormwater activities occurring at the site. Although the USEPA commented on the draft GP-0-17-002 stating that three (3) years to develop and implement a municipal facility specific SWPPP was too long, other comments from MS4 Operators during the draft GP-0-17-002 public comment period indicated that three (3) years to develop and implement a municipal facility specific SWPPP was too short and financially burdensome. The final GP-0-24-001 extends the time allotted to complete this permit requirement to within five (5) years of the EDC. The final GP-0-24-001, similar to the draft GP-0-17-002, does not require the development of a municipal facility specific SWPPP for low priority municipal facilities.

The high priority municipal facility specific SWPPP includes a site map made up of components which need to be mapped by the MS4 Operator. Under Part IV.D. of the final GP-0-24-001, MS4 Operators will map some of these components before municipal facility specific SWPPPs are required to be developed. For example, MS4 Operators must map monitoring locations within three (3) years of EDC under Part IV.D. Monitoring locations must be included in the site map for a municipal facility specific SWPPP. Municipal facility specific SWPPPs must be developed within five (5) years of

²⁵ The prioritization of municipal facilities was introduced in the draft GP-0-17-002.

the EDC. Therefore, MS4 Operators will have the monitoring locations mapped prior to the development of the municipal facility specific SWPPP. The permit requirements are intentionally sequential. This approach satisfies the Phase II Remand Rule and allows MS4 Operators to reduce the discharge of pollutants to the MEP.

3. *Municipal Operations & Maintenance (Part VI.F.3. and Part VII.F.3. of the final GP-0-24-001)*: Under GP-0-15-003, MS4 Operators were required to implement BMPs, as well as conduct annual assessments, for municipal operations because municipal operations that are not properly implemented can become sources of pollution. In the draft GP-0-17-002, these requirements were expanded and included specific permit requirements for catch basins, roads, bridges, and right of ways as these are also potential sources of pollution. The final GP-0-24-001 further refined the permit requirements for those same pollutant sources to satisfy the Phase II Remand Rule and to allow the MS4 Operators to reduce the discharge of pollutants to the MEP.

Municipal Operations Corrective Actions (Part VI.F.3.b. and Part VII.F.3.b. of the final GP-0-24-001): Similar to the municipal facility assessments, GP-0-15-003 required the MS4 Operator to conduct municipal operations self-assessments every three (3) years but did not specify the contents of the assessment. The draft GP-0-17-002 addressed this by providing the Municipal Facility/Operation Assessment form to be completed for municipal operations assessments. The draft GP-0-22-002 proposed to require completion of this form for municipal operations assessments. However, the Municipal Facility/Operation Assessment provided with the draft GP-0-22-002 form did not expressly contain information to include for municipal operations. Instead of creating a separate municipal operations form to assess municipal operations, the final GP-0-24-001 requires the MS4 Operator to document information, which otherwise would have been collected during an assessment, in the SWMP Plan, Annual Report, and Interim Progress Certification.

Catch Basin Inspection and Maintenance (Part VI.F.3.c. and Part VII.F.3.c. of the final GP-0-24-001): GP-0-15-003 did not explicitly require the development and implementation of a catch basin inspection program, but it required the number of catch basins inspected and/or cleaned to be included in the annual reports. However, MS4 Operators need to perform maintenance to ensure storm sewer structures meant to reduce pollutants do not become sources of pollution themselves. Regularly maintaining catch basins prevents the accumulation of pollutants (e.g., sediment and trash) that are later released during rain events as well as blockages, backups, and flooding. To address these issues, the draft GP-0-17-002 proposed a catch basin inspection program and associated prioritization criteria: high priority catch basins had sumps >50% full of debris, moderate priority catch basins had sumps <50% full of debris, and low priority catch basins had no debris in the sump. Under the draft GP-0-17-002, MS4 Operators were required to inspect and/or clean out and prioritize catch basins within one permit term.

During the public comment period for the draft GP-0-17-002, the USEPA provided comments in support of the catch basin clean out program stating that it would “likely have significant [water quality] impacts.” Other comments received during the public comment period for the draft GP-0-17-002 from MS4 Operators, and during the MS4 Stakeholder Workgroup, indicated the draft GP-0-17-002 requirements exceeded MEP because, under previous MS4 General Permits, MS4 Operators were not required to: 1) have an inventory or map of catch basins, so neither the MS4 Operators nor the Department could estimate the number of catch basins that would need to be inspected and maintained, or 2) measure the amount of debris found in catch basin sumps during a cleaning, so MS4 Operators would not be able to accurately prioritize catch basins without historical information that would be used for prioritization. Therefore, the prioritization of catch basins was premature and was removed for the final GP-0-24-001.

Instead of prioritization, the final GP-0-24-001 contains a four-step approach to achieve MEP and satisfy the Phase II Remand Rule with respect to catch basin clean out. First, the final GP-0-24-001 requires the MS4 Operator to evaluate when an inspection of the catch basin is necessary based on conditions outlined in the final GP-0-24-001. Second, the MS4 Operator is required to inventory the inspection with five pieces of information (date of inspection, approximate level of trash, sediment, and/or debris, depth of structure, depth of sump, date of clean out). Third, based on the results of the inspection of the catch basin, the MS4 Operator is required to clean out catch basins in accordance with the following compliance timeframe: six (6) months if the sump is over 50% full of trash, sediment, and/or debris, one (1) year if the sump is less than 50% full of trash, sediment, and/or debris, no clean out is required if there is no debris or if the sump is less than or equal to two (2) feet deep and operating properly. Finally, the MS4 Operator is required to manage the material and/or water removed from the catch basins, so it does not reenter the MS4 or surface waters of the State.

The requirement to conduct the catch basin clean out is important because trash, sediment, and/or debris in the catch basin is a potential pollutant source. The purpose of the sump is to collect trash, sediment, and/or debris so the pollutants are captured in the sump rather than washed out to a surface water of the State. When a sump becomes full, it no longer effectively removes pollutants from the stormwater. The final GP-0-24-001 includes a 50% depth of sump threshold, as described above, consistent with the Maine MS4 general permit²⁶ along with the Massachusetts²⁷ and New Hampshire²⁸ MS4 general permits issued by the USEPA.

²⁶ The Maine General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems, October 15, 2022, can be found here: https://www.maine.gov/dep/water/wd/ms4/2013_Municipal_MS4_GP.pdf

²⁷ The Massachusetts General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems, July 1, 2017 can be found here: <https://www3.epa.gov/region1/npdes/stormwater/ma/2016fpd/final-2016-ma-sms4-gp-mod.pdf>

²⁸ The New Hampshire General Permits for Stormwater Discharges from Small Municipal Separate Storm Sewer Systems, July 1, 2018, can be found here: <https://www3.epa.gov/region1/npdes/stormwater/nh/2017-small-ms4-general-permit-nh-mod.pdf>

The final GP-0-24-001 uses a sump depth of two (2) feet, the industry standard, or greater as the basis for corrective actions, as described above. Setting the requirement to the industry standard for sump depth of precast catch basins allows the MS4 Operator to implement to the MEP because the sump depth is already known. The two (2) foot depth of sump was included in the final GP-0-24-001 to satisfy the Phase II Remand Rule and to allow MS4 Operators to reduce the discharge of pollutants to the MEP.

Roads, Bridges, Parking Lots, & Right of Way Maintenance (Part VI.F.3.c. and Part VII.F.3.c. of the final GP-0-24-001): Annual reports submitted under GP-0-15-003 asked MS4 Operators for details of the municipal operations BMPs (e.g., the miles of street swept), but GP-0-15-003 did not require the implementation of specific BMPs for the maintenance of roads, bridges, and right of ways. To address this, the draft GP-0-17-002 proposed BMPs to reduce the discharge of pollutants to the MEP for the maintenance of roads, bridges, and right of ways. While most of the BMPs proposed in the draft GP-0-17-002 were not commented on, the frequency of street sweeping in business districts and commercially zoned areas was heavily commented on. Comments received during the public comment period for the draft GP-0-17-002, and from the MS4 Stakeholder Workgroup, indicated the draft GP-0-17-002 requirements exceeded MEP because: 1) MS4 Operators are not able to street sweep during the winter months and 2) MS4 Operators do not necessarily own a street sweeper (i.e., street sweepers are rented or borrowed, or street sweeping is contracted out). In response to the comments received, the draft GP-0-22-002 adjusted the street sweeping frequency to twice a year from April 1 through October 31.

The final GP-0-24-001 requires street sweeping once every five (5) years and annually in business and commercial areas. This approach is based on the MS4 Operators 1) ability to have weather conditions conducive to street sweeping and 2) access to the proper equipment to complete the street sweeping. This satisfies the Phase II Remand Rule and allows MS4 Operators to reduce the discharge of pollutants to the MEP.

List of Impaired Waters (Part VIII. of the final GP-0-24-001)

Part VIII includes permit requirements which are based on sewersheds²⁹ that discharge 1) through MS4 outfalls and additionally designated area MS4 outfalls (ADA MS4 outfall) and 2) to waters listed in Appendix C of the final GP-0-24-001. MS4 Operators subject to Part VIII. requirements must implement additional requirements which are targeted at reducing the pollutant of concern.

²⁹ A sewershed is different than a watershed. Because of the presence of an MS4, which conveys stormwater, a watershed boundary may not always reflect where stormwater will flow. The final GP-0-24-001 defines a sewershed as the catchment that drains to a waterbody based on the MS4 and surface topography. Adjacent catchment areas that drain to the same waterbody are not separate sewersheds. See the Watershed Improvement Strategy Requirements for TMDL Implementation section of the fact sheet for watershed-based permit implementation rationale.

The 2018 Section 305(b) Water Quality Report³⁰ was used as the basis for creating Appendix C in the final GP-0-24-001. Appendix C consists of waterbodies that meet the following criteria: 1) are in Integrated Reporting Categories 4 and 5; 2) have a pollutant source of “urban/stormwater runoff;” and 3) the pollutant impacting the waterbody is phosphorus, silt/sediment, pathogens, nitrogen, and/or floatables.

ADA MS4 outfalls is a newly defined term of the final GP-0-24-001 but was necessary to accurately describe the location of permit implementation and to satisfy the Phase II Remand Rule. Unlike “MS4 outfalls,” “ADA MS4 outfalls” are found only 1) in the additionally designated area based on Criterion 3 of the Additional Designation Criteria (Appendix B of the final GP-0-24-001) and 2) discharging stormwater to waters listed in Appendix C. With the newly defined term, MS4 Operators can complete the mapping requirements.

Mapping ADA MS4 outfalls allows MS4 Operators to properly implement the MCM 4 and MCM 5 enhanced permit requirements included in Part VIII. (i.e., within the additionally designated area based on Criterion 3 of the Additional Designation Criteria of Appendix B in the final GP-0-24-001).

In accordance with ECL Section 17-0811(5) and 6 NYCRR 750-1.11(a)(5)(i), for discharges to impaired waters³¹ without a Total Maximum Daily Load (TMDL), GP-0-15-003 included enhanced BMPs supplementing the six MCMs, collectively referred to as “no-net increase.” The “no-net increase” requirement in GP-0-15-003 relied upon the MS4 Operators to ensure that new construction did not result in pollutant loads that would negate the progress made with the six MCMs. However, MS4 Operators did not fully understand how to comply, indicating that the “no-net increase” was overly complicated and recommending that it be replaced with specific requirements to achieve pollutant reductions. Environmental groups stated that this requirement does not actually reduce the amount of pollutants added to a waterbody. To satisfy the Phase II Remand Rule, the draft GP-0-17-002 proposed to redefine the “no-net increase” requirement by including clear, specific, and measurable BMPs targeted towards the pollutant of concern causing the impairment (i.e., enhanced BMPs). Similar to the draft GP-0-17-002, Part VIII of the final GP-0-24-001 continues to include those clear, specific, and measurable BMPs, but has removed the term “no-net increase.”

MS4 Operators commented that the draft GP-0-17-002 included frequency of required activities outlined in the SWMP, and deliverables in the draft GP-0-17-002, which exceeded MEP. Based on comments received on the draft GP-0-17-002, Part VIII. of the draft GP-0-22-002 included less frequent implementation of some BMPs. The permit requirements were further reduced, due to resource intensiveness, in the final GP-0-24-001. The final GP-0-24-001 includes requirements to: 1) include potential pollutant sources identified in mapping in the monitoring location inventory; 2) for Part VIII.A-D, inspect high priority construction sites every ninety (90) days, or every six (6) months if using the qualified inspector's report; and 3) sweep streets annually. The update to the

³⁰ The 2018 Section 305(b) Water Quality Report can be found on the Department's website.

³¹ In the final GP-0-24-001, this is Appendix C.

frequency of implementation of these BMPs allows MS4 Operators to reduce the discharge of pollutants to the MEP.

The final GP-0-24-001 also includes targeted BMPs for silt/sediment and floatables, requirements which were not in the draft GP-0-17-002. This approach satisfies the Phase II Remand Rule and reduces the discharge of pollutants to the MEP.

Table 5 includes examples of possible educational topics that can be used based on the pollutant of concern.

Table 5. Examples of possible educational topics based on the pollutant of concern.

Target Audience	Educational Topic	Pollutant of Concern			
		Phosphorus	Pathogens	Nitrogen	Floatables
All	Waterbody impacted	X	X	X	X
Residential	Lawn/Yard waste collection schedule	X		X	
	Proper disposal of grass clippings/leaf litter	X		X	
	Benefits of using mulching mowers	X		X	
	Reminders of the zero-fertilizer law	X		X	
	Proper management of pet waste	X	X	X	
	Proper disposal of car wash waters	X		X	
	Proper maintenance of septic systems/on-site wastewater systems	X	X	X	
	Proper waste collection and disposal		X		X
Commercial	Dumpster maintenance	X	X	X	
	Grease storage at food service establishments	X	X	X	
	Proper disposal practices for wash waters	X		X	
	Proper management practices for landscape irrigation water at retail or wholesale plant nurseries and golf courses	X			
	Reduce, Reuse, Recycle				X

Table 5 is not exhaustive but serves as additional explanation for the requirements of the final GP-0-24-001. As identified by the distinctions between Part VI, Part VII, and Part VIII, educational topics may vary between MS4 Operators based on: 1) the presence of an impaired waterbody, and/or 2) the pollutant of concern causing the impairment.

In the draft GP-0-22-002, MS4 Operators subject to Part VIII.C.5. permit requirements had to inspect high priority construction sites every ninety (90) days, or every six (6) months if utilizing a qualified inspectors report. Enhanced BMPs for construction oversight for does not have an environmental benefit as it does not address pathogens, which is the pollutant of concern associated with Part VIII.C.4. In the final GP-0-24-001, Part VIII.C.5. no longer requires MS4 Operators to conduct additional construction site inspections. This approach is consistent with the CGP.

While an MS4 Operator can determine the location of the waters in Appendix C using the WI/PWL segment ID included in Appendix C in collaboration with the WI/PWL, the Department developed a shapefile of the list of the waters in Appendix C for ease of implementation. The data can be viewed on the Stormwater Interactive Map.

Watershed Improvement Strategy Requirements for TMDL Implementation (Part IX. of the final GP-0-24-001)

A TMDL determines a pollutant reduction target and allocates load reductions necessary to the source(s) of the pollutant; in this instance, the pollutant source is the MS4. For some USEPA approved TMDLs, the Department has developed implementation plans. The implementation plans describe how the MS4 Operator achieves the pollutant load reduction in the TMDL watershed.

Part IX includes permit requirements which are based on TMDL watersheds listed in Table 3 of the final GP-0-24-001. Part IX. requirements must be implemented in the automatically designated areas and the additionally designated areas that are subject to Criterion 1 of the Additional Designation Criteria (Appendix B of the final GP-0-24-001). For each of the TMDL watersheds, the corresponding implementation plans developed by the Department are incorporated by reference into Part IX; thus, the final GP-0-24-001 requires compliance with those implementation plans.

In accordance with 40 CFR 122.34(c)(1) and 6 NYCRR 750-1.11, GP-0-15-003 and draft GP-0-17-002 required enhanced BMPs supplementing the six (6) MCMs for discharges to impaired waters where the USEPA has approved a TMDL (Table 3 of the final GP-0-24-001) requiring reductions in pollutant load from MS4s.³² Part IX. of the final GP-0-24-001 continues to include enhanced BMPs supplementing the six (6) MCMs for the watersheds which are listed in Table 3 of the final GP-0-24-001. In the final GP-0-24-001, additional pollutant-specific enhanced BMPs have been added to

³² Although the USEPA approved TMDLs for Buck, Long, and Cranberry Ponds, Kinderhook Lake, Long Island Sound, and Chesapeake Bay, the TMDL reduction required for New York's MS4 contribution can be achieved through implementation of the six (6) MCMs of Part VI. and Part VII, depending on the MS4 Operator type.

Parts IX.A. and IX.B. for phosphorus and Part IX.D. for nitrogen, to build upon the work that was completed during previous permit cycles.

Where the Department determined that the additional pollutant specific enhanced BMPs in Part VIII. are sufficient to achieve the TMDL implementation plan, those permit requirements were duplicated in Part IX. For example, Part IX. includes a permit requirement for public education based on the pollutant of concern, duplicating Part VIII. permit requirements.

Where the Department determined that the additional pollutant specific enhanced BMPs in Part VIII. were not sufficient to achieve the TMDL implementation plan, the final GP-0-24-001 contains additional pollutant specific enhanced BMPs in Part IX. For example, the mapping requirements for Part VIII.A. are included in Part IX.A (i.e., retail and wholesale plant nurseries (including big box stores); commercial lawn care facilities; golf courses). Part IX.A. includes more mapping requirements on top of that (i.e., commercial or industrial yard waste storage areas and *MS4* infrastructure with a history of issues).

Previous iterations of this SPDES general permit required mapping in a GIS of *MS4* infrastructure for *MS4* Operators implementing the permit in areas subject to the Croton Watershed Phase II TMDL Implementation Plan (January 2009) or TMDL for Nitrogen in the Peconic Estuary Program Study Area, Including Waterbodies Currently Impaired Due to Low Dissolved Oxygen: the Lower Peconic River and Tidal Tributaries; Western Flanders Bay and Lower Sawmill Creek; and Meetinghouse Creek, Terry Creek and Tributaries (September 2007). The mapping sections of Part IX. of the draft GP-0-22-002 only referenced the requirements of GP-0-15-003 and did not repeat what information had to be included in the comprehensive system mapping. As applicable to *MS4* Operators continuing coverage and implementing Part IX.A. and Part IX.D, the Department copied the mapping components previously listed in GP-0-15-003 (e.g., *MS4* infrastructure) into Part IV.D.1.d. of the final GP-0-24-001.

The final GP-0-24-001 includes requirements to: 1) include potential pollutant sources identified in mapping in the monitoring location inventory; 2) for Part VIII.A-D, inspect high priority construction sites every ninety (90) days, or every six (6) months if using the qualified inspector's report; and 3) sweep streets annually. The update to the frequency of implementation of these BMPs allows *MS4* Operators to reduce the discharge of pollutants to the MEP.

Table 5 of this fact sheet includes examples of possible educational topics that can be used based on the pollutant of concern.

New York City East of Hudson Phosphorus Impaired Watershed *MS4*s (Part IX.A. of the final GP-0-24-001)

The *Croton Watershed Phase II Implementation Plan* for New York City East of Hudson Watershed identified pollutant load reductions for all East of Hudson *MS4* Operators. Similar to GP-0-15-003 and draft GP-0-17-002, Part IX.A. of the final GP-

0-24-001 continues to require implementation of: 1) pollutant specific enhanced BMPs; and 2) retrofits. Both requirements are consistent with the *Croton Watershed Phase II Implementation Plan* for the New York City East of Hudson Watershed.

Previous iterations of this SPDES general permit required a retrofit program for MS4 Operators implementing the permit in the New York City East of Hudson Watershed. A retrofit program continued to be included in the draft GP-0-22-002, but the language did not clearly reflect permit requirements intended to be continued from previous iterations. Simple language changes were made in the final GP-0-24-001 to address this. Also, Part IX.A.6. of the draft GP-0-22-002 used the term “approvable,” carried over from previous permit iterations. However, “approvable” was being used inconsistently with its definition found in 6 NYCRR 750-1.2(a). Although the term was not italicized in the draft GP-0-22-002, indicating that it was defined, it is more clear to refrain from its use. Retrofit plans are still required in the final GP-0-24-001, consistent with previous permit iterations. Building off of the statewide catch basin inspection and clean out requirements in MCM 6, the final GP-0-24-001 continues to require catch basin inspections twice a year in the New York City East of Hudson Watershed. This is consistent with the requirements of the MS4 general permit iterations since 2008 in order to protect New York City’s unfiltered drinking water supply.

Other Phosphorus Watershed MS4s (Part IX.B. of the final GP-0-24-001)

The following TMDLs and Implementation Plans identified pollutant load reductions for MS4 Operators in those phosphorus impaired watersheds: *Greenwood Lake Watershed Phosphorus TMDL Implementation Plan, October 2019, Updated Phosphorus Total Maximum Daily Load for Onondaga Lake, June 2012*, and *Total Maximum Daily Load (TMDL) for Phosphorus in Lake Oscawana, September 2008*. As included in GP-0-15-003, and in the draft GP-0-17-002, Part IX.B. of the final GP-0-24-001 continues to require implementation of pollutant specific enhanced BMPs for Onondaga Lake and Oscawana Lake. Based on the *Greenwood Lake Watershed Phosphorus TMDL Implementation Plan*, Part IX.B. of the final GP-0-24-001 has been expanded to include the Greenwood Lake watershed which requires 1) pollutant specific enhanced BMPs and 2) retrofits.

Nutrient Runoff Law

Stormwater phosphorus load reductions for all three lake watersheds are anticipated due to compliance with the enhanced BMPs of Part IX.B. and with the Nutrient Runoff Law, which was signed into law on July 15, 2010. The Nutrient Runoff Law restricts the sale and application of fertilizers containing phosphorus for lawns and eliminated phosphorus in dishwashing detergents sold in New York State. The state of Minnesota³³ studied the effects of this type of legislation on stormwater

³³ “Monitoring the Long-term Effectiveness of Metropolitan Cold Weather BMPs, Long-term Assessment of Phosphorus Free Fertilizers and Golf Course BMPs.” Minnesota Stormwater Research, Barten, J. et. al, 2006. <https://www.pca.state.mn.us/sites/default/files/stormwaterresearch-fertilizer.pdf>

concentrations and reported a 15-30% reduction in phosphorus loading due to use of phosphorus-free fertilizer.

Pathogen Impaired Watershed MS4s (Part IX.C. of the final GP-0-24-001)

Part IX.C. of GP-0-15-003 included watershed specific requirements to address pathogens as the pollutant of concern for MS4 discharges to impaired watersheds identified in the following the USEPA approved TMDLs:

- *Pathogen Total Maximum Daily Loads for Shellfish Waters in Oyster Bay Harbor and Mill Neck Creek, September 2003*
- *Peconic Bay Pathogens TMDL, September 2006*
- *Shellfish Pathogen TMDLs for 27 303(d) listed Waters, September 2007*

The approved TMDLs, that formed the basis of the GP-0-15-003 conditions, made certain assumptions as to the percentage of stormwater load attributable to MS4s. In advance of the deadlines specified in Table IX.C of GP-0-15-003, MS4 Operators expressed concerns that the TMDLs, and the GP-0-15-003 conditions developed from them, did not accurately represent the true contribution by MS4s, drastically overestimating it in some cases. This was confirmed with additional information submitted by MS4 Operators on the MS4 sewersheds and required revision of the TMDLs to provide a more realistic representation of the MS4s' contribution of pathogen to the watersheds.

Given the inaccuracies identified, the Department withdrew these TMDLs on November 14, 2018. The support and process behind this action is further detailed in the Department Fact Sheet published in November 2018³⁴ and entitled "Withdrawal of the Three Long Island Pathogen TMDLs."

The Department is currently in the process of revising the TMDLs to correct the inaccuracies. In the interim, the final GP-0-24-001 does not include any requirements in Part IX.C, but rather requires implementation of enhanced BMPs specified in Part VIII.C. for the waters found in Appendix C where pathogens are the pollutant of concern.

Nitrogen Impaired Watershed MS4s (Part IX.D. of the final GP-0-24-001)

GP-0-15-003 required mapping of MS4s discharging to waters identified in the TMDL for Nitrogen in the Peconic Estuary Program Study Area, Including Waterbodies Currently Impaired Due to Low Dissolved Oxygen: the Lower Peconic River and Tidal Tributaries; Western Flanders Bay and Lower Sawmill Creek; and Meetinghouse Creek, Terry Creek and Tributaries (September 2007) (Table 6 of the draft GP-0-22-002). The submission of sewershed information by the MS4 Operators confirmed very limited sewersheds discharging to the waters subject to the Peconic Nitrogen TMDL due to the same development practices described in Part IX.C. for the Pathogen TMDLs. Thus, the final GP-0-24-001 does not propose retrofits for

³⁴ The Pathogen TMDL Fact Sheet can be found on the Department's website.

these sewersheds but continues to require MS4 Operators to implement enhanced BMPs specified in Part IX.D.

Impaired waters with an approved TMDL and listed in Appendix C

If a waterbody is listed in Appendix C for one pollutant and Table 3 for a different pollutant, the final GP-0-24-001 requires the MS4 Operator to implement permit requirements from both Part VIII. and Part IX, respectively. For example, if a waterbody listed in Appendix C for floatables and that same waterbody is listed in Table 3 for phosphorus, the MS4 Operator must implement Part VIII.E. for floatables and Part IX.B. for phosphorus.