



Department of  
Environmental  
Conservation

## **FACT SHEET**

**For**

NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
DRAFT SPDES MULTI-SECTOR GENERAL PERMIT  
FOR STORMWATER DISCHARGES  
ASSOCIATED WITH INDUSTRIAL ACTIVITY

Permit No. GP-0-23-001  
Issued Pursuant to Article 17, Titles 7, 8 and Article 70  
Of the Environmental Conservation Law

August 24, 2022

## Introduction

The New York State Department of Environmental Conservation (NYSDEC) prepared a draft renewal of the SPDES Multi-Sector General Permit for Stormwater Discharges from Industrial Activity (MSGP) (GP-0-23-001). The final permit renewal is anticipated to be effective on March 1, 2023 with a 5-year permit term and will replace the current MSGP (GP-0-17-004), which will expire on February 28, 2023. GP-0-23-001 will cover discharges of stormwater to surface waters of the State from industrial activities as defined in 40 CFR Part 122.26(b)(14)(i through ix and xi).

Pursuant to Section 402 of the Clean Water Act (“CWA”), point source stormwater discharges from those industrial activities (including discharges through a municipal separate storm sewer system) are unlawful unless they are 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) is a NPDES-approved program with permits issued in accordance with the Environmental Conservation Law (“ECL”). Facilities must: obtain permit coverage through either an individual industrial SPDES permit, which addresses the stormwater discharges; obtain coverage under the SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity; or provide certification using the No Exposure Exclusion that industrial activities are not exposed to stormwater.

Draft GP-0-23-001 includes both technology and water quality-based requirements. A technology-based requirement is a minimum level of treatment for industrial point sources based on currently available treatment technologies and/or Best Management Practices (BMPs). Water quality-based requirements apply if after application of technology-based requirements there remains a reasonable potential for contravention of water quality standards at the receiving water. Technology requirements are based on CWA sections 301(b)(1)(A) , 40 CFR 125.3 and Parts 405-471, ECL sections 17-0809(1) and 17-0811(1), and 6 NYCRR 750-1.11(a)(1-4). Water quality requirements are based on CWA sections 101 and 301(b)(1)(C), 40 CFR 122.44(d)(1), ECL sections 17-0809(1) and 17-0811(5), and 6 NYCRR Parts 700-704 and Section 750-1.11(a)(5).

CWA section 308, 40 CFR 122.44(i), and 6 NYCRR 750-1.13 authorize monitoring requirements to determine compliance with the permit and the effects of the discharge.

Draft GP-0-23-001 contains standard regulatory language that is required to be in all SPDES permits. These permit provisions, based largely upon 40 CFR 122 subpart C and 6 NYCRR Part 750, include requirements pertaining to monitoring, recording, reporting, and compliance responsibilities.

Draft GP-0-23-001 is being publicly noticed for a 30-day comment period. The comment period commences on August 24, 2022, when the draft MSGP is included in the Environmental Notice Bulletin, or the date of the newspaper notification for draft GP-0-23-001, whichever is later.

## Summary of Changes

### **Organization**

Overall organization and formatting were revised, and duplicative language was removed.

### **Electronic Reporting**

As required by USEPA's E-reporting rule (Federal Register, Vol. 80, No. 204 (October 22, 2015)), GP-0-17-004 required electronic reporting of discharge monitoring reports (DMRs) through USEPA's electronic reporting system, NetDMR. GP-0-17-004 required the use of electronic filing of the Notice of Intent (NOI) and the Annual Certification Report (ACR) as of December 21, 2020.

In accordance with 40 CFR 127.16(a), draft GP-0-23-001 requires electronic submission of all documents required by draft GP-0-23-001, including the NOI and ACR. For the electronic submission of the NOI, ACR, Notice of Termination (NOT) and No Exposure Certification (NEC), draft GP-0-23-001 requires electronic reporting using nFORM, which is the format acceptable to the Department (6 NYCRR 750-2.5(e)(1)). Continuing from GP-0-17-004, draft GP-0-23-001 requires the use of NetDMR for DMRs, which is the format acceptable to the Department (6 NYCRR 750-2.5(e)(1)). (Part I of draft GP-0-23-001).

Draft GP-0-23-001 requires use of the Department's waiver form where an owner or operator meets the requirements for a waiver (40 CFR 127.15 and 127.24). (Appendix G.10.e of draft GP-0-23-001)

### **Termination of Permit Coverage (Part I.E)**

Draft GP-0-23-001 allows the Department to terminate permit coverage upon discovery of the facility being closed or otherwise no longer in operation. This is consistent with the intent of 6 NYCRR 750-1.20(b)(1) and will allow the allocation of staff resources to active MSGP facilities instead of facilities where industrial operations have ceased and/or the facility is closed for business. (Part I.E of draft GP-0-23-001).

### **Climate Leadership and Community Protection Act,**

Pursuant to Section 17-a of CRRA, Chapter 355 of the Laws of 2014 (as amended by Section 9 of the Climate Leadership and Community Protection Act, Chapter 106 of the Laws of 2019), the Department must identify "the most significant climate-related risks" and promote "measures that could mitigate significant climate-related risks." To comply with those requirements, draft GP-0-23-001 requires an owner or operator to implement enhanced stormwater control measures for facilities that have the potential to be impacted by future physical climate risks. This can be accomplished through Best Management Practices (BMPs) selection and/or design considerations. Draft GP-0-23-001 includes a list of enhanced control measures that an owner or operator must consider. The SWPPP must include: 1) which control measures are selected for implementation and which are not; and 2) an explanation as to why control measures were not selected. (Part II.D and Part III.A.7 of draft GP-0-23-001)

Pursuant to Section 17-b of CRRA, Chapter 355 of the Laws of 2014 (as amended by Section 9 of the Climate Leadership and Community Protection Act, Chapter 106 of the Laws of 2019), activities covered by major permits for regulatory programs subject to the Uniform Procedures Act, including the draft GP-0-23-001, are required to demonstrate that future physical climate risk has been considered. Moreover, the Department can require activities covered by a major permit to mitigate significant risks to natural resources in the vicinity of the activity. To implement those requirements, draft GP-0-23-001 requires owners or operators to choose BMPs to prevent or minimize inundation at these guideline elevations or provide justification for deviating from these guideline elevations in the SWPPP. (Part II.D of draft GP-0-23-001)

### ***Monitoring and Discharge Monitoring Reports (DMRs)***

Facilities with coverage under GP-0-17-004 are showing increased compliance with monitoring and reporting requirements of that general permit. Therefore, draft GP-0-23-001 continues the frequencies set in GP-0-17-004: semi-annual monitoring and reporting for Benchmark and Numeric Effluent Limitation, and quarterly monitoring and reporting for a discharge to an impaired waterbody where the cause of the impairment is expected to be in the discharge from the facility based on SIC code

Violations of draft GP-0-23-001 continue to include: 1) exceedance of a Numeric Effluent Limitation; 2) exceedance of a benchmark for a discharge to an impaired waterbody where the cause of the impairment is expected to be in the discharge from the facility based on SIC code; 2) failure to implement corrective actions where required by draft GP-0-23-001 (Part V of draft GP-0-23-001); and 3) failure to maintain the proper documentation associated with each corrective action (Parts IV and V of draft GP-0-23-001).

For violations 1 and 2 described in the previous paragraph, draft GP-0-23-001 continues to require that exceedances must be reported to the Department on DMRs. For violations 1 and 2 described in the previous paragraph, draft GP-0-23-001 continues to require that corrective actions must be: implemented by the next monitoring reporting period, reported to the Department on the Corrective Action form, and documented in the SWPPP.

Additionally, for any exceedances to benchmarks otherwise, draft GP-0-23-001 continues to require implementation of escalated responses through corrective actions, which must be documented in the SWPPP. In those instances, an exceedance of a benchmark is not a general permit violation but does signal the need for the owner or operator to evaluate potential sources of stormwater contaminants and implement corrective actions (Part V of draft GP-0-23-001).

In addition to the DMR and the respective Corrective Action forms, draft GP-0-23-001 continues the requirement that the ACR be submitted by January 28 of each year. The owner or operator must include on the ACR: a description of the exceedance; corrective measures; and long-term preventative actions taken. (Part VI of draft GP-0-23-001).

Although the Department recognizes that EPA, in its 2021 National Pollutant Discharge Elimination System (NPDES) Multi-Sector General Permit (MSGP) For Stormwater Discharges Associated with Industrial Activity, utilizes Additional Implementation Measures (AIM), the Department did not make changes to the requirements noted above required by GP-0-17-004 as these are already as stringent as what is required by EPA. The Department's approach satisfies the goals of EPA's approach to increase regulatory certainty which EPA concluded are achieved by its AIM process (e.g. increase regulatory certainty for those who must comply with the permit and ensure that the permit-controlled discharges are sufficient to protect water quality, as is required by the CWA).

### ***Quarterly Visual Monitoring (Part IV.E)***

Draft GP-0-23-001 clarifies that the next Quarterly Visual Monitoring (QVM) must occur when corrective actions are triggered (Part IV.E of draft GP-0-23-001). An additional QVM inspection must be performed during the first qualifying storm event following the implementation of the corrective action. If the first qualifying storm event does not occur until the next quarter, this follow-up action may be used as the next QVM inspection, as well as the current inspection for the corrective action.

### ***Considerations in Specific Sectors***

#### **Sectors M and N**

Draft GP-0-23-001 clarifies that Sector M is for facilities engaged in dismantling used motor vehicles for resale of parts; whereas, facilities primarily engaged in dismantling motor vehicles for scrap are classified as Sector N facilities. (Applicability section Part VII Sector M of draft GP-0-23-001)

### ***Ineligible Activities***

Salt storage facilities are not a regulated activity under 40 CFR 122.26(b)(14)(i thru ix and xi). Therefore, draft GP-0-23-001 clarifies that salt storage facilities, whose sole purpose is storage of salt for wholesale or commercial use, are not eligible for general permit coverage. (Part I.C.10 of draft GP-0-23-001) These facilities would be evaluated for the need to obtain an individual permit. Small amounts of salt storage on site for internal use by the facility is still eligible for coverage under MSGP.

### ***Updates to Pollutants of Concern for Impaired Waterbodies Reference Table***

Appendix G in the draft GP-0-23-001 is updated to reflect the pollutants of concern causing the impairment for the Impaired Waterbodies listed on the Final 2018 New York State Section 303(d) List and Integrated Reporting Category (IRC) 4a or IRC 4b waters.

### ***Definitions***

New definitions in Appendix A in the draft GP-0-23-001 include "Equivalent (Equivalence)" and "Stormwater Pollution Prevention Plan (SWPPP)." Definitions that have been removed from Appendix A in the draft GP-0-23-001, because they are not used in the permit, include "Construction SWPPP," "High-Volume Hydraulic Fracturing," "Reportable Quantity Release," "Technical Standard," and "Waters of the United States." Definitions that have been removed from Appendix A in the draft GP-0-23-001,

because they are already defined in the text of the permit, include “Annual Certification Report” and “Impaired Waters.”

### ***Appendix E***

Appendix E has been removed from the draft GP-0-23-001 as it was redundant of requirements in other parts of the permit. The MSGP applicability and eligibility requirements in Part I are for all facilities that qualify for MSGP coverage, whether they are new or existing dischargers. Part I.D.1.b includes requirements specific to permit authorization for new dischargers, including satisfying all requirements of the Department’s Uniform Procedures Act (6 NYCRR Part 621).