



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-0-17-004
Issued Pursuant to Article 17, Titles 7, 8 and Article 70
Of the Environmental Conservation Law

March 2018

Introduction

The New York State Department of Environmental Conservation (Department) has finalized the SPDES Multi-Sector General Permit for Stormwater Discharges from Industrial Activity (MSGP), GP-17-004 (final MSGP). The final MSGP is effective on March 1, 2018 and will expire on February 28, 2023. Upon its effective date, the final MSGP replaces GP-0-12-001, which was valid after its September 30, 2017 expiration pursuant to Section 401 of the New York State Administrative Procedures Act and 6 NYCRR 621.11(l). The same as previous iterations, the final MSGP covers discharges of stormwater to surface waters of the State from industrial activities as defined in 40 CFR Part 122.26(b)(14)(i thru ix and xi).

Pursuant to Section 402 of the Clean Water Act (CWA), point source stormwater discharges from certain industrial activities to navigable waters 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 Articles 17 and 70 of the Environmental Conservation Law (ECL). Facilities must be issued an individual SPDES permit, obtain coverage under the final MSGP, or provide certification to the Department using the No Exposure Exclusion under 40 CFR 122.26(g) that industrial activities are not exposed to stormwater.

The final MSGP 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) and 402, 40 CFR 125.3 and 402-471, ECL sections 17-0809 and 17-0811, and 6 NYCRR Section 750-1.11. Water quality requirements are based on CWA sections 101 and 301(b)(1)(C), 40 CFR 122.44(d)(1), and 6 NYCRR Parts 700-704 and Section 750-1.11.

CWA section 308, 40 CFR 122.44(i), and 6 NYCRR Section 750-1.13 authorize monitoring requirements to determine compliance with the permit and the effects of the discharge. The owner or operator is responsible for conducting the monitoring and for reporting results to the Department.

The final MSGP 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.

The draft MSGP was first made available for public review and comment commencing on March 31, 2017. Additional changes were made to the first draft permit to improve organization and readability and a revised draft was publicly noticed commencing on July

12, 2017. The final MSGP has been revised in response to comments with a summary of the changes noted below. A Responsiveness Summary that addresses all comments received has been prepared and is available as a separate document on the Department's website.

Summary of Changes

Organization

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

Non-numeric Effluent Limits

The final MSGP contains updated non-numeric effluent limits to more closely align with EPA's final 2015 MSGP. Several of the non-numeric effluent limits in Part II.A of the final MSGP include a greater level of specificity to clarify the requirements and improve compliance. The updated non-numeric effluent limits include requirements for minimizing exposure, good housekeeping, maintenance, spill prevention and response procedures, and employee training. The associated SWPPP documentation requirements in Part III have also been updated to reflect the changes in Part II and will document owner or operator compliance with the non-numeric effluent limits.

Changes to Sector S (Air Transportation)

The final MSGP includes the Airport Deicing Effluent Guidelines promulgated by EPA in 2012 (40 CFR Part 449). These changes are in line with EPA's final 2015 MSGP for this sector. These updated conditions in the final MSGP include numeric effluent limits and monitoring, reporting and recordkeeping requirements outlined in 40 CFR 449.20.

Semi-Annual Monitoring and Discharge Monitoring Reports (DMRs)

The final MSGP increases the frequency for Benchmark and Numeric Effluent Limit monitoring and reporting from once per year in GP-0-12-001 to twice per year. These changes in monitoring and reporting requirements will facilitate owner or operator compliance and the Department's administration of the permit.

With these changes, a separate submission of a Corrective Action Form will no longer be necessary to report results of follow-up benchmark monitoring as the semi-annual DMR data will allow the Department to track the effectiveness of any corrective actions. If there is an exceedance reported on a semi-annual DMR, the subsequent semi-annual DMR will show if the pollutant of concern has been abated to levels that are below the specified permit numeric effluent limits or benchmarks. In addition, the final MSGP requires that the Annual Certification Report (ACR) be submitted by January 28 of each year. The ACR includes a description of the exceedance, corrective measures and long-term preventative actions taken.

Electronic reporting

The final MSGP requires electronic reporting of DMRs through EPA's electronic reporting system, NetDMR. This change is required by EPA's E-reporting rule (Federal Register, Vol. 80, No. 204 (October 22, 2015)).

The final MSGP allows the use of electronic filing of the Notice of Intent (NOI) and the Annual Certification Report (ACR). Paper submission of these reports (other than DMRs) will continue to be an option until December 21, 2020 when that portion of EPA's E-reporting rule becomes effective in the final MSGP.

Removal of Sectors AD and AE from the Permit

The final MSGP removes Sectors AD and AE. These sectors were included in GP-0-12-001 and reserved for industrial facilities whose activities were not specifically listed in 40 CFR 122.26 but where the Department determined it appropriate for permit coverage due to site-specific circumstances (ECL section 17-0808(2)(d)). Inclusion of these sectors was intended to provide an option for permit coverage. However, a general permit is not appropriate to impose such individualized requirements.

Removal of Sectors AD and AE from the final MSGP will require those facilities, designated by the Department as needing permit coverage to obtain an individual permit (6 NYCRR 750-1.21(e)), where appropriate.

New BMP Considerations in Specific Sectors

No Exposure of Copper

The final MSGP adds a non-numeric effluent limit for no exposure of copper in Sectors A, F, G, N, and AC. The owner or operator of a facility subject to any of these sectors that discharges to a copper *impaired waterbody* shall implement BMPs to prevent the exposure of copper sources and copper containing materials or processes to *stormwater*. These materials shall be protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt, and/or runoff.

Mercury Spill Kits

The final MSGP includes BMPs to stock and use mercury spill kits for Sector M - Automobile Salvage Yards and Sector N - Scrap Recycling and Waste Recycling Facilities. This addition is necessary for this sector where there is a mercury effluent limit in light of the Department's updated policy on mercury (TOGS 1.3.10, revised October 2015).

Good Housekeeping in Sector O

The final MSGP adds Good housekeeping measures for Chemical Loading and Unloading Areas in Sector O to more closely align with EPA's 2015 MSGP.

Updates to Ineligible Activities

The final MSGP removes the State Historic Preservation Act (SHPA) ineligibility criteria from Part I.C, but the same level of protection is still required through other mechanisms. As part of the issuance of the final MSGP, the Department consulted

with the Office of Parks, Recreation & Historic Preservation (OPRHP), who concluded that undertakings requiring coverage under the final MSGP will have no impact on archaeological and/or historical resources listed in or eligible for the New York State and National Registers of Historic Places and further review under the State Historic Preservation Act (SHPA) is not required for facilities seeking coverage under the final MSGP. A letter of “no impact” from OPRHP documenting the consultation is available for review. New construction disturbing one or more acres associated with MSGP facilities will require an individual SPDES permit or coverage under the SPDES General Permit for Stormwater Discharges from Construction Activities (GP-0-15-002) and SHPA will be addressed through those permits. Soils disturbance associated with Mineral Mining & Dressing (Sector J) and Landfills (Sector L) authorized under the MSGP receive a full SHPA review in the context of other permits issued by the Department.

The final MSGP simplifies requirements to protect endangered or threatened species under Ineligible Activities (Part I.C) and related language was removed from the SWPPP section. If endangered or threatened species are present, then the owner or operator must obtain a permit issued pursuant to 6 NYCRR Part 182 or a letter of non-jurisdiction from the Department.

Monitoring Waivers

Representative Outfall Waiver

The final MSGP clarifies the corrective action process to align with the new semi-annual monitoring requirements and ensure inclusion of representative outfalls. In accordance with Part IV.G.3.d, when corrective actions are triggered due to monitoring exceedances at an outfall, the representative outfall waiver is suspended at all outfalls that were covered by the waiver. These outfalls must then be monitored for all parameters. In order for the Representative Outfall Waiver to again apply, the owner/operator must submit a new Representative Outfall Waiver Form certifying that the results of two consecutive monitoring periods reported to the Department show that the outfall has no exceedances of benchmark monitoring cut-off concentrations.

Alternative Certification of “Not Present” or “No exposure” waiver

The Alternative Certification of “Not Present” or “No exposure” waiver for Benchmark monitoring on an outfall-by-outfall or pollutant-by-pollutant basis has been eliminated from the permit. These waivers have been rarely used.

Timing of Monitoring

The final MSGP specifies that if a facility’s permit coverage is effective less than two months from the end of a monitoring period, monitoring begins with the next monitoring period. This has been increased from “less than one month” from the end of a monitoring period.

Additional Reporting to the Municipal Separate Storm Sewer System (MS4) Operator

The final MSGP requires owner or operators with at least one stormwater discharge, associated with industrial activity, to an MS4 to submit ACRs or DMRs to the MS4 Operator upon the MS4's request. This previously had been a mandatory requirement in GP-0-12-001.

Notice of Modification

The final MSGP no longer requires the Notice of Modification form to update NOI information. Instead, an owner or operator must now submit changes on the NOI. To submit the changes or updates to the facilities information, an owner or operator who initially submitted the NOI electronically can use their online account to make changes only to those sections that need to be updated. An owner or operator who initially submitted a paper NOI must submit a new fully completed paper NOI or they may choose to submit a fully completed electronic NOI. It is important to note that once the NOI has been submitted electronically, any subsequent changes to be made to the facilities information can be made to just those sections of the NOI that need to be changed. Owners or operators are encouraged to switch from paper NOI to electronic NOI to streamline the process for updating or modifying the NOI.

Updates to Pollutants of Concern for Impaired Waterbodies Reference Table

Appendix G has been updated to reflect the pollutants of concern causing the impairment for the Impaired Waterbodies listed on the Final 2016 New York State Section 303(d) List and Integrated Reporting Category (IRC) 4a or IRC 4b waters.

Definitions

The definition for qualified person has been added to clarify the qualifications for inspectors. A qualified person may be either a facility employee or hired consultant who is familiar with the day-to-day operations associated with their assigned responsibilities at the facility. The qualified person possesses the knowledge and skills to assess conditions, operations and activities at the facility that could impact stormwater quality and can evaluate the effectiveness of control measures being implemented as part of the requirements of the permit. The owner/operator may designate more than one individual as the qualified person. Additionally, if erosion and sediment controls are to be inspected the qualified inspector must be trained in Department-endorsed Erosion and Sediment control training. Stakeholders had been confused with this definition in GP-12-001.

The definition for Impaired waters has been clarified and now defines waters identified on the Final 2016 New York State Section 303(d) List and Integrated Reporting Category (IRC) 4a or IRC 4b waters. An IRC 4a water is an impaired water for which a TMDL to address the impairing pollutant/cause has been established. An IRC 4b water is an impaired water where a TMDL is not necessary because other required control measures are expected to result in restoration in a reasonable period of time. The previous definition in GP-0-12-001 and the revised draft omitted IRC 4b waters.

The final MSGP adds definitions for Corrective Action and Run-on.

Acronyms

Acronyms for Best Available Technology Economically Achievable (BAT) and Code of Federal Regulations (CFR) have been added to Appendix A.

Contact Information

Questions regarding the content of the final MSGP should be directed to:

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