



Response to Comments
SPDES Multi-Sector General Permit for Stormwater Discharges
Associated With Industrial Activity
GP-0-06-002

Background: The New York State Department of Environmental Conservation (NYSDEC) has renewed and modified the existing State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges Associated with Industrial Activity (GP-98-03). The revised General Permit has been retitled and renumbered as the SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (GP-0-06-002). The draft permit was public noticed from July 12, 2006 to September 15, 2006. Written comments were received from the following individuals:

Steven Cabrera, Dvirka and Bartulucci Consulting Engineers
James Biamonte, Oneida-Herkimer Solid Waste Authority
W. M. Wierzbicki, West Valley Nuclear Services Company
Jerry Deluca, Automotive Recyclers Association of New York
Terry Allen, (no affiliation given)
Thomas Hasek, Seneca Meadows, Inc.
John Morton, ALCOA, Inc.
Jeffrey Gratz, USEPA Region 2
James Witte, Donjon Marine - Iron & Metal Division
Sandy DiSalvo, Waste Management of New York
Paul Eisen, Roux Associates, Inc. on behalf of the Institute of Scrap Recycling Industries
Robin Sandell, Environmental Compliance Tools, LLC
Michael Mann, McMahan & Mann Consulting Engineers, PC
David Kubek, Barton & Loguidice, P.C. on behalf of Casella Waste Systems, Inc.
S. A. Green, Nucor Steel Auburn, Inc.
Ed Fahrenkopf, Delaware Engineering on behalf of Sims Hugo Neu
Bradley Field, NYSDEC
Thomas Wolfe, NYSDEC
Shayne Mitchell, NYSDEC
Peter Freehafer, NYSDEC
Bill Lupo, NYSDEC

Responses to these comments are provided on the following pages. Revisions to the draft general permit are indicated in these responses. The Department greatly appreciates the time and effort taken to review and comment on the draft permit.

1. Permit Section: Multi-Sector General Permit

Comment: The commenter agrees with the change from the general storm water permit to the multi-sector general permit. Regulators and the regulated community have outgrown the generic nature of the original general permit the federal EPA developed in 1992. The commenter believes the multi-sector general permit approach will be more conducive to industrial sector-specific fine-tuning as additional knowledge and experience with industrial storm water permitting is gained than the original general permit.

DEC Response: *Acknowledged.*

2. Permit Section: Preface, Footnote 2, page I

Comment: The commenter believes the word "not" should be added to the last sentence, in between the words "is" and "used". Even with this addition, it is not clear what meaning or significance the New York State Department of Environmental Conservation (hereinafter referred to as the Department) is attempting to attach to the term "waste pile" as it relates to the term "point source". Is there a definition in the Department's regulations that could be referenced here that would help clarify the Department's intent?

DEC Response: *The definition contained in footnote 2 had been carried over from the previous general permit (GP-98-03). This footnote has been revised to reflect the definition contained in 6 NYCRR Part 750-1.2(a) and the previous reference to "waste piles" has been removed.*

3. Permit Section:

Comment: The SPDES MSGP should address discharges currently or previously covered by another permit.

DEC Response: *The Notice of Intent does request information regarding other permits including SPDES permits. The SWPPP requirements have been revised to include this information in section III.C.2.e.*

4. Permit Section: I.A - Permit Area

Comment: The use of the phrase "industrial activity" is extensively used throughout the document and may be misleading to individuals responsible for oversight of facilities with point source discharges that are not normally considered "industrial" in nature, I will use the phrase "non-industrial entities" for these facilities. Reference to 40 CFR 122.26 (b)(14) is very confusing as it explicitly states in the first sentence: "Storm water discharge associated with industrial activity means the discharge from any conveyance that is used for collecting and conveying storm water and that is directly related to manufacturing, processing or raw materials storage areas at an industrial plant". Paragraph (14) further defines what activities fall under the permit scope in subsections (b)(14)(I) through (ix) and (xi) of 122.26 (b)(14). Yet, the general content of the section could be easily misinterpreted by some individuals not familiar with imposing CFRs and regulatory documents. May I suggest that additional clarification be added under Part I A Permit Area, of the draft document which would emphasize that "facilities with point source stormwater discharges" that conduct "activities" identified within 40 CFR 122.26 (b)(14) (I) through (ix) and (xi) fall under the regulation and that GP-06-01 applies to those entities.

DEC Response: *For clarification, Section I.A has been revised to include a statement that, “This permit is intended to provide SPDES Permit coverage to facilities with stormwater discharges to waters of the United States from a point source that conduct industrial activities identified within 40 CFR Part 122.26 (b)(14) (I) through (ix) and (xi).”*

5. Permit Section: I.B.- Maintaining Water Quality

Comment: **Unlike the Draft Federal Multi-Sector Permit, the language does not allow any contravention of water quality standards, yet does not provide that compliance with the terms of the permit will ensure that violations do not occur. We recommend replacing this section with language equivalent to the Federal language: Pursuant to Clean Water Act § 301(b)(1)(C) and 402(p)(3)(A), as well as 40 CFR 122.44(d), this permit includes provisions to ensure that discharges do not cause or contribute to exceedances of water quality standards. This permit sets technology-based limitations in the form of Best Management Practices that apply to all pollutants associated with industrial activity, and some numeric effluent limitations (effluent limit guidelines, coal pile runoff) more specifically targeted to specific activities.**

DEC Response: *Please note that the Draft Federal Multi-Sector Permit also contains section 1.4.3 - Water Quality Standards which states,*

“If at any time you or EPA determine(s) that your discharge causes or contributes to an exceedance of applicable water quality standards, you must take corrective actions and conduct follow-up monitoring. If you discover or are informed (by an entity other than EPA) of the exceedances you must take corrective action and conduct follow-up monitoring as stipulated in Parts 3.3 and 3.4; you must also report the exceedance(s) to EPA as stipulated in Part 3.4. If EPA makes the determination that your discharge causes or contributes to an exceedance of a water quality standard, you must comply with any requirements or schedules, including submitting additional information concerning the potential cause of the exceedance, provided by EPA, and those requirements and schedules will supercede those of Parts 3.3 and 3.4, where such requirements conflict. In addition, one of the following will apply: EPA may continue to authorize your coverage under this permit after you modify your SWPPP and your BMPs to adequately reduce pollutants in your discharge, and verify through monitoring. Alternatively, EPA may notify you that an individual permit application is necessary in accordance with Part 1.8.1. On a case by case basis EPA may look at monitoring data as well as background concentrations in the stream, State mixing zone policies, if available, and other relevant information to determine whether the discharge has the reasonable potential to cause or contribute to a violation of the established water quality standard. Failure to take the appropriate action is a violation of this permit.”

This language, along with the above, is not considered to be significantly different than the language contained in our draft permit with the exception that section I.B.2 lists several narrative water quality standards related to turbidity, solids, oil and floating substances from 6 NYCRR Part 703.2. These narrative water quality standards were listed so that the permittee is informed that they exist.

6. Permit Section: I.B - Maintaining Water Quality

Comment: **The SPDES MSGP should address corrective action and follow-up monitoring being triggered by a discharge that violates Water Quality Standards.**

DEC Response: *Section I.B.3 of the permit has been revised to state that the Permittee must take appropriate corrective action and that the Department may require the Permittee to conduct follow-up monitoring or provide additional information for discharges that violate water quality standards.*

7. Permit Section: I.B - Maintaining Water Quality

Comment: **The commenter believes there are several potential issues with regard to meaning, intent, and how a permittee is to determine compliance with this section of the permit. For example, in Part 1.B.2.a, the Department states no increase in turbidity is allowed "that will cause a substantial visible contrast to natural conditions". However, it does not indicate how a permittee can evaluate its discharge for compliance with the requirement. What is the definition of "substantial visible contrast"? Is the natural conditions to be evaluated pre-storm or during the storm event, since these are storm water-induced discharges? When would the permittee make this evaluation – within the first 30 minutes of discharge, immediately upon the commencement of discharge, or at some other time? In a similar vein, Part 1.B.3 precludes discharges from "causing downstream pollution". How would a permittee determine if its storm water discharges were causing downstream pollution? How far downstream should the permittee look, to evaluate its discharges? Finally, the commenter recommends the order of the potential Department actions listed in Part 1.B.3 in the case of a permittee causing or contributing to water quality problems be revised to indicate a descending order of severity of possible action. The last part of this condition would then read "The Department may require the permittee to include and implement appropriate controls in the SWPPP to correct the problem, may require the permittee to obtain an individual permit or other appropriate available general permit, and/or take appropriate enforcement action".**

DEC Response: *Section I.B.2 lists several narrative water quality standards related to turbidity, solids, oil and floating substances from the Department's Water Quality Standards contained in 6 NYCRR Part 703.2. These standards apply to industrial stormwater discharges, as well as, industrial process discharges and can be visually observed as opposed to requiring analytical testing. Technically, these standards would apply at any time, but for the purpose of the MSGP we would want the permittee to be aware of the standards when collecting their quarterly visual, benchmark or compliance monitoring stormwater samples. Although we do not have a specific definition for the standard requiring no increase in turbidity that will cause a "substantial visible contrast to natural conditions", this description is fairly obvious when it is observed and it should prompt the permittee to take appropriate steps to implement additional controls. Section I.B.3 of the permit has been revised to remove the statement regarding downstream pollution as it does add confusion and may not be readily determined by the permittee. Additionally, the order of potential Department actions listed in Part 1.B.3 have been revised.*

8. Permit Section: I.C.1 - Facilities Covered

Comment: **In the "applicability" section, we recommend that facilities that are classified as one of the 11 categories of Industrial Facilities that are owned and operated by an MS4 covered by a Phase II General Permit, need not obtain a separate permit under the re-issued Phase I General Permit. Rather, the facility should be covered under the MS4's Phase II permit, and as such, be required to implement an O&M plan**

and operate the facility in accordance with the six minimum storm water control measures required by the Phase II permit, particularly Minimum Control Measure No. 6 (Pollution Prevention and Good Housekeeping).

DEC Response: *Section I.C.1.c. has been added to the Facilities Covered section stating, "An industrial facility that is owned and operated by a municipality covered by the Phase II Municipal Separate Storm Sewer (MS4) General Permit may not need coverage under a separate MSGP permit provided that the Phase II MS4 permit has implemented an O&M plan and the facility is operated in accordance with the six minimum stormwater control measures required by the Phase II permit."*

9. Permit Section: I.C.1 - Facilities Covered

Comment: The commenter recommends the Department provide a mechanism to allow industries under a specific SIC code listed in Table I-1 to be classified in another Sector, or in Sector AD. While the commenter agrees that using SIC codes is appropriate for classifying most industries into the appropriate sector, there are exceptions. The SIC code is an economic classification system, not an environmental one, and predates the current environmental regulations that utilize it. Federal EPA and the Department use it for convenience of not developing an environmental-specific industrial classification code. As an example, the insulated fiber optic manufacturing industry is classified in SIC code 3357, drawing and insulating of nonferrous wire, so it is included under the primary metals sector. Insulated fiber optic cable is typically manufactured by sheathing the fiber optic strands in an aluminum "jacket" or skin, for strength and durability, and injecting an insulating material into the jacket. Yet, few, if any, insulated fiber optic cable manufacturers make any of the individual components that go into the cable. Rather, they purchase the individual items and then put them all together to make the cable. The commenter believes insulated fiber optic cable manufacturing is more closely aligned with fabricating facilities, that use various purchased products and materials to manufacture a product rather than developing a product or material directly from raw materials. The 1987 Standard Industrial Classification Manual shows that the fiber optic cable manufacturing industry was basically a "force-fit" into SIC Code 3357, based on the extensive explanation necessary at the beginning of this SIC Code section for insulated fiber optic cable. Here is the introductory text for that SIC Code in its entirety:

3357 Drawing and Insulating of Nonferrous Wire

Establishments primarily engaged in drawing, drawing and insulating, and insulating wire and cable of nonferrous metals from purchased wire bars, rods, or wire. Also included are establishments primarily engaged in manufacturing insulated fiber optic cable. Establishments primarily engaged in manufacturing glass fiber optic materials are classified in Industry 3229, and those manufacturing fabricated wire products from purchased wire are classified in Industry 3496.

The commenter made a similar recommendation to EPA during the comment period of the recently published draft federal MSGP renewal. The commenter requests the following language be included as Part 1.C.1.b:

b. Industrial sector determination – If a permittee can provide adequate justification to the Department, and the Department agrees, the permittee may utilize another industrial sector more suited to its storm water discharge other than the one associated with its SIC code as shown in Table I-1. The Department

reserves its right to classify such facilities in Sector AD instead.

DEC Response: *In an effort to ensure that appropriate BMPs and monitoring parameters are implemented for the various industrial activities covered under this general permit, the Department agrees to include section I.C.1.b as follows:*

“If a permittee can provide adequate justification to the Department, and the Department agrees, the permittee may utilize another industrial sector which better reflects the industrial activities occurring at the facility than the industrial sector associated with the facility's SIC code. The Department reserves its right to classify such facilities in Sector AD instead.”

10. Permit Section: I.C.1 - Facilities Covered & Non-classified Facilities Sectors

Comment: **It is apparent that due to the types of activities inherent at transfer stations and recycling facilities, they require permit coverage. However, these operations do not conveniently fall under any of the Sectors outlined by the permit. At present, our understanding is that these facilities will be addressed under the "miscellaneous" classification of Sector AD. As the Draft permit is presently worded, written permission would be required from NYSDEC each time one of these facilities desires coverage under Sector AD; this will create an enormous and unnecessary administrative burden on NYSDEC while delaying and complicating the process of obtaining coverage for numerous facilities statewide.**

Recommendation: **We recommend that a transfer and recycling stations be assigned to one of the existing categories consistent with their Federal SIC code or a separate category (Sector) devoted solely to transfer and recycling stations should be created.**

DEC Response: *Transfer stations are included under SIC code 4212 as “refuse collection without disposal”. This industrial activity is included under Sector P of the MSGP.*

11. Permit Section: I.C.1 - Facilities Covered & Non-classified Facilities Sectors

Comment: **Construction and demolition debris (C&D) recycling facilities presently cannot obtain coverage under GP-98-03 and must each obtain an individual permit. Recommendation:** **Add C&D recycling facilities to one of the existing sectors or create an additional category under which they can be covered. Because of the similarity in the types of operations that take place at these facilities, coverage under a GP-06-01 is more efficient than requiring them to continue to apply for individual permit coverage.**

DEC Response: *It is our intent to allow coverage of C&D facilities under Sector AD for non-classified facilities.*

12. Permit Section: Including C&D Landfills

Comment: **The current general permit (GP-98-03) only applies to landfills that accept industrial waste, preventing some C&D facilities from being covered under this permit. We recommend that NYSDEC include landfills (both MSW and C&D facilities) similar to the draft version of the Federal (EPA) Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (MSGP). The MSGP has sufficient flexibility to allow western New York landfills to be covered without the need for an individual permit.**

DEC Response: *As stated in the above response, it is our intent to allow coverage of C&D facilities under Sector AD for non-classified facilities.*

13. Permit Section: I.C.1.a. - Co-located Facilities

Comment: At a co-located facility where one sic code is the dominant industrial activity is it necessary to do monitoring under both sectors?

DEC Response: *Co-located industrial activities occur when the activities conducted at a facility fall into more than one of the categories of the industrial facilities listed in the permit (e.g., a landfill at a wood treatment facility). If you have co-located industrial activities that are described in sector(s) other than your primary sector, you must comply with all other applicable sector-specific conditions found in Part VIII for the co-located industrial activities including the SWPPP and monitoring requirements for each co-located activity. This is to ensure that appropriate BMPs are implemented and monitoring reflects the pollutants of concern for each industrial activity. If the stormwater discharges for more than one industrial activity are co-mingled, then the monitoring requirements are additive for that discharge. If the stormwater discharges for the industrial activities are kept separated, then each discharge must be sampled for the monitoring parameters for each specific industrial activity.*

Certain limited activities (e.g., minor vehicle maintenance and fueling activities at an industrial plant) may not trigger the MSGP's requirements regarding co-located activities. An activity at a facility is not considered co-located if the activity, when considered separately, does not meet the description of a category of industrial activity covered by the storm water regulations. For example, unless you are actually hauling substantial amounts of freight or materials with your own truck fleet or are providing a trucking service to outsiders, simple maintenance of vehicles used at your facility is unlikely to meet the SIC code group 42 description of a motor freight transportation facility. Please note, however, that even though Sector P may not apply, the runoff from your vehicle maintenance facility would still be considered storm water associated with industrial activity. As such, your SWPPP must still address the runoff from the vehicle maintenance facility although not necessarily with the same degree of detail as required by Sector P and monitoring under Sector P would not be required.

14. Permit Section: I.C.1.a - Co-located industrial activity

Comment: The wording "on-site" may be subject to interpretation. It is not clear whether facilities on adjacent properties or substantially contiguous properties under the same ownership require separate permits or if they are covered under the same permit. Previously the notion of co-location was not addressed or mentioned in the permit (GP-98-03). The exact intent of the term "on-site" must be spelled out precisely.

DEC Response: *For clarification, the permit language has been changed to state, "If more than one industrial activity occurs at the facility which is described in Table I-1, those activities are considered to be co-located."*

15. Permit Section: I.C.2. - Discharges Covered

Comment: Facilities where petroleum products are collected, stored, or recycled (e.g., transfer stations) may also fall under other permit Sectors (e.g., the same facility may recycle scrap metal, paper products, etc.) An exception of these facilities from this Sector should be explicitly stated, or the Sector into which they are classified must be otherwise somehow defined. Support facilities should be distinguished from co-located facilities under different sectors. The Federal guidelines, which contain no provisions concerning co-location, define and classify all industrial activities and should be the basis for classification. An allowance is needed for

incidental and or support facilities. A landfill generally has a shop, bulk petroleum storage, and office space but should be governed by the landfill sector of the permit. **Recommendation:** Include language in each sector to allow for certain support activities. We recommend that "Petroleum Bulk Station" be defined as follows:

“A Petroleum Bulk Station is defined as a facility that stores a minimum 20,000 gallons of petroleum products at any time during the term of the permit. In all other facilities, petroleum storage is to be considered a support activity rather than a co-located industrial activity.”

DEC Response: *The primary focus of this comment appears to be a request for clarification on support activities within an industrial sector versus co-located activities which are subject to more than one sector of the MSGP. It should be noted that the requirements for co-located activities was originated by EPA in their 1995 version of their MSGP with the purpose to ensure that the facility’s BMP and monitoring requirements reflected the actual activities occurring at the facility. The September 29, 1995 Federal Register preamble provides a profile of each industrial sector, potential for pollutants, sampling data and a summary of typical BMPs for the various activities within each sector. As previously stated, certain limited activities (e.g., minor vehicle maintenance and fueling activities at an industrial plant) may not trigger the MSGP’s requirements regarding co-located activities. An activity at a facility is not considered co-located if the activity, when considered separately, does not meet the description of a category of industrial activity covered by the storm water regulations. For example, unless you are actually hauling substantial amounts of freight or materials with your own truck fleet or are providing a trucking service to outsiders, simple maintenance of vehicles used at your facility is unlikely to meet the SIC code group 42 description of a motor freight transportation facility. Please note, however, that even though Sector P may not apply, the runoff from your vehicle maintenance facility would still be considered storm water associated with industrial activity. As such, your SWPPP must still address the runoff from the vehicle maintenance facility although not necessarily with the same degree of detail as required by Sector P and monitoring under Sector P would not be required.*

It is unclear if the reference to petroleum bulk storage facilities is related to the concern over vehicle fueling areas potentially being classified as a co-located industrial activity described above. Sector P covers various Land Transportation and Warehousing activities which includes the SIC code 5171 for petroleum and bulk stations. SIC code 5171 is specifically for wholesale transfer facilities.

16. Permit Section: I.C.3 - Non-Stormwater Discharges

Comment: We recommend that item g be revised to read "**Routine external building washdown provided that any detergent used is a non-phosphate biodegradable detergent.**" Additional suggestions on washwater discharges are included in the BMP Tables included with our September 15, 2006 correspondence

DEC Response: *The Department cannot allow the discharge of wash waters containing any detergents as an authorized non-stormwater discharge under this general permit. Options for the disposal of wash waters containing detergents would include discharge to the sanitary sewer system, discharge to a SPDES permitted treatment system designed to treat such wastewater or collection and hauling to a treatment system designed to treat such wastewater.*

17. Permit Section: 1.C.3.d. - Non-Storm Water Discharges

Comment: The commenter requests that general permit explicitly identify other atmospheric condensation that is the same as air conditioning condensate. Specifically, the commenter requests the melting of frozen condensate from the outside storage of refrigerated liquids such as oxygen, argon, and nitrogen (to name three of the more common industrial ones) be included as an allowable non-storm water discharge. The commenter made a similar recommendation to EPA during the comment period of the recently published draft federal MSGP renewal. The commenter requests that the following wording be added, after uncontaminated air conditioning or compressor condensate:

“, and other uncontaminated condensate resulting from the condensing of atmospheric moisture onto cool or cold surfaces (such as the discharge of thawed condensate from the surface of liquid nitrogen, argon, or oxygen tanks stored outside). “

DEC Response: *The Department has reviewed the comment and agreed to revise the permit language to include “, and other uncontaminated condensate such as condensate from the surface of pressurized gas cylinders stored outside.*

18. Permit Section: I.D.4 - Activities Which are Ineligible for Coverage Under This Permit

Comment: The proposed storm water permit is comprehensive, and designed to provide for almost all businesses in one permit. As such, we recommend that the permit be expanded such that smaller construction projects (between 1 acre and 5 acres) incidental to industrial activities covered by the Draft Permit are included and covered in this permit. The BMPs for this sort of construction project would be very similar to the Sediment Erosion and Control Plan that is already part of this permit.

DEC Response: *The Department has considered this issue, but does not feel that it is appropriate to make this revision at this time.*

19. Permit Section: 1.E.3.a., 1.F.1., and 1.G.1. - 30 Day Delay in Permit Coverage

Comment: There were numerous comments opposed to the 30 day delay to obtain coverage under the new MSGP and its impact on facilities covered. These comments pertained to facilities covered under the existing general permit, new facilities obtaining permit coverage, and transfers of ownership at a facility. The previous general permit (GP-98-03) allowed the permittee to assume coverage 2 days after the postmark on the NOIT.

DEC Response: *The 30 day review period in permit coverage was originally implemented by EPA’s MSGP and was included in our draft permit since we are utilizing the general format of the MSGP. The Department does consider this review period to be necessary to allow for review of the NOIT to verify information or to request corrections if insufficient information has been submitted. The impacts on existing facilities, new facilities and ownership transfers are described below:*

Existing facilities with coverage under GP-98-03 - The 30 day review period is addressed in Section I.G. which allows facilities to continue coverage under the existing permit for up to 120 days provided that the facility submit their NOIT within 90 days of the effective date of the MSGP.

New Facilities - New facilities are subject to the 30 day review period and must fulfill other requirements such as developing and implementing their SWPPP and addressing the New Stormwater Discharge requirements identified in Section II.A.

Transfers of Ownership - The permit language has been revised to state that transfers of ownership will be effective once both the previous and new owner/operators submit NOITs in accordance with Part VII (Termination of Coverage).

20. Permit Section: I.F. - Deadline for Notification

Comment: **Item 3 of this section requires that the permittee notify the Department of his/her intent to be covered by the new general permit “upon renewal of this general permit or issuance of a new general permit.” The commenter seeks clarification regarding the deadline for notification. As currently written, it appears that the permittee must notify the Department “upon renewal...or issuance.” This could be interpreted to mean that a facility must submit notification on the date the permit is renewed or a new permit is issued. The commenter requests that a notification deadline similar to the 90/120 day deadline in Part G.1. be included in Part F.3.**

DEC Response: *Section I.F.3. has been removed. The notification requirements for this permit are already stated in the permit and future permits will contain similar notification requirements.*

21. Permit Section: I.G.2. - Continued Authorization under General Permit

Comment: **The commenter does not believe it is fair to limit the amount of time a permittee can be covered under the general permit, after it submits a timely individual SPDES application or applies for an alternate general permit, if a timely permit action cannot be taken it is not their fault. The draft permit limits the coverage to 365 days, even after the permittee takes timely action on attempting to be covered by a different permit. What happens if, through no fault of the applicant, the issuance of the alternate permit is delayed beyond 365 days?**

DEC Response: *The Department agrees with the above comment and has removed the reference to an end date.*

22. Permit Section: I.G.2. - Interim Permit Coverage for Facilities Covered Under GP-98-03

Comment: **Under the provision above, it is not clear if or how notification to NYSDEC would take place in the event that a permittee is uncertain of their eligibility for coverage. If this determination must be made by NYSDEC, a reasonable time frame should be assigned for the decision to be made so that the permittee would be able to determine if application for an individual SPDES or other permit is necessary. If the determination is to be made by the permittee, there must be a process by which NYSDEC could be notified if the permittee determines that they are eligible within the first 180 days of coverage. Recommendation: Revise as follows:**

2. If a facility is covered by the SPDES General Permit for Stormwater Discharges Associated with Industrial Activity (GP-98-03), but cannot meet (or cannot immediately determine if they meet) the eligibility requirements of this permit, the permittee may be authorized for a period not to exceed 365 days from the date this permit becomes effective, provided that an application for an individual SPDES or alternative permit is submitted to the Department within 180 days from the date this permit becomes effective. Upon submission of the NOIT, the applicant shall notify the Department that eligibility for coverage has not yet been determined. Within 90 days from submission of the NOIT, the Department shall notify the applicant whether application for an individual permit, or coverage under an alternate SPDES permit, is necessary.

DEC Response: *The Department has revised this condition as follows: “If a facility is covered by the SPDES General Permit for Stormwater Discharges Associated with Industrial Activity (GP-98-03), but cannot meet (or the facility cannot immediately determine if they meet) the eligibility requirements of this permit, the permittee may be granted interim authorization until eligibility is determined by DEC or an individual SPDES Permit or alternative permit is issued under the following schedule. Upon submission of the NOIT, the applicant shall notify the Department that eligibility for coverage has not yet been determined. Within 90 days from receipt of the NOIT, the Department shall notify the applicant whether application for an individual permit, or coverage under an alternate SPDES permit, is necessary. The applicant must submit an application for an individual permit or an alternate SPDES permit.”*

23. Permit Section: I.H.- Conditional Exclusion for No Exposure

Comment: **The commenter agrees in principle with the no exposure exclusion; however, a number of implementation, interpretation, and compliance issues remain that make its use ambiguous, and potentially leading to non-compliance with the federal Clean Water Act and New York regulations and law by unsuspecting facilities attempting to use it. Conversely, some facilities are reluctant to attempt the no exposure exclusion because these same ambiguities make them leery of their ability to comply fully this option. The commenter made similar recommendations to EPA during the comment period of the recently published draft federal MSGP renewal. Among the items for the conditional exclusion for no exposure that need clarification and interpretation include, but are not limited to:**

- A. The definition of storm water associated with industrial activity that facilities use to determine if a permit is needed includes (among other things) storm water from manufacturing buildings. However, the no exposure exclusion guidance documents state that as long as materials are stored indoors (including inside the manufacturing building), then a facility can utilize the no exposure exclusion. How can the same definition apply simultaneously to two opposite permitting situations?**
- B. How are non-storm water discharges that are authorized under the general permit to be handled if a facility utilizes the no exposure exclusion? Most of these types of flows have historically been directed to the storm water drainage system at industrial sites. These flows are not pollutant-free. Since the no exposure exemption puts a facility outside the realm of discharge coverage under the Clean Water Act, it would appear that a facility electing the no exposure exclusion must: (1) ensure there are no pollutants in these types of discharges, (2) ensure these flows do not discharge off-site, (3) obtain an individual permit for them, or (4) apply for a general permit that covers these types of discharges, if such a general permit is available.**
- C. If a facility opts for the no exposure exemption and subsequently has material or activities exposed to storm water, what does that do to the exclusion? While the general permit states that the exclusion no longer applies, from a practical aspect, what does that mean? Can the facility at some future time re-apply for the no exposure exemption? Under what conditions and time frame should be taken into account to allow this? Guidance on these and other implementation questions needs to be developed to ensure consistency in the use of this option.**

DEC Response: *This Department recommends that any facility considering certification for no exposure review EPA’s Guidance Manual for Conditional Exclusion from Storm Water Permitting Based On “No Exposure” of Industrial Activities to Storm Water to*

determine whether they meet the No Exposure requirements. Section I.H of the MSGP provides a link to the Department's website where DEC's No Exposure Certification Form can be downloaded and where additional information, including the above referenced EPA Guidance Manual can be found.

- A. EPA's Guidance Manual provides a definition of no exposure and describes various industrial materials and activities that do not require storm resistant shelters to qualify for "No Exposure". Potential stormwater contamination from manufacturing buildings are described under 3.2 Other Potential Sources of Contaminants on pages 9 and 10 which describes emissions from roof stacks and/or vents and leaching effect of acidic precipitation on metal building structures.
- B. This Department does not typically issue a SPDES permit solely for the non-stormwater discharges identified in section I.C.3 unless the Department has identified that a potential contaminant is present. As such, a facility with these types of discharges would still be eligible for the no exposure certification.
- C. Once covered under the no exposure certification, a facilities must maintain a condition of no exposure until the facility applies and obtains coverage under either an individual industrial SPDES permit or the SPDES MSGP. Failure to maintain the condition of no exposure or obtain coverage under a SPDES permit is considered to be an unauthorized discharge of pollutants to waters of the United States, which is a violation and could result in penalties under the CWA and the Environmental Conservation Law. It is also important to note that coverage under the MSGP is not immediate. A facility must have developed their SWPPP and meet certain new source discharge requirements before submitting their NOI. Additionally, coverage under DEC's MSGP is not effective until 30 days after receipt of a completed NOI Form.

24. Permit Section: II.B Releases of Hazardous Substances or Petroleum

Comment: The commenter believes that a definition of the term "hazardous substance" should be included in the permit to avoid possible confusion. The permit need only refer to a regulatory citation which defines the term "hazardous substance." For example, the permit could state: "This permit does not authorize the discharge of hazardous substances (as listed in 6 NYCRR Part 597) or petroleum resulting from an on site spill."

DEC Response: Reference to 6 NYCRR Part 597 has been added to the permit language.

25. Permit Section: Part II.B - Releases of Hazardous Substances or Petroleum

Comment: The commenter would like to make sure its interpretation of this section of the general permit is consistent with its wording and the federal EPA MSGP. The first sentence in Part II.B.1 could be misconstrued to mean that, even after complying with the provisions of this section of the permit, subsequent storm water containing trace amounts of the substance spilled is not eligible for coverage under this permit even if it met all other provisions of the permit. It is the commenter's understanding that the first sentence relates to the actual spill event – that the release of any hazardous substance or petroleum prior to reporting, clean-up in compliance with the SWPPP, modification of the SWPPP and implementing any BMP measures to prevent reoccurrence of the spill (if appropriate and necessary) is not authorized by the general permit. Once all these general permit requirements associated with the spill event are completed, then any subsequent storm water that may contain trace amounts of the spilled substance that cannot be effectively removed during clean-up activities could be discharged under the general permit,

provided all other relevant general permit conditions are met (including not causing or contributing to a water quality standard violation). This is another issue the commenter discussed with the federal EPA during the comment period of the recent draft MSGP. The commenter believes the above interpretation is consistent with federal EPA's intent with regard to the release of hazardous substances and oil in the federal MSGP.

The Department may want to consider the following language that is modeled after the State of Georgia on this same issue, to replace the first sentence in Part II.B.1 of the general permit:

"This permit does not authorize the discharge of hazardous substances or oil resulting from an on-site spill except in de minimis amounts after compliance with the provisions of this section, and the removal and proper disposal of the spilled material has been completed in accordance with State and Federal requirements."

DEC Response: Areas from which spills or releases have been adequately cleaned up in accordance with Department's PBS and CBS spill program and that meet the section III.L.3.b requirements for spill clean-up procedures within secondary containment areas for storage or transfer areas would be acceptable for discharges of stormwater. The Department has considered the above but has decided not to use the suggested language.

26. Permit Section: II.B.2. - Releases of Hazardous Substances or Petroleum

Comment: Often a release is not discovered immediately. It may be several hours between the onset of a spill and the time the facility operator first becomes aware of said spill. **Recommendation:** Modify this section to read as follows:

2. Where a release enters any municipal separate storm sewer system (MS4), the permittee shall also verbally notify the owner of the MS4 within 2 hours of the time at which the owner becomes aware of the release; and

DEC Response: The permit language has been revised to require notification "within 2 hours of the time at which facility staff becomes aware of the release".

27. Permit Section: Part II.B.3 - Release of Hazardous Substances or Petroleum

Comment: This section requires that following any release incident, the permittee must evaluate the facility's stormwater pollution prevention plan to identify measures preventing reoccurrence and to improve the emergency response to such releases. The plan must be modified where appropriate. The requirements of this section do not appear to be consistent with other regulatory programs controlling releases/spills of hazardous substances or petroleum products. Also, using absolutes such as "any release" or "preventing reoccurrence" is an unreasonable expectation. A release should be based on reportable quantities already reestablished for hazardous substances and petroleum products. It is suggested that the term "release" be defined as "a spill or release of oil or hazardous substances in excess of reportable quantities in accordance with 6 NYCRR Part 597, and the Department's Spill Guidance Manual." The SWPPP for the facility could then reference reportable quantities for the types of substances stored or managed on-site. It is suggested that alternative language be used to describe a release and the measures to be taken in reviewing the stormwater pollution prevention plan, such as

"Following a spill or release in excess of reportable quantities the permittee must evaluate the facility's stormwater pollution prevention plan measures to reduce the potential for an oil/chemical spill and modify those measures if necessary."

DEC Response: *The October 30, 2000 Federal Register preamble for EPA's MSGP included a response to a comment requesting that only reportable quantities be considered. EPA responded that a spill or leak may not meet the threshold of a "reportable quantity" but may still be sufficiently significant to cause water quality impairment, and therefore should be acknowledged and mitigated by the permittee. EPA stated that they did not intend that "reportable quantity" defines the minimum amount of a substance which should be appropriately managed. This Department agrees with EPA's approach. An evaluation and identification of measures preventing recurrence need not be an elaborate procedure and may be something as simple as requiring drip pans below hose connections for material transfers or ensuring that personnel remain at their vehicle during fueling activities.*

28 Permit Section: II.C - Impaired Waters

Comment: **The SPDES MSGP should include monitoring requirements in "Part II. Special Conditions C: Impaired Waters (303(d) and TMDL) to ensure that any TMDLs or Waste Load Allocations are being met. This would make it consistent with EPA's draft MSGP permit.**

DEC Response: *The Department has considered this comment, but given that the EPA permit is still draft at this time, has decided to keep the original permit language to address impaired waters. Monitoring will be addressed through Departmental notification.*

29. Permit Section: II.C - Impaired Waters

Comment: **Part II.C (page 10) Impaired Waters (303(d) and TMDL):**

- a) **Please clarify if the permittee is required to do this research or if the NYSDEC will do the research and notify the permittee that they discharge to an impaired water body.**
- b) **Please add additional information so that the permittee understands what constitutes a discharge to an impaired water body. Is it only direct discharges? Is it discharges within one mile and in the same watershed (refer to the GA industrial permit)? Do discharges through an MS4 to an impaired water body count? What about discharges to an unimpaired tributary of an impaired segment? What about upstream of an impaired segment?**
- c) **Do we review the most current APPROVED Integrated Report to find the 303(d) list that applies or does the most current draft Integrated Report also need to be reviewed.**
- d) **What Water Quality Categories do we need to research (e.g., 4A, 4C, 5)?**
- e) **If we determine that we do not discharge to an impaired water body do we need to make a statement in the SWPPP that states that the research has been completed and that for the 303(d) list contained in the most current approved Integrated Report the facility does not discharge to an impaired water body.**
- f) **If we determine that we do not discharge to an impaired water body (based on the above definition of "discharge to") do we need to make a statement in the SWPPP indicating that this research has been completed and that the facility does not discharge to an impaired water body (based on researching the most current APPROVED 303(d) list).**
- g) **What if the facility discharges to an impaired water body but has no sources of the parameter of concern? Does a statement need to be written into the SWPPP.**
- h) **Are permittees obligated to research 303(d) lists that are approved during the term of the NY MSGP?**

DEC Response:

a) *The permittee must do the research as part of SWPPP development. The permittee may consult the following website:*

<http://www.dec.state.ny.us/website/dow/303dcalm.html>

b) *Only direct discharges to a listed 303(d) segment or TMDL watershed must satisfy the requirement. Discharges through MS4s are considered to be direct discharges.*

c) *Please consult the website: <http://www.dec.state.ny.us/website/dow/303dcalm.html> which contains the current APPROVED list.*

d) *Only Part 1 will trigger the permit requirement.*

e) *While not specifically required, such a statement would be a good practice.*

f) *While not specifically required, such a statement would be a good practice.*

g) *While not specifically required, such a statement would be a good practice.*

h) *Permittees would be obligated to research the 303(d) lists at the time the SWPPP is developed and during the annual comprehensive site compliance evaluation.*

30. Permit Section: II.C.- Impaired Waters (303(d) and TMDL)

Comment: **The commenter recognizes the necessity of ensuring that, if an approved**

TMDL identifies storm water as a source of the impairment and contains specific requirements for industrial storm water discharges, then the permittees in the affected watershed need to ensure their individual SWPPPs incorporate such requirements. However, it is unreasonable to require permittees covered by this permit to "ensure no increase of the listed pollutant of concern to the 303(d) listed water", as condition Part II.C.1 does. Until the TMDL is completed, it is not known which discharges (storm water or non-storm water) and dischargers impact the stream. In addition, to the commenter's knowledge, neither the Department or the federal EPA have developed storm water-based water quality criteria, so how can it be pre-determined that all storm water discharges containing the pollutant(s) of concern impact an impaired stream? The commenter does agree that any permittee on a 303(d) stream needs to review the list to determine which pollutants are of concern, and modify its SWPPP to control their discharge if these pollutants are not currently controlled. However, it is not appropriate to control them to the extent the draft permit says to.

The commenter requests that wording be added to Part II.C.2 on page 10 that, if the permittee can demonstrate to the satisfaction of the Department that it requires additional time beyond the 8 months after notification to comply with the storm water TMDL reductions, the permittee can petition the Department for a later date to comply.

DEC Response: *The rationale behind the requirement to "ensure no increase of the listed pollutant of concern to the 303(d) listed water" is that waters that already violate the standard must not be further degraded by new discharges.*

The permit language has been updated to allow a later date to comply with stormwater TMDL reductions if the permittee can demonstrate to the satisfaction of the Department that it requires additional time beyond the 8 months after notification.

31. Permit Section: III.A. - Storm Water Pollution Prevention Plan Requirements

Comment: **The commenter requests the last sentence in paragraph two be modified to indicate that only those portions of other plans that are directly applicable to the SWPPP are enforceable under the general permit. In most instances these other plans include other aspects of the plant that are not a part of the regulated storm**

water system, and it would be unfair to have those portions regulated by the general permit. The commenter suggests the final sentence to this paragraph read, with the new language in italics:

"All plans incorporated by reference into the SWPPP become enforceable under this permit; however, this enforcement is limited to those aspects of these other plans that are directly attributable to the storm water discharges covered by this permit or are necessary for inclusion in the SWPPP."

DEC Response: *In response to the above, the permit language has been revised to state, "All plans incorporated by reference into the SWPPP become enforceable under this permit; however, this enforcement is limited only to those aspects of these other plans that are specifically referenced to provide information or practices required for the SWPPP."*

32. Permit Section: III.A - SWPPP - Incorporating Other Plans by Reference

Comment: **A Mined Land-Use Plan prepared for purposes of ECL, Article 23, Title 27 should be an acceptable reference document for a SWPPP.**

DEC Response: *A Mined Land-Use Plan is considered to be an acceptable reference document for meeting the SWPPP requirements and reference to its use has been added to Section III.A.*

33. Permit Section: III.C.2 - Site Description

Comment: **Within "Part III: SWPP Plans," the commenter was unable to locate within the "Site Description" any request for the facility to provide information regarding an "Impervious Surface Estimate" or "Precipitation Information." The commenter recommends that this information be requested from the facility.**

DEC Response: *The commenter's recommendation to include impervious surface estimates as element of the SWPPP has been included in section III.C.2.g. of the final permit. The precipitation information is well known for the state.*

34. Permit Section: III.C.2 - Site Description

Comment: **The SWPPP description should include "all significant potential sources" and "all significant necessary measures to ensure that the discharge complies." There has to be a rule of reason here. The site map, for example, should include significant features, but not articulate every bale of hay, collection of riprap or small berm included in the plan. The statement that use of a registered professional engineer to prepare the plan is unnecessary indicates that exhaustive specificity is not required when articulating existing structures, stormwater conveyances, drainage areas, designation of equipment and access, and BMPs. The plan must have sufficient detail to allow regulatory review of the management plan for stormwater, but de minimis details and changes that do not affect plan workability or discharge water quality need not be included in the SWPPP.**

DEC Response: *The multi-sector general permit is intended to address stormwater discharges from a large variety of industrial activities. The facilities covered by this permit vary from small facilities with only a minimal area of industrial activities exposed to complex facilities with many acres of industrial activities exposed to precipitation. As such, the number of BMPs implemented at a facility is highly variable. The decision on whether or not to use a registered professional engineer to prepare or update a SWPPP should be based upon several factors including, but not limited to, the complexity of the facility, the types of industrial activities exposed, contaminant sources present, the*

stormwater discharge quality and the types of the stormwater controls present at the facility. While the Department agrees that a landfill facility operating under the DEC's Solid Waste Program and having an erosion and sediment control plan in place should not have to articulate every bale of hay or small berm on a site map, the use of such BMP practices should be described in the facilities SWPPP.

35. Permit Section: III.C.2.c - SWPPP Site Map

Comment: Add to (7) that you can have an "approximate outline" of the drainage area or sufficient density of flow arrows to show the drainage area outline.

DEC Response: *The permit language has been revised to reflect the above.*

36. Permit Section: III.C.2.c(8) - Non-storm water discharges

Comment: The commenter recommends the following wording be added to the end of this permit condition: ", including those listed in Part I.C.3." Part I.C.3 contains the allowable non-storm water discharges that the general permit can cover. This would provide clarity to the permittee to include all non-storm water discharges, both authorized and non-authorized, in the SWPPP."

DEC Response: *The permit language has been revised to reflect the above.*

37. Permit Section: III.C.2.d - Receiving Waters

Comment: Within "Part III: SWPP Plans C.2.D," the SPDES MSGP should require the facility to identify outfalls that discharge to any municipal separate storm sewer systems (MS4), the MS4 operator, or the receiving water to which the MS4 discharges.

DEC Response: *The permit language has been revised to require this information in section III.C.2.e.*

38. Permit Section: III.C.3 - Summary of Potential Pollutant Sources

Comment: Within "Part III: SWPP Plans C.3," the SPDES MSGP should require that the facility submit a summary of stormwater discharge data from the previous permit term.

DEC Response: *The Department has considered this comment, but will not require the submission of past stormwater data at this time. A significant amount of staff resources will be needed just to implement the transition over to the MSGP.*

39. Permit Section: III.C.3.c - Potential for presence in stormwater

Comment: The commenter recommends that the term "significant amounts of pollutants" be defined.

DEC Response: *The permit language has been revised to remove the term "significant amounts of pollutants" and replaced it with "a reasonable potential to contaminate stormwater". Factors to consider in determining whether a reasonable potential to contaminate stormwater exists are listed in the last sentence of this subparagraph.*

40. Permit Section: III.C.4 - Spills and Leaks

Comment: The wording in this section is subject to interpretation and may be readily misconstrued. Again, there is a need to define the term "significant spill". Also, the permit language needs to be consistent when using terms such as spills, leaks, releases, discharges, etc.

Recommendation: Remove the sentence reading "Significant spills and leaks

include releases of oil or hazardous substances in excess of reportable quantities in accordance with 6 NYCRR Part 597, and may also include releases of oil or hazardous substances that are not in excess of reporting requirements." This sentence fails to describe under what circumstances releases of oil or hazardous substances below reportable quantities are to be considered significant spills:

4. Spills and releases - The SWPPP must clearly identify areas where potential spills and releases can contribute to pollutants in stormwater discharges and their accompanying drainage points. For areas that are exposed to precipitation or that otherwise drain to a stormwater conveyance at the facility to be covered under this permit, the plan must include a list of significant spills⁽¹⁰⁾ and leaks of toxic or hazardous pollutants that occurred during the three-year period prior to the date of the submission of a NOIT. The list must be updated if spills or leaks that are reportable under Article 17 of the Environmental Conservation Law occur in exposed areas of the facility during the term of the permit.

DEC Response: *The October 30, 2000 Federal Register preamble for EPA's MSGP included a response to a comment requesting that only reportable quantities be considered. EPA responded that a spill or leak may not meet the threshold of a "reportable quantity" but may still be sufficiently significant to cause water quality impairment, and therefore should be acknowledged and mitigated by the permittee. EPA stated that they did not intend that "reportable quantity" defines the minimum amount of a substance which should be appropriately managed. As an example, the reportable quantity for ammonia is listed to be 100 pounds and releases well below this threshold will cause water quality impairment. As such this Department cannot agree to limit this requirement to only address spills and releases in excess of reportable quantities. The Department has revised the permit language to state, "For areas that are exposed to precipitation or that otherwise drain to a stormwater conveyance at the facility to be covered under this permit, the plan must include a list of reportable spills or releases⁽¹⁰⁾ of petroleum and hazardous substances or other pollutants that may adversely effect water quality that occurred during the three-year period prior to the date of the submission of a NOIT " and has included a footnote 10 stating, "This may also include releases of petroleum or hazardous substances that are not in excess of reporting quantities but which may still cause or contribute to significant water quality impairment. For example, the reportable quantity for ammonia is listed to be 100 pounds and releases well below this threshold will cause water quality impairment and must be addressed."*

41. Permit Section: Part III.C.6.b(1)(e) - Routine facility inspections, III.D - Maintenance, and III.I.2- Follow-up Actions

Comment: **The time frame for making changes to the SWPPP, implementing changes or maintaining BMPs should be consistent and not conflict with each other as highlighted in the three sections listed above. Additionally, 14 days is not enough time to identify, evaluate and resolve an upset conditions at an industrial activity.**

DEC Response: *The permit language in sections III.C.6.b(1)(e) - Routine facility inspections and III.D - Maintenance have been revised to improve consistency between the identified permit sections.*

42. Permit Section: III.C.6.b(1)(e) - Routine facility inspections

Comment: **It is not clear how one is to determine the level of industrial activity in determining the inspection frequency. It is suggested that the consistent measurable time frames be used throughout the permit. Also, inspection frequency could be**

established based on the industrial sector. The sector specific sections should be referenced.

DEC Response: *The permit language has been revised to address the inspection frequency issue as follows: "The inspection frequency shall be specified in the plan based upon the frequency identified under the SWPPP requirements for your specific industrial sector. If an inspection frequency is not indicated under the industrial sector, one should be established based upon a consideration of the level of industrial activity at the facility. Quarterly inspections are suggested as a minimum frequency for those that don't have a frequency set for the specific industrial sectors."*

43. Permit Section: III.C.6.b(1) - Nonstructural BMPs

Comment: **Nonstructural BMPs includes BMPs that should be considered for implementation at all facilities covered under the Draft Permit: housekeeping, minimizing exposure, etc... The commenter recommends that with respect to Sector N certain of these BMPs not be listed under a category of "BMPs to be Considered", but rather should be minimum requirements under the permit. We have provided our recommended set of minimum BMPs in the BMP table attached to and incorporated in these comments (BMP Table).**

DEC Response: *The Department has considered this comment, but has some concerns over making the BMPs mandatory at this time. Although facilities in this sector have had coverage under the existing General Permit (GP-98-03) and have implemented stormwater pollution prevention plans, many have not previously had to monitor their stormwater. The Department would prefer to utilize this permit term to allow facilities to monitor their stormwater and make improvements as necessary based upon the results of both visual and analytical monitoring. The Department will evaluate these results in the future to determine if additional requirements, such as mandatory BMPs are necessary. The recommended BMPs have been attached at the end of this response to comments document with some minor revision. The Department appreciates the time and effort put into this document and feels that this information should be provided to facilities as guidance through an organization representing the scrap metal recycling industry.*

44. Permit Section: III.C.6.b(2) - Structural BMPs

Comment: **Structural BMPs includes BMPs that are appropriate under a title "BMPs to be Considered". However, as previously discussed, the effective implementation of a stormwater management program at the typical small recycling facility requires BMPs to be prescriptive, yet that provide for flexibility to allow the use of new and innovative procedures. The commenter recommends that certain of these BMPs be incorporated into Sector N for the scrap recycling industry, and be made as prescriptive as reasonably possible (all as set out in the recommended BMP Table.) The commenter also provides specific comments on BMPs in our comments on the Part VIII. Sector N, Section 3: Stormwater Pollution Prevention Plan Requirements.**

DEC Response: *The Department has considered this comment, but has some concerns over making the BMPs mandatory at this time. Although facilities in this sector have had coverage under the existing General Permit (GP-98-03) and have implemented stormwater pollution prevention plans, many have not previously had to monitor their stormwater. The Department would prefer to utilize this permit term to allow facilities to monitor their stormwater and make improvements as necessary based upon the results of both visual and analytical monitoring. The Department will evaluate these results in the*

future to determine if additional requirements, such as mandatory BMPs are necessary. The recommended BMPs have been included as an attachment at the end of this response to comments document with some minor revisions. The Department appreciates the time and effort put into this document and feels that this information should be provided to facilities as guidance through an organization representing the scrap metal recycling industry.

45. Permit Section: III.D - Maintenance and III.I.2 - Follow-up Actions

Comment: The time frame for maintenance and follow-up action should be consistent throughout the document. It is not always practicable to perform maintenance before the next anticipated storm event, due to availability of contractors to complete the work and other circumstances that may arise. The 12-week time frame for follow-up action indicated above is inconsistent with Part III D, which indicates that maintenance must be performed for BMPs that are not operating effectively before the next anticipated storm event or as necessary to maintain continued effectiveness. Recommendation: Modify the time frame for maintenance so that it is consistent with the time frame for follow-up action:

D. Maintenance - All BMPs identified in the SWPPP must be maintained in effective operating condition. If site inspections required by Part III.C.6.b(1)(e) or Part III.I. identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of stormwater controls if practicable, but not more than 12 weeks after completion of the comprehensive site evaluation, unless permission for a later date is granted in writing by the Department. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable.

DEC Response: *The Department agrees to revise the permit language to state, “All BMPs identified in the SWPPP must be maintained in effective operating condition. If site inspections required by Part III.C.6.b(1)(e) or Part III.I. identify BMPs that are not operating effectively, maintenance must be performed before the next anticipated storm event, or as necessary to maintain the continued effectiveness of stormwater controls. If maintenance prior to the next anticipated storm event is impracticable, maintenance must be scheduled and accomplished as soon as practicable, but not more than 12 weeks after completion of the routine facility inspection or the comprehensive site evaluation, unless permission for a later date is granted in writing by the Department. In the case of nonstructural BMPs, the effectiveness of the BMP must be maintained by appropriate means (e.g., spill response supplies available and personnel trained, etc.).”*

46. Permit Section: III.F - SWPPP Documentation for Endangered Species

Comment: Recommend revising the permit language to clarify that documentation is intended for new facilities only.

DEC Response: *The permit language has been revised to clarify that documentation is intended for new facilities and facilities expanding the perimeter of operations (onto adjoining or additional parcels that will result in a 1 acre or greater ground disturbance).*

47. Permit Section: III.F.5 - New York National Heritage Program Contact Information

Comment: The contact information for obtaining assistance through the New York National Heritage Program needs to be corrected.

DEC Response: *The contact information for obtaining assistance from the New York National Heritage Program has been corrected.*

48. Permit Section: III.G. - Documentation of Permit Eligibility Related To Historic Places

Comment: **This requirement is not appropriate, and addressed by other regulations. Stormwater discharges, especially existing discharges will not have an impact on historic places on or eligible for the National Registry for Historic Places. Therefore, this section should be deleted.**

DEC Response: *The permit language has been revised to clarify that documentation is intended for new facilities and facilities expanding the perimeter of operations (onto adjoining or additional parcels that will result in a 1 acre or greater ground disturbance).*

49. Permit Section: III.I - Comprehensive Site Compliance Inspection

Comment: **Within "Part III: SWPP Plans I," the SPDES MSGP should require follow-up monitoring due to unauthorized releases or discharges.**

DEC Response: *The permit does require follow-up monitoring following releases to secondary containment areas as described in section III.L.3.e. Other releases would be addressed through the Department's Division of Environmental Remediation Spill Program. This permit contains numerous reminders with regard to spill notification requirements. Additionally, as stated in section IV.A.3 of the permit, the Department can request additional monitoring be performed by the permittee.*

50. Permit Section: III.I. - Comprehensive Site Compliance Evaluation

Comment: **The requirement that any required revisions to the SWPPP be completed within 14 days is impracticable, as is the requirement that "any modifications to BMPs or construction of new BMPs be completed prior to the next storm if practicable, but not more than 12 weeks after completion of the comprehensive site evaluation". Although work practice changes can be made to the SWPPP in that time frame, any capital improvements could take months or years just to get local approvals. The commenter suggests that the permit require the permittee to notify the Department of any BMP upgrade or new BMP that cannot be implemented within 14 days, and that notification should include a summary of the planned BMP upgrade and schedule. The Department should require that a summary of the annual compliance evaluation report be submitted to the Department for review.**

DEC Response: *The permit language in Section III.I.2 describes follow-up actions and does require notification for upgrades or repairs that will take longer than 12 weeks. Some clarification has been added to this condition to state, "For structural BMPs that will take longer than 12 weeks to implement, written notification to the Department must include a schedule for completing the proposed project."*

51. Permit Section: III.J.1 - Signature/Location

Comment: **The requirement states that the SWPPP shall be retained on-site at the facility covered by this permit or may be kept at the nearest office of the permittee. We suggest that to streamline the process, electronic versions of the document be allowed.**

DEC Response: *The SWPPP may be kept as an electronic version, provided that the end users of the SWPPP have ready access to the components of the SWPPP they need to use. For example, if there are staff that work on the permitted site that must implement the*

SWPPP in the course of their workday, but do not have access to a computer. For those staff, a hard copy of the component they must implement must be available to them. This would be particularly true of emergency action plans.

52. Permit Section: III. J.2 - SWPPP Availability

Comment: The requirement to make the SWPPP available to the public should be removed. The SWPPP could include proprietary information on material processing procedures or stormwater management methods that represent a competitive advantage. Also, the SWPPP is a working document periodically subject to potential changes and modifications. The public does not have free access to all areas of a facility, particularly material processing areas and therefore specifics of the SWPPP may not be readily comprehensible by the general public without conducting a comprehensive facility inspection. The Department should retain its right to request a copy of the SWPPP.

DEC Response: *This requirement is currently in EPA's MSGP and is also in the Department's General Permit for Stormwater Discharges Associated with Construction Activities. The Department firmly believes that this information should be available to the public upon request. As indicated in the permit condition, A facility may withhold justifiable portions of the SWPPP from public review that contain trade secrets, confidential commercial information or critical infrastructure information in accordance with 6 NYCRR Part 616.7.*

53. Permit Section: III.L.3 - Additional Requirements for Facilities with Secondary Containment

Comment: NYS already has program in place that addresses secondary containment under the Chemical and Petroleum Bulk storage regulations. The stormwater permit does not need to re-address what has already been regulated such as releasing accumulated water and spills. Allowing the permittee to reference facility SPCC (and other similar) plans in the SWPPP is suggested. The commenter recommends that the MSGP continue this sensible approach as it will allow the permittee to maintain consistent spill prevention, response and training approaches across the SPCC and Stormwater programs. The EPA has recently proposed amendments to the SPCC plan requirements (70 Fed. Reg. 73524-73552), which may not be finalized until after the effective date of the MSGP. It will be far less confusing for permittees and regulators alike to make the appropriate changes to one set of plans rather than two or more.

DEC Response: *The requirements outlined in this section have been taken from the SPDES permit boiler plate language for individual industrial facilities in the Special Conditions - Industry Best Management Practices section detailing requirements for Facilities with Petroleum and/or Chemical Bulk Storage (PBS and CBS) Areas. These requirements have been included in our individual industrial SPDES permits. An exception to this is the Loading/Unloading Area permit language which is from the previous SPDES General Permit for Stormwater Discharges Associated with Industrial Activity (GP-98-03) for facilities subject to reporting under EPCRA Section 313. Maintaining the loading/unloading area permit language was considered to be necessary as these areas are typically the most prone to releases due to product transfers. The Department has considered the above comment, but does not agree that the CBS/PBS regulations alone are sufficient to address the stormwater discharges from industrial secondary containment areas.*

[In addition to the above, please be advised that section III.A of the MSGP does allow

referencing of other plans such as a SPCC Plan to address SWPPP requirements.]

54. Permit Section: III.L.3.a - Loading/Unloading Areas

Comment 1: This requirement would be difficult to implement in practice. If outdoor storage tanks that are used and re-filled must be covered, it would be difficult to prevent their exposure to stormwater by covering them and also unnecessary as these generally also have secondary containment. The regulations should defer to 40 CFR 112 with regard to secondary containment systems. We suggest the following language:

Stormwater discharges from handling and storage areas should be eliminated where practical. Where this is not feasible, the permittee shall comply with the following BMPs:

- a. Loading/Unloading Areas - Loading and unloading areas shall be operated to minimize spills, leaks or the discharge of pollutants in stormwater consistent with procedures established under 40 CFR 112.

Comment 2: This requirement appears to be redundant with other regulatory requirements for storage and handling of oil and hazardous substances. The proposed requirement also does not provide a standard by which a determination can be made of the feasibility of eliminating discharges from handling and storage areas. This section should provide a mechanism for the permitted facility to provide an impracticability determination as part of the SWPPP for the elimination of stormwater discharges from the storage and handling areas. This determination would be similar to the federal requirements under 40 CFR Part 112.7(d) where an impracticability determination is described for secondary containment provisions practicality. The NYSDEC could then provide guidance as to the detail required in an impracticability determination. An alternative approach would be to provide options for the permittee to control run-off from loading and unloading areas in the following example:

"The plan must describe measures that prevent or minimize contamination of precipitation/surface runoff from fuel oil unloading areas. At a minimum the permittee must consider using the following measures, or an equivalent:

- (I) Use of containment curbs in unloading areas;**
- (ii) During deliveries, having station personnel familiar with spill prevention and response procedures present to ensure that any leaks/spills are immediately contained and cleaned up; and**
- (iii) Use of spill and overflow protection (e.g., drip pans, drip diapers, and/or other containment devices placed beneath fuel oil connectors to contain potential spillage during deliveries or from leaks at the connectors)."**

DEC Response: The Department has revised the permit language for this section as follows:

"Loading and unloading areas shall be operated to minimize spills, leaks or the discharge of pollutants in stormwater. Protection such as roofs, overhangs or door skirts to enclose trailer ends at truck loading/unloading docks shall be provided as appropriate. Where this is not feasible, the permittee shall comply with the following BMPs:

- (1) During deliveries, having station personnel familiar with spill prevention and response procedures present to ensure that any leaks/spills are immediately contained and cleaned up; and*
- (2) Use of spill and overflow protection (e.g., drip pans, drip diapers, and/or other containment devices placed beneath fuel oil connectors to contain potential spillage*

during deliveries or from leaks at the connectors).”

55. Permit Section: III.L.3.b - Spill Clean-up

Comment: This proposed requirement that, “All spilled or leaked substances must be removed from secondary containment systems as quickly as practical and in all cases within 24 hours” appears to be more stringent than other regulatory requirements under 40 CFR 112 for the development of Spill Prevention Control and Counter Measures (SPCC) plans and the NYSDEC chemical and petroleum bulk storage requirements.

DEC Response: *The requirements outlined in this section have been taken from the SPDES permit boiler plate language for individual industrial facilities in the Special Conditions - Industry Best Management Practices section detailing requirements for Facilities with Petroleum and/or Chemical Bulk Storage (PBS and CBS) Areas. These requirements have been included in our individual industrial SPDES permits and are considered to be appropriate for the MSGP as well. The following revision to the boiler plate language was made after the original MSGP draft permit was developed so the MSGP permit language has been revised accordingly as follows:*

“All spilled or leaked substances must be removed from secondary containment systems as soon as practical and for CBS storage areas within 24 hours of the owner or operator discovering the spill unless written authorization is received from the Department. This permit does not relieve the Permittee of any reporting or other requirement related to spills or other releases of petroleum or hazardous substances.”

56. Permit Section: Part III.L.3.b. - Spill Clean-up

Comment: This section states that the containment system must be thoroughly cleaned to remove any residual contamination which could cause contamination of stormwater and the resulting discharge of pollutants to waters of the State. Following spill cleanup the affected area must be completely flushed with clean water three times and the water removed after each flushing for proper disposal in an on-site or off-site wastewater treatment plant designed to treat such water and permitted to discharge such wastewater. It is recommended that the NYSDEC not rewrite current regulatory requirements into this proposed permit. Instead it is suggested that the permit reference the existing federal or state regulation.

DEC Response: *The requirements outlined in this section have been taken from the SPDES permit boiler plate language for individual industrial facilities in the Special Conditions - Industry Best Management Practices section detailing requirements for Facilities with Petroleum and/or Chemical Bulk Storage (PBS and CBS) Areas. These requirements are included in our individual industrial SPDES permits and are considered to be appropriate for the MSGP as well.*

57. Permit Section: III.L.3.b - Spill Clean-up

Comment: The commenter requests that the Department modify the mandatory maximum 24-hour time limit for removing all spilled or leaked material from secondary containment systems. In some instances it may not be practical to remove all the spilled material within 24 hours. The commenter recommends that the Department develop general permit language that would allow a longer time frame for removal where justified, provided the permittee takes measures to ensure none of the spilled material is released to surface waters before effective clean-up

occurs.

DEC Response: *The revised permit language stating, “All spilled or leaked substances must be removed from secondary containment systems as soon as practical and for CBS storage areas within 24 hours unless written authorization is received from the Department”, should address this comment.*

58. Permit Section: III.L.3.c. - Discharge Operation

Comment: **The requirement to log each discharge from secondary containment systems is new and exceeds NYS PBS requirements. We recommend the following:**

c. Discharge Operation - Stormwater must be removed before it compromises the required containment system capacity. Each discharge may only proceed with the prior approval of the facility representative responsible for ensuring SPDES permit compliance. Discharges shall be logged in a manner consistent with the requirements of 40 CFR 112, and where applicable, in accordance with an approved SPCC developed for the system.

DEC Response: *The requirements outlined in this section have been taken from the SPDES permit boiler plate language for individual industrial facilities in the Special Conditions - Industry Best Management Practices section detailing requirements for Facilities with Petroleum and/or Chemical Bulk Storage (PBS and CBS) Areas. These requirements have been included in our individual industrial SPDES permits and are considered to be appropriate for the MSGP as well.*

59. Permit Section: III.L.3.d - Discharge Screening

Comment: **This section provides insufficient detail or guidance as to how to go about this screening, only providing one brief example (volatile gas meters) and not offering any indication of what threshold must be met for contamination to be suspected. Recommendation: Omit this section entirely. SPCCs developed pursuant to 40 CFR 112 already require a visual inspection to detect pollutants in stormwater within secondary containment systems.**

DEC Response: *The requirements outlined in this section have been taken from the SPDES permit boiler plate language for individual industrial facilities in the Special Conditions - Industry Best Management Practices section detailing requirements for Facilities with Petroleum and/or Chemical Bulk Storage (PBS and CBS) Areas. These requirements have been included in our individual industrial SPDES permits and are considered to be appropriate for the MSGP as well.*

60. Permit Section: III.L.3.d - Discharge Screening and III.L.3.e(1) Discharge Monitoring

Comment: **These requirements are not consistent with the current state and federal regulations controlling discharges from secondary containment systems. How will this apply to facilities that do not fall under the multi sector general permit? The proposed general permit should not be more stringent than what is already required under existing regulations such as 40 CFR Part 112 and the NYSDEC chemical and petroleum bulk storage requirements for assessing discharges from secondary containment systems.**

DEC Response: *The requirements outlined in this section have been taken from the SPDES permit boiler plate language for individual industrial facilities in the Special Conditions - Industry Best Management Practices section detailing requirements for Facilities with Petroleum and/or Chemical Bulk Storage (PBS and CBS) Areas. These requirements have been included in our individual industrial SPDES permits and are considered to be*

appropriate for the MSGP as well.

61. Permit Section: III.L.3.e(1) - Storage Area Secondary Containment Systems

Comment: **The above provision for stormwater collection in secondary containment of above-ground tanks is significantly in excess of what is required for underground storage tanks with secondary containment that may collect groundwater. A quantification of the discharge volume would seem to be meaningless unless there is some identified contamination. Recommendation: The requirement to measure discharge volume should only apply if a spill or leak of reportable quantity pursuant to Article 17 of the Environmental Conservation Law has occurred, as follows:**

e. Discharge Monitoring. – **In the event of a spill or leak of a reportable quantity pursuant to Article 17 of the Environmental Conservation Law of a given substance to a secondary containment system, unless the discharge from any containment system outlet is permitted by an individual SPDES permit as an outfall with explicit effluent and monitoring requirements, the permittee shall monitor the outlet as follows:**

(1) Storage Area Secondary Containment Systems - The volume of each discharge from each outlet must be monitored. Discharge volume may be calculated by measuring the depth of water within the containment area times the wetted area converted to gallons or by other suitable methods. A representative sample shall be collected of the first discharge (see footnote 13) following any cleaned up spill or leak. The sample must be analyzed for pH, the substance(s) stored within the containment area and any other pollutants the permittee knows or has reason to believe are present (See footnote 14).

DEC Response: *The requirements outlined in this section have been taken from the SPDES permit boiler plate language for individual industrial facilities in the Special Conditions - Industry Best Management Practices section detailing requirements for Facilities with Petroleum and/or Chemical Bulk Storage (PBS and CBS) Areas. These requirements have been included in our individual industrial SPDES permits and are considered to be appropriate for the MSGP as well. Additionally, the Department does not agree that the 'reportable quantity' defines the minimum amount of a substance which should be appropriately managed. As an example, the reportable quantity for ammonia is listed to be 100 pounds and releases well below this threshold will cause water quality impairment. As such this Department cannot agree to limit this requirement to only address spills and releases in excess of reportable quantities.*

62. Permit Section: III.L.3.e(2) - Transfer Area Secondary Containment Systems

Comment: **It may be virtually impossible to determine or to suspect when spills or leaks of very small quantities have taken place. Recommendation: The requirement to test for contamination should be tied to a measurable quantity that is meaningful rather than arbitrary, i.e., the established reportable quantity for that substance:**

(2) Transfer Area Secondary Containment Systems - The first discharge (see footnote 13) following any spill or leak of a reportable quantity pursuant to Article 17 of the Environmental Conservation Law must be sampled for flow, pH, the substance(s) transferred in that area and any other pollutants the permittee knows or has reason to believe are present (see footnote 14).

DEC Response: *The requirements outlined in this section have been taken from the SPDES permit boiler plate language for individual industrial facilities in the Special Conditions - Industry Best Management Practices section detailing requirements for Facilities with Petroleum and/or Chemical Bulk Storage (PBS and CBS) Areas. These requirements have been included in our individual industrial SPDES permits and are considered to be appropriate for the MSGP as well. Additionally, the Department does not agree that the 'reportable quantity' defines the minimum amount of a substance which should be appropriately managed. As an example, the reportable quantity for ammonia is listed to be 100 pounds and releases well below this threshold will cause water quality impairment. As such this Department cannot agree to limit this to reportable quantities.*

63. Permit Section: III.L.4 - Additional Requirements for Salt Piles

Comment: **The salt storage provisions in this section do not apply to salt mining operations in New York, because each salt mine is already covered by an individual SPDES permit.**

DEC Response: *Discharges that are addressed under a separate individual industrial SPDES permit do not need to also be addressed under the MSGP.*

64. Permit Section: IV.A.1.a(1) - Quarterly Visual Monitoring

Comment: **You should consider adding in additional clarification concerning the NYSDEC's expectations for areas that discharge only via sheet flow and there is no discernible outfall.**

DEC Response: *For site conditions where sheet flow exists in the area of industrial activity and there is no discernable outfall, but stormwater does drain to a ditch, channel or other conveyance included in the definition of a point source which discharges to waters of the United States, a sample can be difficult to obtain. Methods to collect stormwater samples under sheet flow conditions are described in the Washington State Department of Ecology's publication, How To Do Stormwater Sampling, A guide for industrial facilities which is available at: <http://www.ecy.wa.gov/programs/wq/stormwater/industrial/sampling.html>*

65. Permit Section: IV.A.1.a(1) - Quarterly Visual Monitoring

Comment: **Under this section, a permittee is exempted from monitoring in a quarter if no storm event of 0.1 inches or greater has occurred. However, visual monitoring samples must be taken during the first hour of any storm resulting in 0.1 inches or more of precipitation. This requirement fails to account for the fact that it is possible for runoff from some surfaces to occur without 0.1 inches of precipitation having fallen. Moreover, it is an arbitrary assumption to assert that no storm event of less than 0.1 inches will result in runoff, and that all storm events of 0.1 inches or greater will result in runoff. The two are by no means equivalent; whether a storm of a given magnitude results in runoff depends on, amongst other factors, the surface or type of material on which precipitation falls as well as the antecedent moisture condition. Recommendation: Select the threshold of 0.1 inches as the criterion for monitoring, and remove all references to the other criterion:**
(1) If no storm event of 0.1 inches or greater from the facility during a monitoring quarter, the permittee is excused from visual monitoring for that quarter provided that documentation is included with the monitoring records indicating that precipitation was less than 0.1 inches. The documentation must be signed and certified in accordance with Part II.H. of this permit.

DEC Response: *In developing EPA's version of their general industrial stormwater permit, EPA determined that a 0.1 inch rainfall event would produce sufficient runoff volume for meaningful sample analysis. EPA has identified this to be a measurable storm event and it has become their minimum criteria to initiate stormwater sampling. While it is true that facilities with impervious surfaces may have a significant stormwater discharge resulting from a precipitation events which yield less than 0.1 inches of rainfall, there is a need to establish some type of sampling criteria. This Department has decided to continue to use the 0.1 inch criteria to define a measurable storm event. Additionally, in response to your comment, section IV.A.1.a(2) has been revised to more clearly address the condition where a measurable storm event does not occur within a quarterly monitoring period.*

66. Permit Section: IV.A.1.a(2) and IV.2.b(1) When & How to Sample

Comment: **The commenter would like the Department to address the issue of the minimum rainfall of 0.1 inches for regulatory sampling. The issue can be an economic one, since a number of facilities have multiple outfalls that must be sampled. If a precipitation event is predicted to occur that should result in rainfall of at least 0.1 inches and the facility initiates its sampling protocols but the storm event results in less than 0.1 inches of rainfall, then the sampling results are not used. This can become rather costly to a facility with either multiple storm water outfalls or extensive monitoring procedures to halt its sampling efforts and then re-start them for another storm event. In the preamble to the November 16, 1990 storm water regulations, EPA stated that the 0.1 inch was based on NURP and other studies that showed this amount of rainfall would produce sufficient runoff volume for meaningful sample analysis. (See 55 Fed. Reg. 48018) In addition, EPA did recognize that it is possible to obtain meaningful sample analysis with less rainfall, as this same section of the preamble went on to say that there is flexibility in the regulation to allow for variations in the preferred sampling scenario (minimum 0.1 inches of rainfall, with at least a 72 hour interval between the minimum rainfall amounts), as it says "If data is obtained from a rain event that does not meet the criteria...the Director has the discretion to accept the data as valid". The Department is incorporating the ability of the permittee to utilize a variation to the 72 hour minimum time threshold between minimum rainfall events into the general permit. The commenter requests the Department incorporate a similar variance for the minimum 0.1 inch rainfall event, provided the discharger can demonstrate to the satisfaction of the Department that the sampling results from a lesser rainfall event produce sampling results that are equivalent to a 0.1 inch rainfall event. The commenter made a similar recommendation to EPA during the comment period of the recently published draft federal MSGP renewal.**

DEC Response: *The Department would prefer to adhere to EPA's requirement and keep the current permit language.*

67. Permit Section: IV.A.1.a(2) Quarterly Visual Monitoring

Comment: **This section states that the "72-hour storm interval is waived when the preceding storm did not yield a *measurable discharge*." (Italics added.) It is unclear what is meant by the term "measurable discharge." The commenter suggests that the term "measurable discharge" be defined in the permit language.**

DEC Response: *In developing EPA's version of their general industrial stormwater permit, EPA determined that a 0.1 inch rainfall event would typically produce a sufficient runoff*

volume for a meaningful sample analysis. EPA has identified this to be a measurable storm event and it has become the minimum criteria to initiate stormwater sampling. Despite this criteria, every facility and storm event is different. A slow and steady rain event which measures 0.1 inches of rainfall at a facility may not result in a measurable or collectable stormwater discharge. Similarly, land areas that are relative flat, have sandy soils or do not have a significant amount of impervious surfaces may not result in a collectable or measurable discharge of stormwater even after a 0.1 inch rain event. The 72-hour storm interval should not be applied if the previous storm did not result in a stormwater discharge. Clarification in this regard has been added to the permit language.

68. Permit Section: IV.A.1.a(3) and IV.A.1.c - SWPPP Modification after Visual Inspection and Benchmark Monitoring

Comment: The general permit requires the possible updating of the SWPPP if any visual inspection indicates the presence of storm water pollution, or if the benchmark values are consistently exceeded. There is no time frame specified for completing this updating. The commenter recommends that the same time frames associated with SWPPP updating and modification specified for the comprehensive site compliance evaluation in Part III.L.2 on pages 19 and 20 of the general permit be applied to these two sections as well. Thus, a permittee would have 14 calendar days to modify the SWPPP and 12 weeks for implementation, unless permission for a later date is granted in writing by the Department.

DEC Response: Sections IV.A.1.a(3) and IV.A.1.c has been revised to reflect the above recommendations.

69. Permit Section: IV.A.1.a.(5) - Quarterly Visual Monitoring at Inactive and unstaffed sites

Comment: New Monitoring Requirements include a quarterly visual inspection which must follow a rain event. For inactive sites or unstaffed sites, a waiver is available as long as the site remains inactive. Recommendation: Rephrase as follows:

(5) Inactive and unstaffed sites - An inactive landfill is defined as a landfill that is capped and stabilized to more than 80 percent vegetative cover. Such facilities may elect to terminate coverage under this Permit or may continue coverage if deemed appropriate. For sites maintaining coverage, when the permittee is unable to conduct visual stormwater examinations at an inactive and unstaffed site, a waiver of the monitoring requirement may be exercised as long as the facility remains inactive and unstaffed. If this waiver is exercised, the permittee must maintain a certification with the SWPPP stating that the site is inactive and unstaffed and that performing visual examinations during a qualifying event is not feasible. The waiver must be signed and certified in accordance with Part V.H.

DEC Response: It is important to note that this permit condition is applicable to all of the industrial facilities covered under the MSGP. The suggested revision, therefore, does not seem appropriate at this location. Clarification regarding landfills that have received final cover systems is described in Part VIII.L.1 - Discharges Covered Under this Section. Additionally, the following comment/response addresses the permittee's option to terminate their general permit coverage at a closed facility where there are no longer discharges of stormwater associated with industrial activity from the facility.

70. Permit Section: Part IV.A.1.a(5) - Inactive and unstaffed sites

Comment: When the permittee is unable to conduct visual stormwater examinations at an inactive and unstaffed site, a waiver of the monitoring requirement may be exercised as long as the facility remains inactive and unstaffed. If a landfill is closed and final capped in accordance with Part 360, we question why a general stormwater permit is required. The same would apply to a closed transfer station, hauling company or recycling facility. If the facility is closed and all waste has been removed and the facility cleaned why is a general stormwater permit required?

DEC Response: *An inactive facility has the option to terminate their general permit coverage if the facility is closed and there are no longer discharges of stormwater associated with industrial activity from the facility. For example, landfills that have been closed in accordance with 360 or 370 regulations are not required to maintain general permit coverage provided that surfaces are stabilized and maintained under a post closure care plan.*

71. Permit Section: IV.A.1.b(3) - Annual Dry Weather Flow Inspections

Comment: A period of 14 days is not enough time to identify, evaluate and resolve an upset condition at an industrial facility. The commenter recommends that the time to correct any noted deficiency in the implementation of the SWPPP be extended to 90 days.

DEC Response: *This section was referenced along with others that 14 days is not enough time to identify, evaluate and resolve an upset condition at an industrial facility. It should be noted, however, that this section states “The Permittee shall notify the Department within 14 days of any non-authorized discharge that cannot be easily eliminated. Appropriate actions may require coverage under an individual industrial SPDES permit or connection to the sanitary sewer system.” Requiring the notification indicated in this section does not appear to be a problem.*

72. Permit Section: IV.A.1.b(5) - Annual Dry Weather Flow Monitoring at Inactive and unstaffed sites

Comment: New Monitoring Requirements include an annual dry weather inspection.

For inactive sites or unstaffed sites, a waiver is available as long as the site remains inactive. Recommendation: Rephrase as follows:

(5) Inactive and unstaffed sites - An inactive landfill is defined as a landfill that is capped and stabilized to more than 80 percent vegetative cover. Such facilities may elect to terminate coverage under this Permit or may continue coverage if deemed appropriate. For sites maintaining coverage, if the permittee is unable to conduct a dry weather flow inspection at an inactive and unstaffed site, a waiver of the monitoring requirement may be exercised as long as the facility remains inactive and unstaffed. If this waiver is exercised, the permittee must maintain a certification with the SWPPP stating that the site is inactive and unstaffed and that performing visual examinations during a qualifying event is not feasible. The waiver must be signed and certified in accordance with Part V.H.

DEC Response: *This permit condition is applicable to all of the industrial facilities covered under the MSGP. Clarification regarding landfills that have received final cover systems and have been stabilized is described in Part VIII.L.1 - Discharges Covered Under this Section.*

73. Permit Section: IV.A.1.c Benchmark Monitoring and IV.A.1.e Numeric Effluent Limits

Comment: Stormwater benchmarks cannot be used as numeric effluent limits (as would be the case if an exceedance of a numeric standard at the point of discharge were to be considered a violation of the permit subject to notice of violation). Water quality standards must be developed through a supportable scientific and regulatory analysis, subject to public review and comment, rather than through reference to standards that admittedly are "generic" and not intended to be numeric limits applicable to a particular receiving water body. In short, benchmarks are intended to serve as alarms requiring the facility operator to ascertain that BMPs in place are adequate and effective in ensuring that the operator's industrial activities are not degrading the environment. Exceedance of a benchmark should be an alert to the operator, not a violation if the permit holder is responsibly monitoring and adjusting BMPs when circumstances indicate they have become inadequate to reasonably control impacts from industrial activity. Thus the reporting requirements should be replaced with requirements to retain benchmark data along with the SWPPP review documentation.

DEC Response: *The Department agrees that benchmark monitoring cut-off concentrations are intended as guidance values and are not effluent limitations. Exceedance of a benchmark monitoring cut-off concentration will not be considered a permit violation. Benchmark monitoring cut-off concentrations are intended to provide information regarding the effectiveness of the SWPPP and to ascertain that the BMPs in place are adequate and effective. Exceedance of a benchmark monitoring cut-off concentration should be an alert to the owner or operator that additional attention is needed to ensure that existing BMPs are working properly and that additional efforts may be required. The reporting of benchmark monitoring data to the DEC, however, is considered to be necessary.*

74. Permit Section: IV.A.1.c - Benchmark Monitoring and Reporting

Comment: The commenter requests that a clear statement be added to MSGP text indicating that it is inappropriate to use stormwater benchmark values as numeric effluent limits. This text could be inserted prior to the following proposed language in this section: Benchmark monitoring data is primarily for your use and the NYSDEC's use, as described in MSGP Part IV. A.1.c. to determine the overall effectiveness of your SWPPP and to assist you in knowing when additional corrective action may be necessary to protect water quality.

The commenter supports the draft permit requirement for annual analytical testing, as supplemented by quarterly visual inspections and sampling waivers for "not present" or "no exposure" conditions. However, the commenter is concerned that the draft permit lacks sufficient standards and guidance for facilities with stormwater discharges that exceed benchmark cutoff concentrations.

The commenter further recommends that samples be taken from the receiving waters below the point of discharge rather than sampling the stormwater prior to its discharge from the facility. The benchmarks should realistically reflect the result of the discharge on the receiving waters and ensure that pollutants of concern in the receiving waters do not concentrate at levels that exceed ambient water quality standards.

DEC Response: *The permit language has been revised to include some of the language from EPA's MSGP clarifying the intentions behind the benchmark monitoring cut-off concentration values. Additional revisions have also been made to clarify expectations*

following an exceedance of benchmark monitoring cut-off concentration. The Department, however, does not agree that samples should be taken from the receiving waters instead of the point of discharge.

75. Permit Section: IV.A.1.c - Benchmark monitoring of discharges associated with specific industrial activities

Comment: The commenter believes regulatory agencies requiring the monitoring of storm water utilizing benchmark values need to give the permittee the ability to analyze the historical monitoring as to the appropriateness of the monitoring or the parameters monitored, and modify those parameters and/or benchmark values if appropriate. The commenter believes the monitoring that should be done is that which demonstrates the effectiveness of the site-specific SWPPP. The commenter requests that the Department provide the discharger the ability to determine alternate appropriate site-specific parameters to monitor under the SWPPP, rather than mandating certain parameters for all dischargers under a given category, regardless of appropriateness. The commenter presented the State of Arkansas one such method for developing site-specific SWPPP effectiveness evaluation options under their multi-sector general permit for industrial storm water discharges. Arkansas accepted this methodology as a part of the settlement of the commenter's appeal of their general storm water permit. The Arkansas general permit, with this type of condition found in Part II, Section A.3.b on page 19, is available as an Adobe Acrobat (.pdf) file at the Arkansas Department of Environmental Quality website: http://www.adeq.state.ar.us/water/branch_npdes/stormwater/industrial.htm. The commenter made a similar recommendation to EPA during the comment period of the recently published draft federal MSGP renewal.

It is important to remember that this is an alternative provided in the Arkansas general storm water permit, not the only method, for monitoring SWPPP effectiveness. In addition, it is sufficiently rigorous that only those facilities truly needing or wanting it will utilize it, minimizing a flood of requests to the agency for the alternate approach. The commenter believes that if a general permit requires a facility to develop a SWPPP with BMPs that are specific to its site and discharge situation, then the next logical step is to allow that facility to develop the appropriate monitoring parameters and benchmark values that are specific to those BMPs and discharge situation, if it so desires. If not, then the facility can continue to utilize the monitoring parameters and benchmark values as listed in the general permit.

The commenter requests the Department include a similar mechanism in the general permit to allow for the development of site-specific benchmark values and monitoring parameters where justified and appropriate.

DEC Response: *The Department has considered this comment, but has decided not to include this recommendation at this time. The permit contains several options such as the alternate certification of "not present" or "no exposure" in section IV.A.4.b, and the industrial sector determination in section I.C.1.b. The permittee also has the option to obtain coverage under an individual industrial SPDES permit.*

76. Permit Section: IV.A.1.c - Benchmark Monitoring and Reporting

Comment: The commenter recommends a different approach to evaluating the relationship between benchmarks and the facility's compliance with the general permit. We suggest the general permit be used to establish a set of prescriptive

BMPs to be adopted and implemented by Auto Salvage Yards (Sector M) and Scrap Recycling and Waste Recycling Facilities (Sector N). These BMPs would, in effect, be mandatory (unless equivalently effective BMPs are proposed by a facility). We further recommend that the MSGP should be structured to tie source categories and BMPs to monitoring results so that the general permit can be upgraded over time based on industry specific data. As addressed in Item 3 below, this could be accomplished by requiring the Notice of Intent or Termination (NOIT) Form to specify the BMPs that would be used at the site.

Finally, it is also recommended that a joint industry-NYSDEC workgroup be established to review the results of stormwater monitoring and the effectiveness of the specific BMPs in achieving water quality goals. After the third year of a permit and annually thereafter, the NYSDEC and the joint industry-NYSDEC workgroup could review this data, available storm water best management practices, and relevant water quality goals to determine if BMP requirements should be modified to assure greater protection of human health and the environment. This group would make recommendations for changes to this permit, as appropriate. Suggested changes would be subject to the normal rulemaking process.

DEC Response: *The Department has considered the above comment, but has some concerns with regard to requiring mandatory BMPs at this time without the opportunity to review monitoring data from these facilities. Most of the facilities that will be covered under the new MSGP were previously permitted under the SPDES General Permit for Stormwater Discharges Associated with Industrial Activity (GP-98-03) and have already developed and implemented a Stormwater Pollution Prevention Plan. Some of these facilities have not been required to monitor their stormwater in the past. Even the facilities that were previously required to monitor their stormwater did not have any limits or guidelines to compare monitoring results with to identify if a problem existed. This is the intent of the benchmark monitoring in this permit. The permit language clearly states that benchmark monitoring cut-off concentrations are intended as a guideline for the permittee to determine the overall effectiveness of the SWPPP in controlling the discharge of pollutants to receiving waters. Benchmark monitoring cut-off concentrations are not numeric effluent limits and exceedances of them is not a permit violation. It does, however, signal the need for the permittee to evaluate potential sources of stormwater contaminants at the facility. Any sources of contamination that are identified must be remedied. Such remedies may include implementation of non-structural or structural BMPs to prevent recurrence. In some cases this will result in an iterative process which may take place over several years. Additionally, some structural BMPs may take some time to be constructed. The Department would prefer to utilize this permit term to allow facilities to monitor their stormwater and make improvements as necessary based upon the results of both visual and analytical monitoring. The Department will evaluate these results in the future to determine if additional requirements, such as mandatory BMPs are necessary.*

77. Permit Section: IV.A.2.b - When and How to Sample

Comment: The draft MSGP requires that a "grab sample be taken during the first 30 minutes of the discharge." Impractical or adverse climatic conditions may prohibit the collection of samples, including: normal non-working hours, nightfall, or weather conditions that create dangerous conditions for personnel (local flooding, high winds, severe weather, electrical storms, etc.), or otherwise make the collection of a sample impractical (drought, extended frozen periods, etc.). The precision

required for the collection of stormwater samples is not consistent with the use of the sampling results. Stormwater samples are intended to provide data for comparison to stormwater benchmark values that are, at best, one of many indicators that will be used to evaluate the effectiveness of BMPs and the implementation of the SWPPP. The requirement to collect a sample outside of the 72-hour preceding storm interval and during the first 30 minutes of the discharge are needlessly stringent and should not be used to disqualify the results of stormwater quality indicator data. The commenter recommends collecting a grab sample during the first hour of discharge and without regard to prior storm events.

DEC Response: *The permit language has been revised to state, "The grab sample must be taken during the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of the discharge."*

78. Permit Section: IV.A.2.b(1) - When and How to Sample

Comment: **The requirement to collect a grab sample within the first 30 minutes should be changed to within the first hour during normal business hours.**

DEC Response: *The permit language has been revised to state, "The grab sample must be taken during the first 30 minutes (or as soon thereafter as practical, but not to exceed one hour) of the discharge."*

79. Permit Section: IV.A.2.b(1) - When and How to Sample

Comment: **This section states that the "72-hour storm interval is waived when the preceding storm did not yield a measurable discharge." (Italics added.) It is unclear what is meant by the term "measurable discharge." The commenter suggests that the term "measurable discharge" be defined in the permit language.**

DEC Response: *In developing EPA's version of their general industrial stormwater permit, EPA determined that a 0.1 inch rainfall event would typically produce a sufficient runoff volume for a meaningful sample analysis. EPA has identified this to be a measurable storm event and it has become the minimum criteria to initiate stormwater sampling. Despite this criteria, every facility and storm event is different. A slow and steady rain event which measures 0.1 inches of rainfall at a facility may not result in a measurable or collectable stormwater discharge. Similarly, land areas that are relative flat, have sandy soils or do not have a significant amount of impervious surfaces may not result in a collectable or measurable discharge of stormwater even after a 0.1 inch rain event. The 72-hour storm interval should not be applied if the previous storm did not result in a stormwater discharge. Clarification in this regard has been added to the permit language.*

80. Permit Section: IV.A.2.c - Storm Event Data

Comment: **If any of this information is not necessary for the NYSDEC please consider removing the requirement for gathering and reporting this information.**

DEC Response: *The Department does consider the storm event information listed in IV.A.2.c. to be necessary.*

81. Permit Section: IV.A.2.d - Representative Outfall

Comment: **The comments supports the Department's language regarding "Representative Outfalls", but suggests the permittee may vary which outfall is sampled as part of the monitoring program so that each outfall may be sampled during the term of this permit.**

DEC Response: *Permit language has been added to state that, for representative outfall sampling, the Department would recommend sampling from the expected “worst case” outfall as indicated by the larger area of industrial activity. If the drainage areas are relatively similar, or if all past monitoring has been below benchmark monitoring cut-off concentrations, permittee may vary which outfall is sampled as part of the monitoring program.*

82. Permit Section: IV.A.4 - Monitoring Waivers

Comment: **Several sections of Part IV of the draft document reference monitoring waivers for inactive or unstaffed areas or due to adverse climatic weather. It is not clear what information must be contained within the waiver certification. Can an example or form of such a waiver be added to the appendix to assist entities in meeting NYS DEC expectations regarding content and details? Perhaps it is just a list of required information.**

DEC Response: *Any sampling waivers should be described in a cover letter accompanying the annual certification report and discharge monitoring report forms. Information should describe the sampling waiver being claimed, the affected outfall(s) and specific parameters (in the case of the alternative certification for “not present” or “no exposure”). This information has been added to section IV.B - Reporting Monitoring Results and Annual Certification Reporting of the MSGP.*

83. Permit Section: IV.A.4.a - Monitoring Waivers

Comment: **Part IV, Section 4 Monitoring Waivers, of the draft document lists two general conditions where a waiver can be generated; adverse climatic weather and not present/no exposure. May I suggest that "fluctuating (or seasonally) high water levels" be added to the list of examples in section IV 4 (a). Although not strictly an adverse weather condition, seasonal fluctuations in water levels may prevent the collection of samples or observation of discharge point sources during high water periods (e.g., Lake Ontario, Lake Erie and St. Lawrence River). I would expect that daily tidal ranges would not fall under this added definition.**

DEC Response: *The Department considers the additional situations described above to be addressed by the “or situations that otherwise make sampling impractical” part of this section. Tidal fluctuations may submerge an outfall pipe preventing the collection of a stormwater sample within the required time frames. If this is a frequent occurrence, we would recommend that the permittee consider an alternate location for sample collection such as run-off into a catch basin provided that the sampling location is representative of the stormwater for the area of industrial activity.*

84. Permit Section: IV.A.4.b. - Alternative certification of "Not Present" or "No Exposure"

Comment: **The commenter agrees with the inclusion of these types of alternate certification to sampling; however, this condition does not include any wording for the "not present" situation. The commenter recommends the following wording be added to the end of Part IV.A.4.b(1):**

”; or, the pollutant is not detected in the monitoring for two consecutive sampling events and is not expected to be detected for the duration of the certification period.”

DEC Response: *In response to this comment section IV.A.4.b(3) has been revised to state, “At least one annual sampling event for benchmark parameters must be conducted and documented to be at or below the Practical Quantitation Limit⁽¹⁵⁾ prior to making*

this certification in order to confirm that sources of stormwater contamination do not exist that the permittee was not aware of. A copy of this monitoring must be attached to the certification in subparagraph (2) above;”
and footnote 15 has been added to state,

”For the purpose of the alternative certification of "Not Present" monitoring waiver, at least one annual sampling event for benchmark parameters must be conducted and documented to be at or below the Practical Quantitation Limit (PQL), which is typically 3 times the analytical Method Detection Levels (MDL). An exception to using the PQL would be a condition where the benchmark monitoring cut-off concentration is less than the PQL. Under these circumstances, the sample result must be below the MDL to qualify for the monitoring waiver. “

85. Permit Section: IV.C.2.c Retention of Monitoring Records

Comment: The draft document requires that electronic records be in a format accessible to the DEC for review. I suspect that some small business entities with stormwater outfalls may use software applications not easily accessible to the software utilized by the State. Can additional guidance be provided regarding this highly complex area? May I suggest stating that electronic records in Microsoft Word or PDF format are acceptable. I do not know if the State can recommend specific manufacturers products. Any guidance would be helpful.

DEC Response: Either of these formats would be acceptable.

86. Permit Section: V.B. Continuation of the Expired General Permit

Comment: Given that the scrap recycling industry is primarily composed of small businesses with limited resources, a transition period of three to four years between the existing general permit and the proposed GP-06-01 permit will be needed for facilities to complete the evaluation and implementation of the BMPs required by the GP-06-01 permit.

DEC Response: The permit language contained in this section refers to the period following the expiration of the SPDES MSGP. The language is similar to that contained in the existing SPDES General Permit for Stormwater Discharges Associated with Industrial Activity (GP-98-03). Although GP-98-03 expired in November 2003, facilities continue to have SPDES permit coverage under the expired GP-98-03 until the Division of Water issues the new SPDES MSGP.

87. Permit Section: V.H - Signatory Requirements

Comment: It does not appear that the general permit contains the latest federal EPA signatory authority language. According to the State Pollutant Discharge Elimination System regulations at 6 NYCRR Part 750-1.8, the general permit is to contain the federal signatory authority requirements found at 40 CFR 122.22. The specific language in this regulation says "All SPDES applications and reports required by a SPDES permit shall be signed as provided in 40 CFR 122.22 (see section 750-1.24 of this Part)." On May 15, 2000, EPA modified the signatory authority language in this regulation and eliminated the minimum number of employees and sales or expenditure dollars requirement for managers who are delegated the authority to sign. Below is the current federal EPA signatory authority language for signing permit applications, which would include the NOIT, in its entirety, for corporations, with the revised language in italics:

40 CFR 122 – Signatories to permit applications and reports

(a)(1) For a corporation. By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means: (I) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

The commenter requests the signatory requirements section of the general permit be modified to incorporate the current federal EPA signatory authority requirements as found in 40 CFR 122.22.

DEC Response: *The permit language has been revised to reflect the federal signatory authority language.*

88. Permit Section: V.H.2.c. - Changes to authorization

Comment: **The commenter believes the procedure for changes to the signatory authorization seem rather convoluted, with the submittal of a new NOIT for a change in said authorization. It seems that a letter to the Department should suffice for such a change.**

DEC Response: *The permit language has been revised to require letter notification in place the requirement to submit a new NOIT form.*

89. Permit Section: V.N - Requiring an Individual Permit or an Alternative General Permit

Comment: **Under this section, the Department may require any person authorized by this general permit to apply for and/or obtain either an individual SPDES permit or an alternative SPDES general permit in accordance with 6 NYCRR Part 750-1.21(e). So that facilities may plan their operations accordingly, we feel that some account of circumstances that would cause an individual or alternative SPDES permit to be required is necessary here. Without this information this provision appears to be arbitrary; the requirements for an individual permit should be clear.**

DEC Response: *This information is provided in 6 NYCRR Part 750-1.21(e).*

90. Permit Section: V.S - Definitions

Comment: **The commenter recommends any definitions associated with the general permit be placed in a definitions section, such as in an appendix. Referencing a regulation can result in confusion, especially if there are terms in that reference that are not specific to the storm water permitting program.**

DEC Response: *A definitions and acronym section has been added to the appendices. Additional definitions are still included within the specific industrial sectors where those definitions are specific to a particular industrial sector.*

91. Permit Section: VII. A - Notice of Intent or Termination (NOIT) Form

Comment: **The commenter does not believe it should be a permit requirement that the**

existing permittee must notify any new operator of the possible requirement to submit a new NOIT in order to obtain coverage under the general permit. The commenter recommends that the word "must" in the second sentence of this paragraph be changed to "should".

DEC Response: *The Department has considered this comment but has decided that it will keep the original permit language.*

92. Permit Section: VIII.A.1 - Discharges Covered Under This Section

Comment: **To avoid confusion, this section should clearly state the silviculture exemption regarding log storage within the active harvesting area.**

DEC Response: *The following text has been added to this section to provide clarification regarding the silviculture exemption, "The requirements of this section do not apply to active timber harvesting sites including the felling, skidding, preparation, loading and the incidental stacking and temporary storage of harvested timber on the harvest site prior to its initial transport to intermediate storage areas or other processing areas."*

93. Permit Section: VIII.E.2.b(1)(a) - Good Housekeeping Inspection Frequency

Comment: **The proposed minimum frequency of "not less than once per week" is arbitrary and should not be a minimum requirement. Edit last sentence to read: "The frequency shall be determined based upon consideration of the amount of industrial activity that occurs in the area and the ensuing build-up of these materials."**

DEC Response: *The sweeping frequency for areas where cement, aggregate, kiln dust; fly ash, or settled dust are being actively handled or processed are included in EPA's multi-sector general permit. The September 29, 1995 Federal Register contains the preamble to the original EPA version of the MSGP in which each of the industrial sectors covered by this permit are described. This description includes an industrial profile, potential stormwater pollutants for the various processes at these industries, stormwater sampling data, recommended best management practices and specific considerations related to each industry. EPA specifically identified that the primary source of pollutants in stormwater discharges from facilities covered under this sector is spilled material and settled dust from material handling activities. The BMPs identified (e.g., sweeping, dust collection systems, covering storage piles, etc.) are geared toward addressing this source. A minimum weekly sweeping frequency where cement, aggregate, kiln dust; fly ash, or settled dust are being actively handled or processed is considered to be appropriate.*

94. Permit Section: VIII.F.1.- Discharges Covered Under This Section

Comment: **As currently written, Sector F covers activities including "forging of all types of ferrous and nonferrous metals, scrap, and ore" and specifically refers to facilities in SIC code 331. Sector N of the Draft MSGP includes facilities that are engaged in the "processing, reclaiming and wholesale distribution of scrap and waste materials such as ferrous and nonferrous metals." Sector N refers only to facilities in SIC codes 5093 and 4499. The commenter seeks confirmation that steel mills in SIC code 331 and which recycle scrap steel are not subject to Sector N.**

DEC Response: *The use of recycled scrap metal as a source for manufacturing in the primary metal industry does not make your facility subject to the Sector N requirements. It is important to note, however, that your SWPPP does need to adequately address any sources of potential stormwater contamination. Appropriate best management practices*

should be in place to address material acceptance and material storage prior to processing. If a primary metal industry was actually conducting activities reflective of a metal recycler (see description of SIC code 5093) then these activities would be considered to be co-located and the facility would be need to meet the requirements for both Sectors F and N.

95. Permit Section: VIII.G.4 - Special Definitions

Comment: The Mined Land Reclamation law does not require a mine site to be returned to its pre-mining land use. Edit “Reclamation phase” definition to read: “Reclamation Phase” means activities intended to return the land to a pre-approved, post-mining land use.”

DEC Response: *The permit language has been revised to reflect the above definition.*

96. Permit Section: VIII G.4 - Special Definitions

Comment: NYSDEC should include the definition of "Final Stabilization" within Sector G 4: Special Definitions and Sector J.3 Definitions. This definition is included in the new draft EPA MSGP.

DEC Response: *The Department has added the definition for “final stabilization” from the the SPDES General Permit for Stormwater Discharges Associated with Construction Activities (GP-02-01) stating, "Final Stabilization - means that all soil-disturbing activities at the site have been completed and a uniform, perennial vegetative cover with a density of eighty (80) percent has been established or equivalent stabilization measures (such as the use of permanent landscape mulches, riprap, or washed/crushed stone) have been employed on all unpaved areas and areas not covered by permanent structures.”*

Permit Section: VIII.G.5.a(3)(b)(iv) - Capping as a Structural BMP

Comment: Capping of a contaminant source is not permissible under the Mined Land Reclamation Law. This paragraph can be deleted with regard to mines in New York.

DEC Response: *Based upon further discussion with the commenter, it was determined that the following language would be acceptable, “Where capping of a potential stormwater pollution source is necessary, the source being capped and materials and procedures used to cap the contaminant source must be identified.*

97. Permit Section: VIII.G.5.b - SWPPP Requirements for Inactive Metal Mining

Comment: The Division of Mineral Resources does not regulate inactive metal mining facilities that have been reclaimed. This section may not apply to mines in New York.

DEC Response: *Based upon further discussion with the commenter, the Division of Water will leave the draft permit language in the permit.*

98. Permit Section: VIII.G.6.a - Benchmark Table VIII.G-1

Comment: There are no copper mines in New York and none are anticipated. This paragraph can be deleted.

DEC Response: *The noted paragraph has been removed.*

99. Permit Section: VIII.G.6 - Benchmark Monitoring & Reporting

Comment: Table VIII.G-1 incorrectly lists EPA Method 200.7 for mercury.

DEC Response: *The table has been corrected to reference EPA method 245.7 for mercury.*

100. Permit Section: VIII.G.6.a - Benchmark Table VIII.G-1

Comment: As stated above, there are no copper mines in New York. The entire section “Active Copper Ore Mining and Dressing Facilities (SIC 1021)” can be deleted. Several of the ore types (e.g. copper ores, gold and silver ores) listed in Table VIII-G-1 are not relevant to New York’s few active ore mining facilities. Accordingly, many of the “Pollutants of Concern” listed in the Table VIII-G-1 may not be relevant.

DEC Response: *The Table VIII.G-1 references to Active Copper Ore Mining and Dressing Facilities (SIC 1021) have been removed.*

101. Permit Section: VIII.G.6.b - Benchmark Table VIII.G-2

Comment: The following Ore Types are not mined in New York: Tungsten Ore, Nickel Ore, Aluminum Ore, Mercury Ore, Platinum Ore, Titanium Ore and Vanadium Ore. Copper, Gold, Silver, Molybdenum, Uranium, Radium and Vanadium are also not mined. Accordingly, many of the “Pollutants of Concern” as listed in Table VIII-G-2 may not be relevant.

DEC Response: *Table VIII.G-2 has been revised to remove references to tungsten ore, nickel ore, aluminum ore, mercury ore, platinum ore, vanadium ore, uranium, radium and vanadium as these are not mined in New York.*

102. Permit Section VIII .G.6. - Benchmark Monitoring

Comment: Please explain why the SPDES MSGP does not include Table G-4:

Applicability of the Multi-Sector General Permit to Stormwater Runoff from Active Mining and Dressing Sites, Temporarily Inactive Sites, and Sites Undergoing Reclamation found in the new draft EPA MSGP.

DEC Response: *The Department has included this information as Table VIII-G-3.*

103. Permit Section: VIII.H - Coal Mines and Coal Mining-Related Facilities

Comment: There has been no coal mining in New York and there are likely no mineable coal beds in New York. The entire section “Sector H - Coal Mines and Coal Mining-Related Facilities” can be deleted.

DEC Response: *In response to the Division of Mineral Resources assurance that there has been no coal mining in New York and there are likely no mineable coal beds in New York, we have deleted Sector H for Coal Mines and Coal Mining-Related Facilities.*

104. Permit Section: VIII.H.3 - SWPPP Requirements

Comment: The SPDES MSGP for Sector H should address sediment control.

DEC Response: *In response to the above comment in which our Division of Mineral Resources has stated that there has been no coal mining in New York and there are likely no mineable coal beds in New York, we have deleted Sector H for Coal Mines and Coal Mining-Related Facilities.*

105. Permit Section: VIII.I.1 - Discharges Covered by this Section

Comment: This section states that a facility is not subject to the permit requirements unless the facility has had a discharge of a reportable quantity (RQ) of oil or a hazardous substance for which notification is required under 40 CFR 110.6, 40 CFR 117.21 or 40 CFR 302.6. This means that DMN-regulated oil and gas sites will not be required to get the new multi-sector stormwater permit associated with industrial activity unless they had a reportable spill or violation. Oil and gas operators will

generally be unaffected by the new draft permit. Include the 40 CFR citations in an appendix so that operators will be able to ascertain if coverage is needed.

DEC Response: *The Division of Water does not feel that it is appropriate to include the 40 CFR citations in the appendices of this permit. There are numerous references throughout this permit to both federal and state regulations and laws and including these documents would unnecessarily increase the volume of this general permit. These regulations are easily obtainable using an internet search function.*

106. Permit Section: VIII.I.3.b(1) - Routine Facility Inspections

Comment: **Clarify who is responsible to perform inspection of all equipment and areas addressed in the SWPPP at a frequency of at least six month intervals.**

DEC Response: *The requirements pertaining to the routine facility inspections are identified in Section III.C.6.b(1)(e) of the permit which states:*

“Routine facility inspections - In addition to or as part of the comprehensive site evaluation required under Part III.I, qualified facility personnel (trained in accordance with condition f below) must inspect all areas of the facility where industrial materials or activities are exposed to stormwater. The inspections must include an evaluation of the existing stormwater BMPs. The inspection frequency shall be specified in the plan based upon the frequency identified under the SWPPP requirements for your specific industrial sector. If an inspection frequency is not indicated under the industrial sector, one should be established based upon a consideration of the level of industrial activity at the facility. Quarterly inspections are suggested as a minimum frequency for those that don't have a frequency set for the specific industrial sectors. Any deficiencies in the implementation of the SWPPP must be corrected as soon as practicable, but not later than within 14 days of the inspection for items that can be readily resolved. More complicated maintenance or repairs shall be performed in accordance with the time frames described under Sections III.D - Maintenance or III.I.2 - Follow-up Actions. The results of the inspections must be documented in the SWPPP, along with any corrective actions that were taken in response to any deficiencies or opportunities for improvement that were identified.”

107. Permit Section: Section:VIII.I.3.b(2) - Sediment & Erosion Control

Comment: **Clarify who is responsible to perform inspections of the erosion control devices at least once every seven calendar days.**

DEC Response: *Please see the response to the above comment regarding inspections.*

108. Permit Section:VIII.I.3.b(2) - Sediment & Erosion Control

Comment: **The first sentence states: “.....the additional erosion control requirement for well drillings and sand/shale mining areas are as follows:” We assume that this statement refers to oil sand and oil shale mining for petroleum extraction, not sand/shale mining for construction materials as covered under Sector J. If this assumption is correct, the word “oil” should be added before ‘sand/shale’. However, there is no oil sand or oil shale mining in New York and none is contemplated; thus, the reference may not apply.**

DEC Response: *The permit language was referencing oil sand/shale based on EPA’s MSGP. This has been removed because there is no oil sand or oil shale mining in New York.*

109. Permit Section: VIII.I.4 - Benchmark Monitoring and Reporting

Comment: **Table VIII-I-1 in the SPDES MSGP should include SIC code 2911.**

DEC Response: *Benchmark parameters for SIC code 2911 have been added to Table VIII-I-1.*

110. Permit Section: VIII.J.3 - Definitions

Comment: **The Mined Land Reclamation law does not require a mine site to be returned to its pre-mining land use. Edit “Reclamation phase” definition to read: “Reclamation Phase” means activities intended to return the land to a pre-approved, post-mining land use.”**

DEC Response: *The permit language has been revised to reflect the above definition.*

111. Permit Section: VIII J.3 - Definitions

Comment: **NYSDEC should include the definition of "Final Stabilization" within Sector G 4: Special Definitions and Sector J.3 Definitions. This definition is included in the new draft EPA MSGP.**

DEC Response: *The Department has added the definition for “final stabilization” from the the SPDES General Permit for Stormwater Discharges Associated with Construction Activities (GP-02-01) stating, "Final Stabilization - means that all soil-disturbing activities at the site have been completed and a uniform, perennial vegetative cover with a density of eighty (80) percent has been established or equivalent stabilization measures (such as the use of permanent landscape mulches, riprap, or washed/crushed stone) have been employed on all unpaved areas and areas not covered by permanent structures.”*

112. Permit Section: VIII.J.4 - Clearing, Grading and Excavation Activities

Comment: **The first sentence states: “A SPDES General Permit for Stormwater Discharges from Construction Activity is required if clearing, grading and excavation activities conducted as part of the exploration and construction phase of mining will disturb more than one acre of land.” Excavation, exploration and construction activities that occur at a permitted mine are well within the definition of “mining” as defined by ECL Article 23, Title 27. Therefore, such activities should be classified as industrial activities covered under the Multi-Sector Industrial General Permit.**

DEC Response: *The Division of Water agrees that such activities are reflective of this industry and has revised this permit to remove the Clearing, Grading and Excavation Activities section and replaced it with sections VIII.J.2.c - Stormwater discharges from construction activities and VIII.J.4.b Erosion and sediment control plan to allow construction activities to be covered under this general permit.*

113. Permit Section: Table VIII-J-2 Benchmark Monitoring Requirements

Comment: **Several of the Pollutants of Concern, listed for Sand and Gravel Mining (Total Nitrogen, Total Phosphorus, Total Recoverable Iron and Total Recoverable Zinc) are not typically pollutants of concern in stormwater discharges from New York’s sand and gravel mines.**

DEC Response: *These parameters may be present and discharged in stormwater at facilities where exposed soils have been disturbed. If these parameters are not present at the facility, the permittee does have the option to use the Alternative Certification of "Not Present" or "No Exposure" monitoring waiver in which the permittee will not be subject to the continued benchmark monitoring. This monitoring waiver is located in Section*

IV.A.4.b and allows the permittee to certify on a pollutant-by-pollutant basis for a given outfall that a parameter is not present, provided that at least one annual sampling for the benchmark parameter is conducted and documented to be at or below the practical quantitation limit. [Note: For the purpose of the alternative certification of "Not Present" monitoring waiver, at least one annual sampling event for benchmark parameters must be conducted and documented to be at or below the Practical Quantitation Limit (PQL), which is typically 3 times the analytical Method Detection Levels (MDL). An exception to using the PQL would be a condition where the benchmark monitoring cut-off concentration is less than the PQL. Under these circumstances, the sample result must be below the MDL to qualify for the monitoring waiver.]

114. Permit Section: VIII.K.2.a - Prohibitions of non-stormwater discharges

Comment: It is unclear from this statement whether the prohibition of all of the identified types of liquids applies solely at RCRA hazardous waste landfill subcategory facilities or if the prohibition of drained free liquids, contaminated groundwater, laboratory-derived wastewater also extends to those facilities where RCRA hazardous waste treatment or storage activities but not landfill activities are performed. Please clarify.

DEC Response: *The prohibitions of non-stormwater discharges are intended to apply to the whole sector.*

115. Permit **Comment:** **The EPA analytical method 245.7 may not be approved under 40 CFR 136. Additionally, EPA method 1631 would provide lower method detection limits.**

DEC Response: *Correspondence with EPA staff has indicated that this analytical method is expected to be an approved method under 40 CFR 136 by the end of 2006.*

116. Permit Section: VIII.K.5 - Benchmark Monitoring Requirements

Comment: RCRA regulations are detailed and prescriptive with regard to design and operating standards required to cover waste materials and reduce potential for infiltration and ponding at the landfill. Any BMPs implemented at landfills must accommodate measures required to comply with RCRA, and if RCRA requirements are the source of a benchmark exceedance, no revision of BMP is appropriate. If a permit holder identifies that a benchmark exceedance does not reveal BMP inadequacy, repetition of the same exceedance again in the future should not constitute a violation.

DEC Response: *The Department disagrees with the above comment. While the 6 NYCRR Part 370 regulations are detailed and prescriptive regarding hazardous waste management activities, additional requirements may be required under the MSGP to protect waters of the state. The benchmark monitoring cut-off concentration are intended as guidelines in determining the effectiveness of a facility's SWPPP and to ascertain that the BMPs in place are adequate and effective. While exceedances of a benchmark monitoring cut-off concentration is not a permit violation, it is intended to alert the permittee that additional attention is necessary. Implementation of additional BMPs may be required to improve the stormwater quality.*

117. Permit Section: Landfills - General Permit vs. Individual SPDES Permit

Comment: Recent experience with landfill expansions has shown that individual SPDES permits have been required when the stormwater discharge included naturally

occurring minerals (such as iron and manganese) in the stormwater runoff. At landfills located in New York, particularly at sites with fine-grained soils (high concentrations of silt and/or clay) that meet the siting criteria for landfills under 6 NYCRR Part 360-2.12(a)(1)(vi), stormwater discharges often exhibit elevated levels of iron (as well as other elements) due to the constituents of the natural on-site soils. Since the composition of these soils is entirely out of the control of the landfill operator, and since transport of these fine grained soils into streams occurs naturally throughout the western New York region, stormwater discharge criteria should be established on the basis of some combination of toxicity testing, testing for indicator parameters such as iron and TSS, and establishment of BMPs (incorporated in a SWPPP), rather than on testing for the individual constituents of the native soils.

Even when stormwater controls at landfills meet NYSDEC's latest design requirements and best management practices, it may not be possible to remove sufficient quantities of suspended sediment to ensure routine compliance with applicable water quality standards. Following the current design requirements and best management practices will ensure that the landfill operators are doing everything practical to limit the discharge of sediment (the source of the iron and the other metals) in the stormwater leaving the site. However, accurately projecting the stormwater effluent quality for a site that follows these design guidelines and practices, is not possible due to the wide range of influent quality for different storm events and the high levels of iron and other constituents in the native soils at many facilities.

DEC Response: *NYSDEC has, for several landfills, determined that it is not appropriate to authorize stormwater discharges from those landfills in accordance with the general permit for discharges from industrial activity except construction activity. Those determinations were based on whether the such facilities are eligible to be permitted in accordance with explicit permit conditions on eligibility and on whether the NYSDEC determines, at its sole discretion, whether the general permit is adequately protective or whether the discharge must be controlled by an individual permit. The NYSDEC will continue to make decisions based on these criteria.*

118. Permit Section: VIII.L.1 - Discharges Covered Under This Section

Comment: **The requirements listed under this section apply to stormwater discharges associated with industrial activity from waste disposal at landfills, land application sites, and noncompliant landfills that receive or have received industrial wastes (Industrial Activity Code “LF”). We are unaware of any instance of stormwater discharge associated with “industrial activity” at a landfill, given the design, operational and permit requirements of Part 360 landfills. Therefore, provided a precise definition of “industrial activity”.**

DEC Response: *Section I.C.1 describes the facilities covered by this permit stating, “Permit eligibility is limited to the discharge of stormwater associated with industrial activities defined in 40 CFR Part 122.26(b)(14)(i-ix and xi) which identifies categories of industrial activity based on Standard Industrial Classification (SIC) codes; industrial activity codes” Landfills, land application sites and noncompliant landfills are considered to be industrial activities in 40 CFR Part 122.26(b)(14) category (v) provided that they receive or have received any industrial waste (waste that is received from industrial activities at any of the facilities described under 40 CFR Part 122.26(b)(14) categories (I) - (xi). This includes waste from a large range of industrial facilities*

including light industry such food and kindred product, apparel and other textile product, furniture and fixtures, paperboard containers and boxes, printing and publishing fabricated metal products and miscellaneous manufacturing. We would expect that all MSW landfills in New York meet this definition.

119. Permit Section: VIII.L.1. - Discharges Covered Under This Section

Comment: The above section restricts coverage under the general Permit to landfills that receive industrial waste, meaning many landfills would not be covered.

Recommendation: Rewrite as follows to remove this restriction:

1. Discharges Covered Under This Section - The requirements listed under this section apply to stormwater discharges associated with industrial activity from waste disposal at landfills, land application sites, and non-compliant landfills. [Note: Non-compliant landfills are solid waste disposal units that are not in compliance with state/federal criteria established under RCRA Subtitle D.]

DEC Response: *Please see the response to the previous comment.*

120. Permit Section: Part VIII.L.1 - Discharges Covered Under this Section

Comment: Section L.1. states that the requirements of the permit apply to landfills that have received "industrial waste". Therefore C&D Landfills that do not receive industrial waste would not be covered. We recommend that this restriction be lifted so that all landfills are covered by the new industrial GP.

DEC Response: *It is our intent to allow coverage for C&D landfills that have not received industrial waste (waste that is received from any of the facilities described under 40 CFR Part 122.26(b)(14)(I) - (xi)) as industrial activities) under Sector AD for non-classified facilities.*

121. Permit Section: Part VIII.L.2.a - Prohibition of Non-stormwater Discharges

Comment: The term contaminated groundwater should be defined. The following definition of contaminated groundwater is suggested:

"Contaminated groundwater" means groundwater that comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater."

Groundwater that is not contaminated as defined above should be an allowable discharge under the general permit

DEC Response: *The Department has added the definition of contaminated groundwater that is provided in 40 CFR Part 445 - Landfill Point Source Category stating, "Contaminated ground water means water below the land surface in the zone of saturation which has been contaminated by activities associated with waste disposal."*

It is important to note that groundwater may contain naturally occurring metals and minerals at concentration that exceed surface water quality standards. This can be an issue with pore pressure relief systems at landfills, groundwater seeps and excavation dewatering. Consideration has to be given to such discharges to assure that water quality standards are met.

122. Permit Section: VIII.L.2.b - Clearing, Grading and Excavation Activities [Numerous]

Comment: Section L.2.b. states that the permit does not cover clearing, grading and excavation activities that occur during the "exploration and construction phase" and disturb more than 1 acre. The proposed language in this section is not consistent with the standard operating practices that occur within a landfill. Also, th need for a separate stormwater construction permit at a landfill seems redundant

and would result in duplication of permit requirements (i.e., multiple SPDES permits) for the same activity. The operation of a solid waste landfill is basically and earth moving and construction activity. The SWPPP requirements must address erosion and sediment controls for these activities and protection of water quality. Landfills must also obtain a Part 360 permit which require both a sediment and erosion control plan and water quality protection plans similar to, and in some cases, more stringent than those which are required to be incorporated into a Construction Stormwater Permit SWPPP.

DEC Response: *This issue has received a great deal of attention and has resulted in numerous discussions with staff from the Bureau of Water Permits, our Division of Solid and Hazardous Materials, landfill operators and consultants. Construction activities are a major portion of the day to day operations of a landfill. As a result of this, paragraph VIII.L.2.b has been revised to Stormwater Discharges from Construction Activities; subparagraph VIII.L.4.b(6) has been revised regarding content of the Erosion and Sediment Control Plan, and a new subparagraph VIII.L.4.b(7) has been added regarding Post-construction Stormwater Management Controls. Additionally, it is also the intent that this permit could be utilized for initial construction activities provided that the comprehensive Stormwater Pollution Prevention Plan (SWPPP) has been prepared prior to the commencement of any construction activity that will result in a land disturbance of one or more acres of land. The plan must be prepared in accordance with the New York Standards and Specifications for Erosion and Sediment Control, dated August 2005; and the New York State Stormwater Management Design Manual.*

123. Permit Section: VIII.L.2.b - Clearing, Grading and Excavation Activities

Comment: **DEC needs to coordinate with the Solid Waste Division to determine appropriate erosion and sediment control requirements.**

DEC Response: *The Division of Water staff are coordinating efforts with Division of Solid and Hazardous Materials staff to ensure that this permit will be consistent with the proposed Part 360 regulations.*

124. Permit Section: VIII.L.3 - Definitions

Comment: **The definition of “contaminated stormwater” is too broad in scope. Contact with landfill waste may be in and of itself insufficient to render stormwater runoff necessarily contaminated, but this definition assumes contamination. The intent of the permit is to guard against contact of stormwater with materials that present a significant risk of pollution. Therefore, a water quality standard that can be readily verified, such as visible signs of contamination or observable contact with potential contaminants, is what should be applied here.**

DEC Response: *The definition of contaminated stormwater is from 40 CFR Part 445.2(b). These federal regulations address Effluent Guidelines and Standards for the Landfill Point Source Category. The October 30, 2000 Federal Register preamble for EPA’s MSGP included a response to a comment regarding contaminated stormwater and confirmed that this definition was intended for the MSGP stating that contaminated stormwater is defined in the Effluent Limit Guidelines as stormwater which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater. Contaminated stormwater may originate from areas at a landfill including (but not limited to): the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas.*

EPA stated that their MSGP authorizes stormwater associated with industrial activity including contaminated stormwater (but excluding non-stormwater discharges such as leachate, landfill wastewaters and vehicle and equipment washwater), however, for contaminated stormwater discharges, compliance with the promulgated effluent limit guidelines for such discharges is required once/year. Based upon this information, the Department will leave this definition unchanged.

125. Permit Section: VIII.L.3. - Definitions

Comment: The definition of "Drained free liquids" should be clarified to demonstrate whether or not it means stormwater runoff that has mixed with solid materials. The following is recommended:

"Drained free liquids" means aqueous wastes drained from waste containers (e.g., drums, etc.) prior to landfilling, but does not include stormwater runoff that has mixed with solid materials.

DEC Response: *On January 19, 2000 (65 FR 3008), EPA promulgated final effluent limitations guidelines (ELGs) for "contaminated storm water discharges" from new and existing non-hazardous landfill facilities regulated under RCRA Subtitle D (40 CFR Part 445 Subpart B). EPA included the ELGs as they apply to facilities covered by Sector L facilities in their October 2000 renewal of their MSGP.*

EPA defined the term "contaminated storm water" in the ELGs as "storm water which comes in direct contact with landfill wastes, the waste handling and treatment areas, or landfill wastewater." [40 CFR 445.2]. Contaminated storm water may originate from areas at a landfill including (but not limited to): "the open face of an active landfill with exposed waste (no cover added); the areas around wastewater treatment operations; trucks, equipment or machinery that has been in direct contact with the waste; and waste dumping areas." [40 CFR 445.2].

The term "landfill wastewater" is defined in the ELGs as "all wastewater associated with, or produced by, landfilling activities except for sanitary wastewater, non-contaminated storm water, contaminated groundwater, and wastewater from recovery pumping wells. Landfill wastewater includes, but is not limited to, leachate, gas collection condensate, drained free liquids, laboratory derived wastewater, contaminated storm water and contact washwater from washing truck, equipment, and railcar exteriors and surface areas which have come in direct contact with solid waste at the landfill facility." [40 CFR 445.2].

EPA's October 2000 MSGP included the definition for "drained free liquids" as aqueous wastes drained from waste containers (e.g., drums, etc.) prior to landfilling. The Department interprets to include drainage which has been in contact with solid wastes from trucks, dumpsters and other containers. The Department will continue to use EPA's definition.

126. Permit Section: VIII.L.4 - SWPPP Requirements

Comment: Because much of what is required to be included in a landfill MSP SWPPP also must be included in the various Plans that are required under Part 360, it is requested that this section explicitly state that the SWPPP can incorporate other Plans or required information by reference.

DEC Response: *Section III.A of the MSGP states, "The SWPPP requirements of this general permit may be fulfilled by incorporating by reference other plans or documents such as an Erosion and Sediment Control (ESC) plan, a Mined Land Use Plan, a spill prevention control and countermeasure (SPCC) plan developed for the facility or best management practices (BMP) programs otherwise required for the facility provided that*

the incorporated plan meets or exceeds the plan requirements of Part III .C (Contents of the Plan). All plans incorporated by reference into the SWPPP become enforceable under this permit; however, this enforcement is limited only to those aspects of these other plans that are specifically referenced to provide information or practices required for the SWPPP.”

127. Permit Section: VIII.L.4.a(1) - Site map

Comment: In order to accurately portray all of the above information on a site map of a landfill, it would be virtually necessary to update the SWPPP on an almost daily basis. Land application areas are in a constant state of flux and leachate breakouts are, in most cases, very temporary and always changing. These can not be pinpointed on a site map and it would be impractical to keep the SWPPP current. The dynamic nature of landfill activities does not permit their portrayal on a static site map that changes only periodically. The above provision would therefore be feasible to implement only on a very broad, general basis. Recommendation: Revise to require mapping of only the features above that will be exposed for greater than 14 days.

(1) Site map - The site map shall identify where any of the following may be exposed to precipitation/surface runoff **for a period exceeding 14 days:** active and closed landfill cells or trenches; active and closed land application areas; locations where open dumping is occurring or has occurred; locations of any known leachate breakouts or other areas where uncontrolled leachate may commingle with runoff; and leachate collection and handling systems.

DEC Response: *The Department understands that conditions at a landfill are constantly changing and we did not intend the SWPPP site map to require daily updating. The routine inspections are the primary means to identify and rectify problems that arise. We do, however, believe that the SWPPP site map needs to be updated periodically to accurately reflect the conditions in the landfill. A monthly review and update of the site map is recommended unless conditions have not changed significantly.*

128. Permit Section: VIII.L.4.b(3) - Routine Facility Inspection

Comment: Landfills are already heavily regulated under Part 360 that already includes routine site inspections. Adding a requirement to conduct weekly inspections every week is a duplicate burden. Coordination between the Solid Waste and Water Division is needed so that competing programs are not redundant. For example erosion and sediment control plans are already required at landfills under Part 360.

DEC Response: *The Department is not opposed to the facility conducting a single inspection that fulfills the requirements of both regulations provided that inspection records are maintained at the facility, meet the required frequencies and can be accessed during an inspection or provided upon request by the Department.*

129. Permit Section: VIII.L.4.b(3) Routine Facility Inspections

Comment: This section should make a distinction between landfills (or portions of landfills) which have received their Final Cover pursuant to Part 360 permit and which thus are considered “Closed” and those that have received intermediate but not Final Cover. The schedule for inspections at “inactive” sites should be that in the draft MSP. For facilities (or portions of facilities) which are “Closed” under their Part 360 Permit, the inspection schedule should be that set out in the Department approved Part 360 Closure Plan. It is suggested that this be done by

adding a definition of “Inactive” to Part VIII.L.3 as follows:

“Inactive” – A landfill, or portion of a landfill, which is not taking waste and which has not received final cover in accordance with its Part 360 Permit.

DEC Response: *Clarification has been added to Section VIII.L.1 stating, “Landfills that have been closed in accordance with 6 NYCRR Part 360 are not required to maintain SPDES permit coverage for stormwater discharges provided that the landfill is or has been maintained under a post closure care program.”*

130. Permit Section: VIII.L.4.b(4) - Recordkeeping and internal reporting procedures

Comment: This section requires that landfill owners provide for a tracking system for the types of wastes disposed of in each cell or trench of a landfill. Land application site owners shall track the types and quantities of wastes applied in specific areas. This is a Part 360 (NY Solid Waste Regulations) issue, not a stormwater issue. It is redundant with existing regulations and may be in conflict with them. This section should be entirely omitted.

DEC Response: *The Department agrees and has removed this paragraph.*

131. Permit Section: VIII.L.4.b(6) - Erosion and sediment control plan

Comment: The provisions of this section should specify the length of time that a stockpile can remain without temporary stabilization. Stockpiles move, are used up, and are added to constantly. As it is written now, the requirement is too vague to properly implement. It should be made clear whether a stockpile must be stabilized if it is merely present for a certain length of time or remains unaltered for a certain length of time. The length of time required for stabilization should be specified in the SWPPP.

DEC Response: *The permit language for this section has been revised to reference the New York State Standards and Specifications for Erosion and Sediment Control. In accordance with these standards, restabilization of disturbed areas must occur within 14 days.*

132. Permit Section: VIII.L.5. - Numeric Effluent Limitations

Comment: A 30-day average in Table VIII-L-1 seems impossible to measure in practice without a minute-by-minute accounting of flow. It is questionable whether the monitoring methods can accurately reflect whether or not this effluent limitation is being met.

DEC Response: *The numeric effluent limitations are federally required and cannot be revised in this permit. The federal effluent limitations are expressed as 7-day and 30-day averages and both limits would apply to the sampling results if compliance sampling is required at your facility. Under the conditions of the MSGP, you are only required to sample once a year per outfall. Because these limits are expressed as averages, the permittee has the option to sample more frequently and average the sampling results in cases where limits are exceeded. This practice is more common at wastewater treatment systems than for stormwater discharges.*

133 Permit Section: VIII L.6 - Benchmark Monitoring Requirements

Comment:: Background exceedances must be subtracted when evaluating benchmark monitoring. At many sites, TSS and Fe are naturally high in water with no contact with our facilities' industrial activities. Moreover, the TSS benchmark should be changed. The TSS standards were developed for organic material that could be

removed by secondary clarifiers in wastewater treatment plants. As is the case with mining/earthwork operations, landfill construction involves movement of fine clay particles that are extremely difficult to remove by standard sedimentation practices. In addition, the regulations should clarify that where a site is paved, TSS monitoring is not needed. The benchmark procedures should include the opportunity to establish a local background value for parameters likely to exceed regulatory standards independent of any impact by the permittee. This allows the permittee a clear, documented mechanism by which to establish whether an exceedance can be caused by its own industrial activity, or background interference caused by others. This is particularly important given the extremely low levels proposed for post 2006 permits. At these low levels, the likelihood of false positives from the lab is much higher.

DEC Response: *The Department disagrees with the above comment. As previously stated, benchmark monitoring cut-off concentration are intended as guidelines in determining the effectiveness of a facility's SWPPP and to ascertain that the BMPs in place are adequate and effective. The benchmark monitoring cut-off concentrations are significantly above discharge limitations for secondary treatment. Erosion and sediment control is the primary concern at facilities such as landfills and as such TSS is an appropriate stormwater discharge parameter. Metals and other minerals may also be associated with exposed soils. The permittee has the option to obtain coverage under an individual industrial SPDES permit if they prefer that to the MSGP.*

134. Permit Section: VIII.L.6 - Benchmark Monitoring for Nitrogen and Phosphorus

Comment: **The reasoning behind the requirement to monitor for phosphorus and nitrogen is unclear. Please explain why open landfills require monitoring for nitrogen and phosphorus.**

DEC Response: *Nitrogen and phosphorus are expected wherever erosion may be a factor in pollutant transport. The potential for erosion at landfills is considered to be significant enough to require monitoring.*

135. Permit Section: VIII.L.6 - Benchmark Monitoring and Reporting Requirements

Comment: **The commenter is not clear if this section includes the requirements for monitoring and reporting of uncontaminated storm water as defined in the definitions section of this landfill Sector.**

DEC Response: *Benchmark monitoring is required for non-contaminated stormwater runoff within areas where industrial activities are occurring. This includes stormwater runoff from intermediate cover areas, material stockpile areas and areas of industrial activity that are not included under the definition contaminated stormwater. Runoff from a final cover system, closed and stabilized in accordance with 6 NYCRR Part 360 regulations, does not require benchmark monitoring.*

It should be noted that in some cases, the sampling location may actually combine both non-contaminated stormwater and contaminated stormwater. Although most areas of contaminated stormwater are collected and treated (e.g., leachate, truck wash areas, etc.) stormwater drainage around wastewater treatment operations might combine with non-contaminated stormwater and require compliance monitoring in addition to benchmark monitoring.

136. Permit Section: VIII.L.6 - Benchmark Monitoring Requirements

Comment: **Landfills are already subject to a comprehensive surface water monitoring**

programs and the stormwater detention ponds are designed for a large volume of water. Often during a rain event there may not necessarily be any flow due to the large storage capacity that makes it impractical to collect a sample. Suggest DEC consider allowing Part 360 surface water monitoring to be used in lieu of storm event monitoring.

DEC Response: *The Department has considered this comment, but has decided to keep the monitoring requirements in the MSGP. If a facility has stormwater detention ponds that does not result in a discharge immediately following a storm, the benchmark sample may be collected during the controlled release from the detention pond.*

137. Permit Section: VIII.L.6 - Benchmark Monitoring Requirements

Comment: **Solid waste management facilities regulated through a Part 360 permit typically have a required Environmental Monitoring Plan (“EMP”) which requires extensive environmental sampling and analysis. To allow analytical results to be compared and emerging trends identified, it is very beneficial not only to the Landfill Owners/Operators but also to the Department and the General Public to have all the analyses for a given parameter being done at a facility to utilize the same analytical method for constituents. Therefore, it is recommended that a note be added to Table VIII.L-2 that indicates that permittees are allowed to use other analytical methods (than those listed in this Table) if the alternative method is: (1) identified in an approved 360 monitoring plan; and (2) it has a quantitation level at or lower than the Numeric Effluent Limitation specified in Table VIII.L-1.**

DEC Response: *Section IV.A.2.b(2) states, “Monitoring and analysis must be conducted according to test procedures approved under 40 CFR Part 136, or equivalent, unless other test procedures have been specified in this permit.” Based upon this an equivalent test method would be considered.*

138. Permit Section: VIII.M and N - Consistency with Comprehensive Revisions and Enhancements to Title 6 NYCRR Part 360 Regulations

Comment: **In 2006, the NYSDEC proposed changes to all portions of Title 6 NYCRR Part 360 have been made. The pre-proposal draft includes the addition of new provisions for several solid waste management activities/or waste streams that are not currently regulated by Part 360, including vehicle dismantlers and mobile car crushers, etc. The commenter recommends that the NYSDEC verify that the proposed MSGP is consistent with its pre-proposed solid waste management regulations as they apply to Auto Salvage Yards (as well as Sector N Scrap Recycling and Waste Recycling Facilities).**

DEC Response: *The Division of Solid and Hazardous Material has reviewed the draft MSGP and we are coordinating efforts to ensure that the proposed 360 regulations will not be in conflict with the requirements in this general permit.*

139. Permit Section: VIII.M.4 - SWPPP Requirements

Comment: **Similar to scrap recycling facilities, automotive salvage yards provide a valuable environmental and economic service in New York State and throughout the country. This service is generally provided by small businesses with limited resources without staff dedicated to environmental compliance. Therefore, the Sector M permit also should be simple, prescriptive while maintaining flexibility to promote innovation in the development and implementation of procedures for managing stormwater and improving the quality of stormwater runoff from scrap**

recycling facilities.

Consistent with our simplicity approach, the commenter suggests that the Division of Water work with the Division of Solid Waste to ensure that the proposed GP-06-01 permit requirements be consistent with the Department's 6 NYCRR Part 360 Solid Waste Management Facilities regulations.

Lastly, to keep recycling strong in New York State, we recommend that, to the extent possible, the proposed GP-06-01 permit requirements be consistent with neighboring states to promote inter-state commerce and to ensure that auto salvage yards within New York State remain competitive with facilities in neighboring states. Currently, New Jersey is reauthorizing its storm water permit for the industry, so we ask that representatives from these two states communicate.

In consideration of the above, we suggest that the Department meet with the vehicle dismantling industry to develop prescriptive BMPs, similar to those we suggest for the scrap recycling industry.

DEC Response: *The Division of Water has been working with the Division of Solid and Hazardous Materials to ensure consistency between this permit, the proposed 6 NYCRR Part 360 Permit and the new Chapter 180, Laws of 2006, Section 27-2303 - Regulations of Vehicle Dismantling Facilities. The decision to use EPA's MSGP format was based upon the need to update our General Permit which had previously been patterned after EPA's 1992 Baseline General Permit. Many states are using EPA's MSGP format, although not all of the neighboring states are. The Division of Water has determined that this permit format is the best fit for us at this time. We did try to provide a more detailed list of BMPs for this sector as well as referencing guidance materials to assist the auto dismantling industry.*

140. Permit Section: VIII.M.4 - SWPPP Requirements

Comment: **It is our recommendation that the general permit establish a mandatory set of BMPs to be adopted and implemented by auto salvage and scrap recycling yards/facilities. In order to allow innovation where desired, individual facilities would be allowed to propose equivalent BMPs for certain activities, if desired. The commenter wants to work with its members and the NYSDEC in developing the mandatory set of BMPs.**

DEC Response: *The new Chapter 180, Laws of 2006, Section 27-2303 - Regulations of Vehicle Dismantling Facilities will ultimately make many of these BMPs mandatory. The time period for implementing these regulations has not yet been set. As such, the language in this permit will continue to state "the permittee must assess the applicability of the corresponding BMPs" for this permit term.*

141. Permit Section: VIII.M.4.b.(1)(a)(iii) - Vehicle Dismantling and Maintenance Areas

Comment: **The reference to asphalt should be eliminated. Industry experience indicates that vehicle fluids are corrosive to asphalt. Bermed areas should be constructed of concrete or other surface that is impervious to vehicle fluids.**

DEC Response: *The permit language has been revised to remove the reference to using asphalt.*

142. Permit Section: : VIII.M.4.b.(1)(a)(iv) - Vehicle Dismantling and Maintenance Areas

Comment: **The commenter suggests that the Department take a stand on whether or not vehicle draining areas must be covered. By using the word "should", the Department creates a permit that is likely to result in an unlevel playing field for the**

vehicle dismantling business. Specifically, those companies that put their operation under cover/roof will be at a competitive disadvantage compared to those companies that choose not to put the fluid draining operation under roof.

DEC Response: *The Department has decided to leave this permit language as it is presented in the draft MSGP. The Department would like the opportunity to evaluate stormwater monitoring data from this sector and will re-evaluate this issue during the next permit review to determine if more detailed BMPs should be required.*

143. Permit Section: VIII.M.4.b.1(a)(iv) Vehicle Dismantling & Maintenance Area Controls

Comment: **The paragraph stating that dismantling areas should be covered should only be a recommendation and not interpreted as a requirement.**

DEC Response: *The current permit language using “should” reflects a recommendation. The use of wording such as “shall” or “must” would make it a requirement.*

144. Permit Section: VIII.M.4.b.(1)(a)(vi) - Vehicle Dismantling and Maintenance Areas

Comment: **The requirement to drain brake line hoses and all lines and hoses from vehicles is overly restrictive and would essentially eliminate the cost effectiveness of recycling vehicles. This section should state:**

Drain the following fluids from the vehicle prior to crushing or storage over bare ground:

Engine fluids

Radiator fluids

Transmission fluids

Fuels

Brake fluids from reservoir

Power Steering fluids from reservoir

DEC Response: *The permit language has been revised to state, “Drain and collect all fluids to the maximum extent practicable in accordance with best available industry standards from engines, radiators, transmissions, heater core, brake fluid reservoir, differentials, hoses, fuel tanks, air conditioning units and window washing fluids before crushing or storage over bare ground;”*

145. Permit Section: VIII.M.4.b(1)(a)(vi) - Vehicle Dismantling and Maintenance Areas

Comment: **The commenter recommends the following alternative language in this section: (vi) The following free flowing fluids must be drained and collected to the maximum reasonable extent in accordance with best available industry standards and procedures and stored for appropriate use, treatment or disposal: motor oil; coolant/anti-freeze; transmission fluid; and fuel.**

DEC Response: *The permit language has been revised to state, “Drain and collect all fluids to the maximum extent practicable in accordance with best available industry standards from engines, radiators, transmissions, heater core, brake fluid reservoir, differentials, hoses, fuel tanks, air conditioning units and window washing fluids before crushing or storage over bare ground;”*

146. Permit Section: VIII.M.4.b.(1)(a)(xiii) - Vehicle Dismantling and Maintenance Areas

Comment: **The commenter would also like to note that we are unaware of any post-1980 vehicles that have PCB capacitors. In addition, there is no document that identifies the location of any PCB capacitors in vehicles prior to 1980. In light of this information and the fact that the average vehicle being recycled is model year 1990**

or later, we suggest that all reference to PCBs be deleted.

DEC Response: This condition has been removed.

147. Permit Section: VIII.M.4.b.1(b)(v) Vehicle Parts and Equipment Storage Areas

Comment: Please clarify whether the reference to covering all storage areas intended only for "parts storage areas"?

DEC Response: This section was revised to clarify that this intended for parts storage areas.

148. Permit Section: VIII.M.4.b.1(c) Vehicle, Equipment and Parts Cleaning Areas

Comment: Want to ensure the language that facility must consider performing all cleaning operations indoors is a recommendation and cannot be construed as a requirement.

DEC Response: This is a recommendation.

149. Permit Section: : VIII.M.4.b(1)(d) - Liquid Storage Areas

Comment: The Department should include language that specifies that leaks/spills outside containment shall be cleaned up immediately, while leaks/spills within containment shall be controlled immediately and cleaned up daily.

DEC Response: Section VIII.M.4.b(2) has been revised to state, "As indicated in section II.B, the discharge of hazardous substances or petroleum in the stormwater discharge(s) from the facility shall be prevented or minimized in accordance with the stormwater pollution prevention plan for the facility. Any spill of petroleum must be reported in accordance with 6 NYCRR Part 613.8. Any spill of a hazardous substance must be reported in accordance with 6 NYCRR Part 595.3. Notification must be reported to the DEC hotline (1-800- 457-7362) within two hours identifying a release. Spills or leaks outside of containment areas shall be cleaned up immediately and spills or leaks within containment shall be controlled immediately and cleaned up as stated in section III.L.3.b. After clean up from a spill, absorbents must be promptly placed in containers for proper disposal. Additionally, all vehicles that are intended to be dismantled must be properly drained of all fluids prior to being dismantled or crushed, or other equivalent means must be taken to prevent leaks or spills of fluids including motor oil, transmission fluid, fuel and antifreeze."

150. Permit Section: VIII.M.4.b.(2) - Spill and Leak Prevention Procedures

Comment: The Department should include language that requires all fluid storage to be within containment and under roof.

DEC Response: Permit language in VIII.M.4.b.1(d) has been revised to state that the permittee must provide containment and a roof over liquid storage areas.

151 Permit Section: : VIII.M.5 - Benchmark Monitoring and Reporting

Comment: The benchmark monitoring and reporting requirements discussed in the non-industry specific section of the proposed GP-06-01 permit and the Sector N area of the proposed permit should apply to the Sector M permit.

DEC Response: Facilities that are covered by Sector M include automotive salvage yards that are described under SIC code 5015. These facilities are subject to general permit conditions which apply to all facilities covered by the MSGP plus the Sector M requirements. This section has its own set of requirements and benchmark monitoring parameters. The Sector N requirements would not apply to these facilities unless the facility was also conducting activities described under the scrap and waste recycling

facilities described under SIC code 5093. If both of these activities were occurring at the facility, these activities would be considered to be co-located and the facility would be subject to both sets of requirements under sectors M and N.

152 Permit Section: VIII.N - Heading

Comment: The Sector N heading should be revised to refer solely to "Scrap Recycling Facilities".

DEC Response: *This sector includes waste recycling facilities in addition to scrap recycling. As such, the Department will leave waste recycling facilities in the heading.*

153. Permit Section: VIII.N.1 - Discharges Covered Under This Section

Comment: Paragraph 1 should be amended as follows:

"scrap and waste materials such as ferrous and non-ferrous metals, paper, plastic, cardboard and glass animal hides."

DEC Response: *The Department has considered this comment, but has decided to leave the original permit language in place which includes: "and facilities that are engaged in reclaiming and recycling liquid wastes such as used oil, antifreeze, mineral spirits, and industrial solvents."*

154. Permit Section: VIII.N.3 - Stormwater Pollution Plan Requirements

Comment: To facilitate compliance with the proposed GP-06-01 permit and to make implementation and compliance consistent between facilities, we propose:

- (1) Language should be included that states that the Sector N requirements supersede general requirements where there are differences in requirements;**
- (2) All BMP requirements, including those currently in the general section of the permit, should be restated or integrated into the Sector N requirements to simplify implementation by the regulated community; and**
- (3) The BMPs detailed and summarized in the attached table (See Attachment) be incorporated/replace existing text in the Sector N permit.**

DEC Response: *The Department has revised the language regarding the routine facility inspections that were in conflict between the general permit requirements and the sector specific requirements. The permit language now states,*

"The inspection frequency shall be specified in the plan based upon the frequency identified under the SWPPP requirements for your specific industrial sector. If an inspection frequency is not indicated under the industrial sector, one should be established based upon a consideration of the level of industrial activity at the facility. Quarterly inspections are suggested as a minimum frequency for those that don't have a frequency set for the specific industrial sectors. "

In an effort to minimize the size of the permit, we have not restated the general SWPPP BMP requirements under Sector N.

Additionally, the Department will not be making the BMPs identified mandatory under this permit term. Facilities in this sector have had coverage under the existing General Permit (GP-98-03) and have implemented stormwater pollution prevention plans, many have not previously had to monitor their stormwater. The Department would prefer to utilize this permit term to allow facilities to monitor their stormwater and make improvements as necessary based upon the results of both visual and analytical monitoring. The Department will evaluate these results in the future to determine if additional requirements, such as mandatory BMPs are necessary. The recommended BMPs have been included as an attachment at the end of this response to comments

document with some minor revisions. The Department appreciates the time and effort put into this document and feels that this information should be provided to facilities as guidance through an organization representing the scrap metal recycling industry.

155. Permit Section: VIII.N.3 - SWPPP Requirements

Comment: It is our recommendation that the general permit establish a mandatory set of BMPs to be adopted and implemented by auto salvage and scrap recycling yards/facilities. In order to allow innovation where desired, individual facilities would be allowed to propose equivalent BMPs for certain activities, if desired. The commenter wants to work with its members and the NYSDEC in developing the mandatory set of BMPs.

DEC Response: *The Department has considered this comment, but has some concerns over making the BMPs mandatory at this time. Although facilities in this sector have had coverage under the existing General Permit (GP-98-03) and have implemented stormwater pollution prevention plans, many have not previously had to monitor their stormwater. The Department would prefer to utilize this permit term to allow facilities to monitor their stormwater and make improvements as necessary based upon the results of both visual and analytical monitoring. The Department will evaluate these results in the future to determine if additional requirements, such as mandatory BMPs are necessary.*

156. Permit Section: VIII.N.3 - SWPPP Requirements

Comment: The full implementation of BMPs is an iterative process that realistically could take 3 to 4 years to implement. We recommend that new and existing facilities be given at least three years to come into compliance. Furthermore, all new and many existing facilities will be required to implement extensive structural BMPs that require new building construction and extensive concrete, hard surfacing to minimize stormwater impacts. These BMPs require design engineering, contract bid and procurement, planning board approvals, building permits, potential environmental impact assessments, and other institutional requirements that will take time to implement.

DEC Response: *The Department agrees that the benchmark monitoring requirements in the MSGP will result in some industrial facilities having to implement additional BMPs to improve the quality of their stormwater discharge. In some cases this will result in an iterative process which may take place over several years.*

157. Permit Section: VIII.N.3 - SWPPP Requirements

Comment: SWPPPs will have the greatest benefit and ease of implementation for the scrap recycling industry by establishing BMPs that are specific and prescriptive, rather than general in concept and design. The commenter recommends the draft permit be revised to provide that scrap recycling facilities that have adopted and implemented BMP's set forth in the General Permit would be considered to be maintaining compliance with the permit without regard to results of annual sampling data. As noted above, we have begun consulting with our membership regarding specific BMP's for inclusion in the SWPPPs adopted by the scrap recycling industry.

DEC Response: *The Department supports efforts by industrial organizations to assist facilities with regard to the MSGP and to help identify the most effective BMPs to be implemented at these facilities. It must be noted that every facility is different and similar BMPs implemented and maintained under different circumstances may not have*

the same results. The Department has provided clarification in the permit that benchmark monitoring cut-off concentrations are intended as a guideline for the permittee to determine the overall effectiveness of the SWPPP in controlling the discharge of pollutants to receiving waters. Benchmark monitoring cut-off concentrations are not numeric effluent limits and exceedances of the benchmark monitoring cut-off concentration are not a permit violation. It does, however, signal the need for the permittee to evaluate potential sources of stormwater contaminants at the facility. Any sources of contamination that are identified must be remedied. Such remedies may include implementation of non-structural or structural BMPs to prevent recurrence.

158. Permit Section: VIII.N.3.b - Scrap Recycling and Waste Materials

Comment: Paragraph 3.b. should be amended as follows:

"The following SWPPP special conditions have been established for facilities that receive, process, and do wholesale distribution of non-liquid recyclable wastes scrap materials (e.g. ferrous and non-ferrous metals, plastics, glass cardboard and paper)."

DEC Response: *The Department has considered this comment but has decided to keep the original permit language.*

159. Permit Section: VIII.N.3.b(1) - Inbound recyclable and waste material control program

Comment: This requirement seem more appropriate for the solid waste regulations (screening inbound materials). This appears to be an unnecessary duplication of permit requirements that places an additional burden on facilities. This requirement should be removed from this section altogether.

DEC Response: *The best management practices listed in this section are directly related to preventing stormwater contamination and are pertinent to the MSGP.*

160. Permit Section: VIII.N.3.d.(1) - Recycling facilities (source separated materials)

Comment: This information is contained in the 360 permit application, the operations manual and/or the permit itself. It seems repetitive and unnecessary to include these requirements in the SPDES permit. Recommendation: Remove this section altogether.

DEC Response: *The best management practices listed in this section are related to preventing stormwater contamination and are pertinent to the MSGP.*

161. Permit Section: VIII.N.3.d(3) - Indoor storage and material processing

Comment: This issue is already covered by the Part 360 regulations and this section should be removed.

DEC Response: *The best management practices listed in this section are directly related to preventing stormwater contamination and are pertinent to the MSGP.*

162. Permit Section: VIII.N.3.e(1) - Vessel Breaking and Scrap

Comment: If forced to implement these requirements as stated, facilities may be forced to shut down their operation. We would like to discuss practical compromise to ensure environmental compliance with the economic and financial requirements for the continued operation of this business. To our knowledge, there is no one else legally performing these services in the NYC harbor and adjacent areas. Closing this operation we suggest may cause a hardship for parties who wish to dispose of

marine scrap in an environmentally sound manner. This in turn may create illegal operations of this nature which would further harm the marine environment.

DEC Response: *The Department believes that these issues would be best addressed under an individual industrial SPDES Permit.*

163. Permit Section: VIII.N.3.e(1)(a) - Fixed or Floating Platforms

Comment: **It would not be practical to utilize fixed or floating platforms to prevent scrap materials from entering state waters. Based on the nature of this work, such platforms would be damaged and/or destroyed as part of the process. We would be happy to discuss alternative methods that may be more realistic.**

DEC Response: *The Department believes that these issues would be best addressed under an individual industrial SPDES Permit.*

164. Permit Section: VIII.N.3.e(1)(b) - No oil or oily discharge

Comment: **We would like to propose and discuss with the DEC implementing BMP's to minimize the risk of oil and oily water discharge. No responsible operator experienced in this business can provide any absolute guarantees; however we feel steps can be taken to reduce this risk. These materials can be captured, contained and properly handled in accordance with applicable state and local laws when following BMP's that are realistic and practicable.**

DEC Response: *The Department believes that these issues would be best addressed under an individual industrial SPDES Permit.*

165. Permit Section: VIII.N.4 - Benchmark Monitoring Requirements

Comment: **We would like to know where NYSDEC came up with the monitoring cut-off requirements stated in the Benchmark Monitoring Requirements in the proposed regulations.**

DEC Response: *The benchmark monitoring requirements were developed by EPA for their Multi-Sector General Permit. The benchmark monitoring cut-off concentrations are based primarily upon EPA's Recommended Ambient Water Quality Criteria values for toxic pollutants, and National Urban Run-off Program (NURP) median concentrations for most conventional pollutants and other standards and guidelines. A reference to the source of EPA's benchmark monitoring cut-off concentrations are listed on page 64767 of the October 30, 2000 Federal Register (Vol. 65, No. 210). Several additional benchmark parameters have been added based upon the Department's internal review for the draft MSGP. Benchmark monitoring cut-off concentrations applied to those parameters are based upon water quality standards or general criteria used for industrial stormwater discharges for individual industrial SPDES Permits.*

166. Permit Section: VIII.N.4. - Benchmark Monitoring and Reporting

Comment: **This section should include a provision for removing an analyte from the monitoring requirement if after three consecutive monitoring events; the analyte is not-detected in the stormwater from a facility. In particular, experience indicates that PCBs are not present in the stormwater runoff from our recycling facilities. Analysis of stormwater for PCBs when not present represents an unwarranted expense.**

DEC Response: *There is the monitoring waiver for Alternative Certification of "Not Present" or "No Exposure" in Section IV.A.4.b. Under this waiver, the permittee is not subject to continued benchmark monitoring if the permittee certifies on a*

pollutant-by-pollutant basis for a given outfall that a parameter is not present. This waiver does require that at least one annual sampling for the benchmark parameter be conducted and demonstrated to be at or below the method detection levels. Please see the referenced section for more details.

167. Permit Section: VIII.N.4 - Benchmark Monitoring Requirements

Comment: **The EPA analytical method 245.7 may not be approved under 40 CFR 136. Additionally, EPA method 1631 would provide lower method detection limits.**

DEC Response: *Correspondence with EPA staff has indicated that this analytical method is expected to be an approved method under 40 CFR 136 by the end of 2006.*

168. Permit Section: VIII.P.1 - Discharges Covered Under This Section

Comment: **SIC code 4212 includes solid waste transfer stations. If a transfer station does not have a maintenance shop or equipment-cleaning operations does it need to be permitted? If there is a fuel tank at the transfer for fueling heavy equipment does it need to be permitted?**

DEC Response: *As identified in 40 CFR Part 122.26(b)(14)(viii), the transportation category includes facilities listed in Standard Industrial Classification codes 40, 41, 42 (except 4221–25), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations. Only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, **fueling**, and lubrication), equipment cleaning operations, airport deicing operations, or which are otherwise identified under paragraphs (b)(14)(i)–(vii) or (ix)–(xi) of this section are associated with industrial activity.*

169. Permit Section: VIII.P.3 - Benchmark Monitoring Requirements

Comment: **Requiring small vehicle maintenance shops to collect a sample within an hour of discharge is not practical. These shops may only have one or two employees and they cannot just stop what they are working on. Hiring a firm to collect storm samples is not always geographically feasible either. In addition, it should be clarified that a site is "inactive and unstaffed" under the waiver provision where a storm event has rendered the site unsafe to collect samples.**

DEC Response: *There are numerous small types of facilities that are covered under this general permit. Most small facilities will have only one discharge outfall for the areas where industrial activities are conducted. Facilities covered under this permit will have to collect the 4 required stormwater sampling events per year. It should be noted that annual benchmark sampling can be conducted at the same time as one of the quarterly visual sampling events.*

As for the second part of this comment, there are separate waivers described for "inactive and unstaffed sites" and "adverse climatic conditions". The inactive and unstaffed sites sampling waiver is described under the permit sections for quarterly visual monitoring, annual dry weather flow monitoring and benchmark monitoring sampling in permit sections IV.A.1.a(5), IV.A.1.b(5) and IV.A.1.c(3), respectively. The adverse climatic conditions monitoring waiver is described in permit section IV.A.4.a.

170. Permit Section: VIII.AC.3 - Benchmark Monitoring Requirements

Comment: **The federal limit for copper in Sector AC is 0.014 mg/l. The SPDES MSGP limit for copper in Sector AC is 64 mg/l and appears to be less stringent than the federal limit. Please explain the difference.**

DEC Response: *The benchmark monitoring cut-off concentration for copper of 64 mg/l in sector AC was an error and should have been 64 ug/l. Please note that NYSDEC's draft MSGP was prepared during the first half of 2005 and generally reflects EPA's version of the MSGP published in the October 29, 2000 Federal Register. At that time EPA's benchmark monitoring cut-off concentration for copper was 0.0636 mg/l. Our draft permit was undergoing internal legal and executive reviews before EPA's new draft MSGP was public noticed. As our previous general permit expired in November 2003 we decided that it would be beneficial to move ahead with our draft MSGP. We have considered the proposed lower cut-off concentration of 0.014 mg/l, but would like an opportunity to evaluate stormwater data from our industrial facilities using the benchmark monitoring cut-off concentration of 64 ug/l.*

171. Permit Section: VIII - Benchmark Monitoring for TSS

Comment: **Throughout the sector-specific sections of the SPDES MSGP, NYSDEC includes, in some instances, a limit on Total Suspended Solids (TSS) as pollutant of concern. Please clarify why TSS is not included as a limit in the same circumstances where it is included in EPA's MSGP.**

DEC Response: *The NYSDEC's draft MSGP was prepared during the first half of 2005 and generally reflects EPA's version of the MSGP published in the October 29, 2000 Federal Register. Our draft permit was undergoing internal legal and executive reviews before the EPA's draft MSGP was public noticed. As our previous general permit expired in November 2003 we decided that it would be beneficial to move ahead with our draft MSGP.*

172. Permit Section: VIII - Benchmark Monitoring

Comment: **Nutrient monitoring for phosphorus and nitrogen should be added to the general permit.**

DEC Response: *This issue was raised during the internal review for the draft MSGP. Based upon this earlier comment, nutrient monitoring was added to several of the industrial sectors (e.g, sectors A, J, L and U). When EPA first developed their version of the MSGP, they did evaluate nutrient sampling results for the industrial sectors. This data is provided in the September 29, 1995 Federal Register in pages 50838-51064.*

173. Permit Section: VIII.AD & AE - Non-classified Sectors

Comment: **Part 1 C 1, Sector AD, paragraph 1 and Sector AE, paragraph 1 of the draft document indicate that the NYSDEC must assign this classification prior to submission of a NOIT. There is no guidance on how an applicant can apply for this classification. Can some guidance be added to these sections describing how a facility can request these classifications. Perhaps it is as simple as contacting the regional DEC office that covers the facility location for further information.**

DEC Response: *It is our intent that the Department would notify a facility that they may obtain SPDES permit coverage under the non-classified sectors AD and AE for industrial stormwater discharges. Based upon earlier versions of the SPDES General Permit for Stormwater Discharges Associated with Industrial Activity, only facilities with industrial activities defined in 40 CFR Part 122.26(b)(14)(i-ix and xi) could obtain SPDES permit coverage under the general permit. Stormwater discharges from undefined industrial activities are not subject to SPDES permitting unless the Department identifies a particular stormwater discharge as a significant contributor of pollution (see 6 NYCRR Part 750-1.5(a)(10)). In the past, the Department's only option was to require the facility to apply for an individual industrial SPDES permit. By implementing the non-*

classified sectors in the MSGP, the Department can now allow SPDES permit coverage for stormwater discharges using the MSGP at undefined industrial facilities provided that the Department considers the MSGP to be protective of waters of the state.

174. Permit Section: Appendix A - Notice of Intent or Termination (NOIT)

Comment: Suggest the following revision to the page 1 NOIT Instructions to avoid confusion and aid in consistency:

"PRINT ONLY IN CAPITAL LETTERS USING BLACK INK. AVOID CONTACT WITH THE EDGE OF THE BOXES. FILL IN BOXES COMPLETELY AND DO NOT USE CHECK MARKS."

DEC Response: *The above changes have been made to the scannable NOIT form.*

175. Permit Section: Appendix A - Notice of Intent or Termination (NOIT)

Comment: Will the NYSDEC be considering the use of e-Filing such as used by the EPA?

DEC Response: *This topic was discussed with EPA, but we will not be able to utilize e-filing at this time.*

176. Permit Section: Appendix A - Notice of Intent or Termination (NOIT)

Comment: On page 1 of the draft NOIT, the owner/operator contact person must fill in specific information. Should the phone, fax, and e-mail lines be revised to read "Owner/Operator Contact" to ensure that this important information is correctly entered? As written, it appears that the owner/operator should fill in these lines. The owner/operator may not be the appropriate contact person if communication between the NYSDEC and the facility is necessary.

DEC Response: *The NOIT has been revised to reflect the above.*

177. Permit Section: Appendix A - Notice of Intent or Termination (NOIT)

Comment: Please clarify if Question 6 applies to areas that discharge solely via sheet flow.

DEC Response: *Question 6 does apply to sheet flow from a drainage area where industrial activities are occurring provided that stormwater runoff results in a point source discharge to waters of the United States.*

178. Permit Section: Appendix A - Notice of Intent or Termination (NOIT)

Comment: Question 6 of the draft NOIT requires a listing of all outfalls and associated industrial activity within the permit coverage area. Column two specifically requires listing SIC or two letter codes. According to the CFR, parking lots used by employees and visitors with drainage that is not mixed with discharges from industrial activities are exempt from the SPDES permit. Can guidance be included within the NOIT on how to address point source outfalls that stormwater from drainage areas that have no SIC industrial activity or sector code such as a parking lot. Perhaps a statement requesting a short description of the exempt area related to the specific outfall. IE "visitor/employee parking" or "no industrial activity". I would not recommend use of "N/A" as that is not very descriptive and easily abused.

DEC Response: *Clarification has been added to Question 6 to state that only stormwater discharges associated with industrial activity at your facility should be listed. Please note that visitor and employee parking lots and roof drains from office buildings should*

not be listed unless this drainage co-mingles with stormwater from areas of industrial activity.

179. Permit Section: Appendix A - Notice of Intent or Termination (NOIT)

Comment: Please clarify Question 7 and Question 8 to differentiate between uncovered coal piles and salt storage piles and those that don't come into contact with stormwater or precipitation. If we have a salt pile on site but it is completely covered do we answer "yes" or "no" to this question (Question 8)?

DEC Response: Questions 7 and 8 have been revised to: "Does this facility have [coal or salt] piles that are exposed to precipitation?"

180. Permit Section: Appendix A - Notice of Intent or Termination (NOIT)

Comment: A Source Activity Inventory Form should be made a part of the NOIT. This form would include an inventory of all source activities at the site, the BMPs that are currently employed, and the outfall to which these source activities discharge. The NOIT would then tie source activities using specific BMPs to monitoring results. Applying this alternate approach, if an Auto Salvage Yard (or Scrap Recycling and Waste Recycling Facility) has properly implemented the mandatory BMPs, the facility would not further risk being held in violation of the general permit, even if the applicable benchmarks are exceeded.

DEC Response: The Department has considered this comment, but has decided not to require a source activity and BMP inventory form at this time.

181. Permit Section: Appendix B - Annual Certification Report, Section III.10

Comment: Consider clarifying the wording, as modifications to the SWPPP are not always necessary when sources of stormwater pollution or unauthorized discharges are identified.

DEC Response: The wording has been revised.

Permit Section: Appendix B - Annual Certification Report, Section IV.15

Comment: Consider clarifying the wording, as it may require a "yes" and "no" answer.

DEC Response: The wording has been revised.

182. Permit Section: Appendix B - Annual Certification Report, Section V.16

Comment: Consider adding a statement (e.g., Section IV, Question 11) to Question 16 indicating that if compliance monitoring doesn't apply you can skip the section.

DEC Response: Question 17 includes permit language to allow the permittee to skip on to the next section if the answer to both questions 16 and 17 are "no".

183. Permit Section: Appendix B - Annual Certification Report

Comment: The commenter agrees with the NYSDEC requirement for permitted facilities to submit to the Department brief descriptions for: (1) any comprehensive compliance evaluations; (2) quarterly visual observations or monitoring results; and (3) action taken to improve the quality of the stormwater discharge completed by the facility, but should not be required to report problems identified during routine inspections.

DEC Response: The wording has been revised to eliminate the reporting of problems identified during routine inspections.

184. Permit Section: Appendix C - Stormwater Monitoring Report - Storm Event Data

Comment: If you determine that any of this storm event data is not necessary please consider removing it from the reporting requirement.

DEC Response: *Please note that a decision has been made to utilize Discharge Monitoring Report Forms for reporting of benchmark monitoring instead of the stormwater monitoring report. Pre-printed DMR forms will be developed based upon facility information provided in the NOIT form and will be sent to the permittee.*

185. Permit Section: Appendix C - Stormwater Monitoring Report

Comment: Consider adding a section to the SWMR for the permittee to make comments on the validity of the data. Did they meet all of the storm event criteria and the monitoring sample collection criteria? Was there a problem during sample collection that would cause the data to be invalid (e.g., sampling technique issues)? Was there any laboratory QA/QC issues that would cause the data to be invalid? The permit should also be modified to state that this information is required to be reported.

DEC Response: *The decision to use Discharge Monitoring Report (DMR) Forms in place of the stormwater monitoring report form will prevent this because of limitations with the DMR forms. A question has been added to the annual certification report form in this regard.*

186. Permit Section: Appendix C - Stormwater Monitoring Report

Comment: Are we supposed to report secondary containment release testing using this form? If so, could this be clarified.

DEC Response: *Submission of secondary containment system release testing results is not required under this general permit unless the Department specifically requests that a facility to provide this information under the "Duty to provide information" condition of the permit in Section V.F. Please note that monitoring results must be retained, at the facility, along with other SWPPP documentation and records. This is indicated on Table IV-4 of the MSGP.*

187. Permit Section: Appendix C - Stormwater Monitoring Report

Comment: Consider adding a check box or something to indicate that this is a representative outfall.

DEC Response: *The decision to use Discharge Monitoring Report (DMR) Forms in place of the stormwater monitoring report form will prevent this because of limitations with the DMR forms. Check boxes have been added to the Annual Certification Form. Any stormwater monitoring waivers should be described in a cover letter accompanying the annual certification report and discharge monitoring report forms. Permit language has been revised to indicate this in Section IV.B.1.e.*

188. Permit Section: Appendix F - Regional Office Addresses

Comment: Some of the information is out of date and need to be corrected

DEC Response: *The regional office information has been updated to reflect the current address information.*

Attachment 1
Recommended BMP Table for Scrap the Recycling Industry
as Prepared by SIMS Hugo Neu
(underlined text indicates DEC revisions)

Activity	Best Management Practices (Alternates are acceptable, provided they achieve the same level of protection)
Inbound Quality Control	1. All scrap recycling facilities shall have a written inbound quality control program that includes: - Signage that notifies suppliers of prohibited materials; - Visual inspection of all incoming loads; - Written notification of inbound policies to suppliers and copies of notifications maintained on-site; and - Training of all permittee's employees who have a role in the inbound quality program.
	2. End of Life (EOL) Vehicles - The following must be removed from EOL Vehicles prior to crushing, shredding or delivery to another dismantler/recycling facility: batteries, leaded battery cable ends, refrigerants, mercury switches, and free flowing fuels, engine oil and other lubricants, free flowing transmission fluid, brake fluid reservoir, anti-freeze and other coolants.
	3. Appliances - The following must be removed from appliances prior to crushing, shredding or delivery to another recycling facility: refrigerant and PCB small capacitors.
	4. All Scrap materials - The following must be indicated as prohibited materials in the inbound quality control program: free-flowing liquids, flammable materials, pressurized containers, hazardous wastes, explosives, radioactive materials, infectious wastes and any other materials that the facility is prohibited from accepting under law.
Drainage Systems & Outfalls	1. All containment and treatment systems must be capable of managing a water quality volume (WQv) storm (NYSDEC GP-02-01)
	2. Stormwater Pollution Prevention Plan (SWPPP) shall be <u>(text removed)</u> prepared by a qualified environmental professional or PE. Any water quality structures that are proposed in the plan shall be approved by a PE. The permittee is required to develop and implement an O&M plan for each storm water management structure, and such plan shall be maintained on-site.
	3. Oil-water separators must be designed to achieve a discharge of 15 mg/l.
	4. A permittee may choose to implement an alternative BMP for any BMP required pursuant to this permit. If the permittee chooses this approach, at their risk, the SWPPP shall include a detailed discussion of how the alternative BMP achieves the same level of protection as the BMP required in this permit.
	5. Systems should be maintained in a fashion that ensures proper functionality.
Shears, Balers, Briquetters and other press machines (Stationery or Transportable)	1. Hydraulics and coolant tanks and lines must be within secondary containment.
	2. Storm water than enters the containment area must be treated by an oil-water separator <u>designed to achieve a discharge of 15 mg/l.</u>
	3. Spills outside containment must be cleaned up immediately. Spills/leaks within containment <u>must contained immediately and</u> be cleaned up daily.

Activity	Best Management Practices (Alternates are acceptable, provided they achieve the same level of protection)
Shredder, crushers, and other cutting machines.	1. Hydraulics and coolant tanks must be within secondary containment
	2. Storm water than enters the containment area must be treated by an oil-water separator <u>designed to achieve a discharge of 15 mg/l.</u>
	3. Spills outside containment must be cleaned up immediately. Spills/leaks within containment must <u>be contained immediately and</u> be cleaned up daily.
	4. Hydraulic and coolant hoses and reservoirs should be visually inspected daily for signs of deterioration.
	5. The ground in the entire shredder and downstream area shall be covered by asphalt or concrete, and drainage shall be controlled.
	6. Ground surface must be cleaned/swept at the end of each shift, at a minimum. Frequency and rigor of sweeping/cleaning shall mitigate the potential for dirt and debris to be tracked from the area as documented in periodic inspections.
Screening & conveyor systems	1. The ground in the entire conveyor area shall be covered by asphalt or concrete, and drainage shall be controlled.
	2. Ground surface must be cleaned/swept at the end of each shift, at a minimum. Frequency and rigor of sweeping/cleaning shall be sufficient to mitigate the potential for dirt and debris to be tracked from the area.
Torch Cutting & Mobile Shear Processing Areas	1. The ground in the entire processing area shall be covered by asphalt or concrete, and drainage shall be controlled.
	2. Ground surface must be cleaned/swept at the end of each shift, at a minimum. Frequency and rigor of sweeping/cleaning shall be sufficient to mitigate the potential for dirt and debris to be tracked from the area.
Mobile Equipment	1. Fluid hoses and reservoirs should be visually inspected for signs of deterioration and leakage before and after a shift. Timely repair is required.
	2. Equipment should be maintained per manufacturer's recommendations.
	3. Spills outside containment must be cleaned up immediately. Spills/leaks within containment must <u>be contained immediately and</u> be cleaned up daily.
Soil Erosion and Sediment Control	1. Soil and other fine material(s) piles greater than 10 cy that are on-site more than <u>14</u> days shall be stabilized. No pile shall remain on-site more than 6 months.
	2. The SWPPP shall include a soil erosion and sediment control plan using practices outlined in "New York State Standards and Specifications for Soil Erosion and Sediment Control (August 2005)".
Hazardous Materials, Hazardous Waste, Fluid Storage and other Waste Material Storage Requirements.	1. All tankers, tanks, drums and buckets shall be stored within secondary containment and under roof.
	2. Spills must be controlled immediately, and cleaned up daily.
	3. Fluid dispensing procedure must be implemented

Activity	Best Management Practices (Alternates are acceptable, provided they achieve the same level of protection)
Equipment Maintenance	1. The ground in all outdoor maintenance areas shall be covered by concrete, and drainage shall be controlled and contained. {This does not include areas where maintenance activities are conducted to respond to breakdowns }
	2. Storm water than enters the containment area must be treated by an oil-water separator <u>designed to achieve a discharge of 15 mg/l</u> . Oil -water separators must be inspected and cleaned out to ensure proper operation.
	3. Spills outside containment must be cleaned up immediately. Spills/leaks within containment must <u>be contained immediately and be cleaned up daily..</u>
	4. A written procedure shall be implemented when maintenance activities are conducted at the location of breakdowns.
Storage of Materials	1. Shredder Infeed Storage Area - The ground shall be covered by asphalt or concrete, and drainage shall be controlled. Breaches shall be repaired in a timely manner.
	2. Unprepared #1 and #2 Heavy Melt Steel (Pre-Inspection) - The ground shall be covered by asphalt or concrete, and drainage shall be controlled.
	3. Unprepared #1 and #2 Heavy Melt Steel (Post-Inspection) - The ground is not subject to drainage control, and is not required to be stored on a hard surface.
	4. Plate and structural steel, rebar and bushling is not subject to drainage control, and is not required to be stored on a hard surface.
	5. Cast iron is not subject to drainage control, and is not required to be stored on a hard surface.
	6. Turnings - Shall be stored on a concrete surface and under roof.
	7. Engine blocks - The ground shall be covered by concrete, and drainage shall be controlled. Storm water than enters the area must be treated by an oil-water separator <u>designed to achieve a discharge of 15 mg/l</u> .
	8. Aluminum, Copper, Zinc and other non-ferrous scrap - If the materials are stored outdoors, the ground shall be covered by asphalt or concrete, and drainage shall be controlled.
	9. Glass, plastics, rubber, and paper - If the materials are stored outdoors, the ground shall be covered by asphalt or concrete, and drainage shall be controlled.
	10. Shredded Steel is not subject to drainage control, and is not required to be stored on a hard surface.
	11. Prepared #1 and #2 Heavy Melt Steel is not subject to drainage control, and is not required to be stored on a hard surface.
	12. Shredder Residue Waste Storage Area - The ground shall be covered by asphalt or concrete. The material shall be contained inside a berm and drainage shall be controlled.

Activity	Best Management Practices (Alternates are acceptable, provided they achieve the same level of protection)
Washing of Building Sides, Roofs, Vehicles and Equipment	<u>Any washing must be steam or pressure washed without the use of detergent or degreasing solutions and must be treated by an oil-water separator designed to achieve a discharge of 15 mg/l.</u>
Washing of Building Sides, Roofs, Vehicles and Equipment	<u>Any washing must be steam or pressure washed without the use of detergent or degreasing solutions and must be treated by an oil-water separator designed to achieve a discharge of 15 mg/l.</u>
Periodic inspections	<ol style="list-style-type: none"> 1. Periodic inspections must be completed at least monthly. The inspections must document the condition of all BMPs that are implemented pursuant to the SWPPP. 2. Inspection checklist shall include each BMP required pursuant to this permit or the SWPPP, and a visual inspection of each outfall. 3. For all non-conformances, interim response actions must be implemented, pending the timely completion of long-term remedy. All must be documented.
Storm Water Testing	1. Annual - NYSDEC Benchmark Parameters
Training	<ol style="list-style-type: none"> 1. All employees shall receive training in the content of the SWPPP appropriate to their responsibilities under the plan before beginning work. 2. Update training shall be conducted once a year, or whenever significant changes are made to the SWPPP.