



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

June 1, 2023

Bryan Leamons
Senior Operations Manager
Office of Water Quality
Division of Environmental Quality
5301 North Shore Drive
North Little Rock, Arkansas 72118-5317

Re: Facilities Discharging Stormwater Associated With Industrial Activity
ARR000000

Dear Mr. Leamons:

Thank you for the opportunity to review the draft permit for Facilities Discharging Stormwater Associated With Industrial Activity (ARR000000), which was received by this office March 7, 2023. Based on our review of the above referenced draft permit, the U.S. Environmental Protection Agency (EPA) has the following comments:

On January 15, 2021, the EPA issued the National Pollution Discharge Elimination System (NPDES) 2021 Multi-sector General Permit (MSGP). It incorporates several revisions since the EPA 2015 MSGP which were driven in part by recommendations in a National Academies of Sciences, Engineering, and Medicine's National Research Council (NRC) study required by a 2016 Settlement Agreement that resolved a lawsuit arising out of the EPA 2015 MSGP. Many states model their MSGPs and industrial stormwater general permits after the federal permit and, historically, have considered and frequently adopted innovations in the federal permit. Therefore, the EPA recommends that Arkansas's Division of Environmental Quality (DEQ) consider the EPA NPDES 2021 MSGP which was finalized after DEQ submitted the draft renewal industrial permit to The EPA. The list below provides information on some of the revisions included in the EPA 2021 MSGP.

1. Consideration of Stormwater Control Measure Enhancements for Major Storm Events – The EPA appreciates DEQ's proposed changes considering implementing enhanced stormwater control measures for facilities that could be impacted by major storm events. The 2021 MSGP requires that operators consider implementing enhanced stormwater control measures for facilities that could be impacted by major storm events, such as hurricanes, storm surge, and flood events. Examples: elevate materials, temporarily reduce outdoor storage, delay deliveries. See PART 2.1.1.8 in the EPA 2021 MSGP.
2. Public Sign of Permit Coverage – The EPA appreciates DEQ's proposed changes regarding posting a sign of permit coverage. The EPA 2021 MSGP includes a new requirement that MSGP operators must post a sign of permit coverage at a safe, publicly accessible location in close proximity to the facility, including facility contact information, how to obtain the Stormwater Pollution Prevention Plan (SWPPP), and how to contact a State Official (an exception is where other laws or local ordinances prohibit such signage). See PART 1.3.5 in the EPA 2021 MSGP.

3. Indicator Monitoring for pH, Total Suspended Solids (TSS), and Chemical Oxygen Demand (COD) - The EPA 2021 MSGP requires that facilities without benchmarks must conduct “report-only” indicator monitoring for pH, TSS, and COD on a quarterly basis throughout the permit term. Applies to: Subsectors B2, C5, D2, E3, F5, I1, J3, L2, N2, O1, P1, R1, T1, U3, V1, W1, X1, Y2, Z1, AB1, AC1, and AD1. See PARTS 4.2.1.1 AND 8 in the EPA 2021 MSGP.
4. Indicator monitoring for polycyclic aromatic hydrocarbons (PAHs) -The EPA 2021 MSGP includes a new provision that certain facilities must conduct “report-only” indicator monitoring for PAHs bi-annually (2/year) in 1st and 4th year of permit coverage. Applies to facilities that use coal-tar sealcoat, sectors A (creosote), C (2911), D, F, H, I, M, O, P (4011, 4013, 5171), Q (4493), R, and S. see PARTS 4.2.1.1 AND 8 in the EPA 2021 MSGP.
5. Update Benchmark Threshold Values - The 2021 EPA MSGP has:
 - Revised aluminum, copper (freshwater), selenium (freshwater), and cadmium benchmarks based on new final EPA water quality criteria.
 - Removed iron and magnesium benchmark due to lack of documented toxicity.
 - Allowed facilities to conduct site specific risk analysis for aluminum and copper benchmark exceedances
6. Update benchmark monitoring schedule - The 2021 MSGP requires that applicable operators conduct Benchmark monitoring quarterly for the first four quarters. If annual average is below benchmark threshold, facilities can discontinue until the 4th year of coverage when quarterly monitoring is required again. Monitoring must continue if exceedance occurs (additional implementation measures (AIM) is triggered). See PART 4.2.2 in the EPA 2021 MSGP.
7. Monitoring for impaired waters without a total maximum daily load (TMDL) - Under the 2021 MSGP, facilities discharging to impaired waters without a TMDL must monitor once/1st year of coverage for all pollutants causing impairment, then once/4th year for only those associated with industrial activity and/or are benchmarks. If not detected, monitoring can discontinue for the remainder of permit coverage. Monitoring must continue if detected. See PART 4.2.5.1 in the EPA 2021 MSGP.
8. Additional Implementation Measures (AIM) for benchmark exceedances:

In 2015 MSGP, if a benchmark is exceeded, operators must review the control measures to see if modifications are necessary and continue monitoring until no exceedance. However, EPA 2021 MSGP requires that there are three AIM levels in the 2021 MSGP: AIM Level 1, Level 2, and Level 3. An operator would progress linearly through the three AIM levels if an exceedance triggering event occurs and continues. If an exceedance triggering event occurs while in baseline status, an operator would enter AIM Level 1. If a triggering event occurs while in Level 1, an operator proceeds to AIM Level 2. If a triggering event occurs while in Level 2, an operator proceeds to AIM Level 3. See PART 5.2 in the EPA 2021 MSGP for detailed information.

- Level 1: While in baseline status, a triggering event (exceedance) occurs, then must review SWPPP/ control measures, implement additional measures (if necessary), and continue monitoring until no exceedance.
- Level 2: While in Level 1, a triggering event (exceedance) occurs, then must implement additional pollution prevention/good housekeeping measures and continue monitoring until no exceedance.
- Level 3: While in Level 2, a triggering event (exceedance) occurs, then must install permanent structural source and treatment controls and continue monitoring until no exceedance.

Thank you for your continued cooperation in administering the Clean Water Act (CWA) permitting program. Under the CWA, the DEQ as the primary National Pollutant Discharge Elimination System (NPDES) permitting authority in the state, and the EPA, in its oversight role, share responsibility for ensuring that all NPDES permits issued within the state comply with the CWA and federal regulations. If you have any questions or concerns, please call me at (214) 665-2230 or reply directly to Juanita Huff at (214) 665-2794 (e-mail: huff.juanita@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Maria L. Martinez". The signature is fluid and cursive, written in a professional style.

For

Maria L. Martinez
Manager
Permitting and Water Quality Branch

cc: Alan York (ADEQ Office of Water Quality)