

**RESPONSE TO COMMENTS
FINAL PERMITTING DECISION
INDUSTRIAL STORMWATER NPDES GENERAL PERMIT**

Permit No.: ARR000000

Prepared by: Guy Lester

This document contains a summary of the comments that the ADEQ received during the public comment period regarding the draft Industrial Stormwater General Permit ARR000000. The responses to the comments were developed in accordance with regulations promulgated at 40 C.F.R. § 124.17, APC&EC Regulation No. 8 – Administrative Procedures, and Ark. Code Ann. § 8-4-203(e). Any changes in the final permit are discussed in each response.

The proposed permit was submitted for public comment on June 20, 2018. The public comment period ended on July 20, 2018 at 4:30 PM Central Daylight Time.

The following people or organizations sent comments to the ADEQ during the public comment period. A total of eleven (11) comments were raised by five (5) separate commenters. There were several similar issues raised throughout the comments; those were combined with one response from the ADEQ. Some comments were split into multiple comments for ease of response.

An ADEQ correction has also been included.

	Commenter	# of Comments
1.	Amanda Gallagher, P.E., GBMc & Associates	2
2.	Charles M. Miller, Executive Director, Arkansas Environmental Federation	4
3.	David Triplett, Manager, Arkansas Environmental Support, Entergy Arkansas, Inc.	1
4.	Pennye L. Bray, Senior Project Manager, ECCI	3
5.	Rita Madison, FACI, Executive Director, Arkansas Ready Mixed Concrete Association	1

A similar comment was raised by Charles M. Miller, Executive Director, Arkansas Environmental Federation, and David Triplett, Manager, Arkansas Environmental Support, Entergy Arkansas, Inc.

Comment 1 Part 3.8.2

Monitoring must be performed on a storm event that results in an actual discharge from the site, i.e, a “measurable storm event”. The storm event must follow the preceding measurable storm event by at least 72 hours. The last paragraph of Part

3.8.2.2 states: “For discharges from stormwater detention ponds, the measurable storm event begins when the pond begins to discharge. The sample must be taken within the first 30 minutes of the discharge from the pond.”

The sampling requirements in the current IGP are not written to address collection of samples from detention ponds. A detention pond could hold water from several rain events before discharging. The small paragraph added to the draft permit addressing detention ponds is not adequate to cover sampling from ponds, or the reporting that goes with the Stormwater Annual Report (SWAR).

It is recommended that a section be added to the sampling requirements addressing the collection of storm event samples from a detention pond, including ponds with controlled discharges and ponds with simple overflows.

It is recommended that the SWAR be edited to include a method for reporting that the sample was collected from a pond, and removing the requirements from Part 3.8.2.5 for reporting the amount of rainfall, and the duration between sampling and the end of the previous measurable storm event.

Response: The language in paragraph in Part 3.8.2.2 of the draft permit concerning sampling of discharges from holding ponds has been revised, and placed in a separate section as Part 3.8.2.3.

The new language provided by 3.8.2.3 clarifies that sampling of discharges from holding ponds and basins is required to be performed when an actual discharge occurs, and is not restricted to the occurrence of a measurable storm event, as described in Part 3.8.2.2. The new section also specifies that both controlled and uncontrolled holding pond and basin discharges are acceptable for sampling.

Language has also been added to Part 3.8.2.1 referencing the sampling requirements for holding ponds and basins in Part 3.8.2.3.

Part 3.8.2.6 of the draft permit has been revised to remove the requirements for reporting the amount of rainfall, and the duration between sampling and the end of the previous measurable storm event for sampling from holding ponds and basins.

The SWAR has been revised to include reporting of sampling from holding ponds and basins.

Comments by Charles M. Miller, Executive Director, Arkansas Environmental Federation

Comment 2 Part 3.8.2.1

It is recommended that grab samples be allowed from ponds even if the pond is not discharging. If the pond has adequate holding time, a grab sample at any time would be representative of a discharge.

Response: EPA's "Industrial Stormwater Monitoring and Sampling Guide", March 2009 (EPA 832-B-09-003), specifies sampling procedures and methods for industrial stormwater.

Page 11 of the EPA document, under "Sampling From a Stormwater Detention / Retention Basin or Other Treatment Device", gives the following guidance: "If it is necessary for you to sample from a detention or retention basin, do so at the outfall of the structure. Collecting samples from stagnant or slowly moving water inside a pond will not yield a representative sample as the pollutants might not be adequately mixed."

Bullet point 4 of Part 3.2 of the EPA document states: "Sample only stormwater discharging from your facility (i.e., do not sample from puddles, ponds, or retention basins."

No change has been made to the permit based on this comment.

Comment 3 Multiple SIC codes and quarry stormwater discharge

As you will recall from our prior two meetings, we had described a concern expressed by some of our members about their inability to include more than one SIC eligible activity in the multisector stormwater permit. The examples cited included manufacturing facilities that had only a stormwater discharge associated with that SIC code activity but also a quarry stormwater discharge. They indicated that ADEQ would not allow the quarry to be encompassed by the multisector stormwater permit. This was somewhat confusing because a few of the members had similar operations in surrounding states and were as a matter of routine allowed to include both the manufacturing facility (which has a stormwater discharge) and the quarry in the multisector permit.

As a result, some members have had to obtain both a multisector stormwater permit and a general permit. From both ADEQ and the permittee standpoints this seems to be an unnecessary use of time and administrative resources. Therefore, we would like to ensure that the current verbiage in the draft permit you have provided would allow in the appropriate circumstances joint use of the multisector permit. We understood from our discussions at the previous meeting that in fact the permit was either being revised and/or interpreted to allow joint use of the multisector stormwater permit in such scenarios. In the event that this is not the case, we would respectfully request the needed revisions. Otherwise, the State of Arkansas permitting program is somewhat more stringent and at least more burdensome than those found in other states.

Response: Facilities that have operations classified by more than one SIC code, and more than one Industrial Sector, may obtain coverage under the IGP for the discharge of stormwater associated with industrial activity. All requirements, including parameter monitoring, from each affected Industrial Sector applicable to the one facility, and the associated benchmarks (or limits) will apply to

stormwater discharges from the facility. This will be applied on a case-by case-basis and clarifying language discussing requirements will be provided in the NOC issued to a multi-sector facility.

Concerning the discharge of quarry stormwater, the discharge of stormwater from mine dewatering from crushed stone facilities (SIC codes 1422-1429) and construction sand and gravel facilities (SIC code 1442) has been added to the IGP. Parts 1.4.3 and 3.3.1 have been revised to include these types of facilities. ELGs from 40 CFR 436 Subparts B and C (pH limits) are included in Part 3.3.1. Additional coverage under an individual NPDES discharge permit is no longer required for discharge of stormwater and water from mine dewatering from crushed stone and construction sand and gravel facilities.

The discharge of water from mine dewatering from industrial sand facilities (SIC code 1446) is not covered by the IGP. This activity still requires an individual NPDES discharge permit.

The discharge of process water is not covered by the IGP. Facilities of any kind that discharge process water, or process water co-mingled with stormwater associated with industrial activity, must obtain coverage under either an individual NPDES discharge permit or a general discharge permit (if available) for the process water discharge, and coverage under the IGP for the industrial stormwater discharge. An exception to this is if ALL stormwater associated with industrial activity at a facility discharges through an outfall covered by an individual NPDES discharge permit. In this case, IGP coverage is not required.

This discussion does not preclude the use of Part 1.6 Allowable Non-stormwater discharges.

No change has been made to the permit based on this comment.

Similar comments were raised by Charles M. Miller, Executive Director, Arkansas Environmental Federation, and Penny L. Bray, Senior Project Manager, ECCI.

Comment 4 Part 3.10.2

What is the rationale for removing the 60-day timeline for reviewing alternatives to benchmark values? We are not comfortable with an open ended statement that simply says the department will respond in writing with no timeline for the response. That could leave many permittees hanging out there waiting for a response not knowing if they are subject to the parameter benchmark values or the proposed alternatives. We would propose that a 30-day review period for a written response is appropriate and should be inserted where the 60-day timeline was removed.

Response: The IGP is a general permit. The purpose of a general permit is to provide a permit for a large number of facilities that have similar conditions, and to minimize the amount of time and effort involved in obtaining permit coverage as

compared to obtaining an individual permit. The condition concerning alternative parameter benchmark values is included in the permit to give flexibility in allowing facilities to maintain coverage under the IGP, instead of obtaining an individual NPDES discharge permit for the discharge of their industrial stormwater.

Many of the parameter benchmark values are based on water quality standards, and they were calculated using information appropriate for general application state-wide. The Department determines permit limits for individual permits using information specific to a facility, its location, receiving stream, etc., and it was determined that alternative parameter benchmark values should be reviewed and approved by the Department in a similar manner in order to maintain the quality of the waters of the state.

The Department is requiring specific approval of all alternative parameter benchmark values, rather than having to specifically disapprove of them within 60 days, as was the case in the previous permit. Under this new framework the permittee remains subject to the parameter benchmark until approved for an alternative. This change is being made in order to prevent the possibility of an inadvertent or inappropriate automatic change to a benchmark which may risk lowering water quality in violation of anti-backsliding or anti-degradation prohibitions of the Clean Water Act. The Department is required to issue a decision within the 60-day review period that is noted in the permit.

No change to the permit has been made based on this comment.

Comment 5 Part 7.8.5 (and 2.5)

Does this mean that all existing permittees that have runoff that flows into an MS4 are required to submit their renewal NOI, SWPPP and all subsequent annual reports to their MS4?

This section is new to the permit and should be included in the Fact Sheet so that permittees that discharge into MS4 know that if the permit requires submission of the NOI and any other signed/certified submissions requested by the MS4.

Response: Part 7.8.5 is not a new requirement. The requirement was in Part 7.8 in the previous IGP. The condition only concerns the signatory requirements for any document that is submitted to an MS4. This particular condition does not require documents to be submitted to an MS4.

It should be noted that Part 2.5 of the permit now specifically states that the facility must submit a copy of the NOI to the operator of the MS4. This was added to clarify the notification requirements for facilities that discharge to an MS4.

Both of these changes have been added to the Fact Sheet as Sections 4.7 and 4.8, respectively.

Comment submitted by Pennye L. Bray, Senior Project Manager, ECCL.

Comment 6 Part 1.6.6 and 1.6.7

The word "uncontaminated" was added to the beginning of the two sentences describing allowable discharges of building wash down water and pavement wash waters. This change is not identified in the Fact Sheet. Permittees need to be aware of this change as it impacts what is allowable in terms of washing down specific areas of their facilities.

Response: The changes have been added to the Fact Sheet as Section 4.10.

No change has been made to the permit based on this comment.

Comments submitted by Amanda Gallagher, P.E., GBMc & Associates.

Comment 7 Part 1.5

Part 1.5 provides the breakdown of industrial sectors. Per Part 8.33 viii (Definition for Storm Water Associated with Industrial Activity) transportation facilities with SIC Codes 40, 41, 42 (except 4221-4225), 43, 44, 45, and 5171 which have vehicle maintenance shops, equipment cleaning operations, or airport deicing operations requires coverage for storm water associated with industrial activity.

The industrial sectors associated with the above SIC codes (P, Q, and S) do not clearly reflect that coverage is only required if a facility has specific industrial activities (maintenance shop, etc.) onsite. We request that further clarification be added to Section 1.5.

Response: Without site-specific documentation, such as plans, facility, or process descriptions, it cannot be pre-determined which facilities will operate activities that discharge *Stormwater Associated with Industrial Activity*. Site-specific applicability determinations must be made to decide on the appropriate permit coverages and requirements necessary. To this end, a blanket statement cannot be provided which excludes the referenced sectors; however, ADEQ does concur that only facilities which discharge *Stormwater Associated with Industrial Activity* as defined by Part 8.33 are eligible or subject to permitting requirements of the IGP.

No change has been made to the permit based on this comment

Comment 8 Part 5.2.4

Part 5.2.4 requires the completion of a Storm Water Annual Report (SWAR) each year and for this report to be retained on-site. The requirement to complete the SWAR and maintain with the SWPPP puts an undue burden on the permittee. The permit already requires extensive recordkeeping requirements. All of the

information included in the SWAR is already being documented in other records already required by the permit. In lieu of requiring all facilities covered under the permit to complete the SWAR every year, we suggest that facilities only be required to complete the SWAR per the Department's request.

This approach lessens the burden on all facilities and still allows ADEQ to audit permit compliance.

Response: The requirement to complete and maintain a SWAR does not place an undue burden on permittees. Recordkeeping and reporting are integral to all NPDES permits and provide the necessary documentation of compliance required by 40 CFR 122.44 and 122.48. The SWAR is a summary of the results of monitoring and inspections at the facility over the previous year. This summary is helpful for review of the facility records by Department inspectors, and must be available for submittal to the Department, if requested. If a facility does not choose to operate under the reporting conditions provided by the IGP then the option exists to obtain coverage under an individual NPDES permit.

No change has been made to the permit based on this comment.

Comment submitted by Rita Madison, FACI, Executive Director, Arkansas Ready Mixed Concrete Association.

Comment 9 Part 1.6

We request that aggregate stockpiles be included in Part 1.6.15 so that non-process water may be used on them for dust suppression as follows:

“1.6.15 non-process water used for dust suppression on *aggregate stockpiles and on uncontaminated roads.*”

Response: Water added to an aggregate stockpile is similar to, and in some cases may be considered the same as, aggregate wash water; these discharges are process water which may be considered for coverage by ADEQ General Permit ARG500000. Discharge of this process water is not allowed under the IGP. ADEQ acknowledges the appropriate use of water used for dust suppression on aggregate storage stockpiles which does not discharge from the designated storage area.

No change has been made to the permit based on this comment.

ADEQ Correction: Table in Part 2.2

The reference to a permit fee being required as part of the application package for “Existing dischargers with No Exposure Exclusion who no longer qualify for Exclusion” has been deleted from the permit. Facilities covered under a No Exposure Exclusion have already paid a permit fee, and have an annual fee due based on the date of original coverage. An additional fee is not required.