

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

Permit No.: ARR000000

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The following are responses to comments received regarding the draft Industrial Stormwater General Permit ARR000000 and are 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)(1)(B)(ii).

The above permit was submitted for public comment on 11/09/2013. The public comment period ended on 12/09/2013 at 4:30 PM Central. The Arkansas Department of Environmental Quality (hereinafter “ADEQ”) conducted one (1) public meeting and one (1) public hearing on the proposed permit.

This document contains a summary of the comments that the ADEQ received during the public comment period. A summary of the changes in the final permit can be found on the last page of this document.

The following people or organizations sent comments to the ADEQ during the public notice and public hearing. A total of 108 comments were raised by 14 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.

Commenter	# of Comments Raised
1. Gene Dunaway	6
2. Dennis Benson – Sherwood Wastewater	1
3. Penny Bray – ECCI	6
4. John Morton, PE – Alcoa, Inc.	7
5. Russell McLaren & Amanda Gallagher, PE – GBMc & Associates	21
6. Stephen Cain – Arkansas Electric Cooperative Corporation	5
7. Raymond Wieda, PE – FTN Associates, Ltd.	19
8. Randy Solomon – American Electric Power	13
9. Colene Gaston – Beaver Water District	4
10. Malcolm Means – On behalf of Riceland Foods, Inc.	5
11. Garrett Hafemann, PE – Tyson Foods, Inc.	1
12. Roger Montgomery	3
13. Charles Miller – Arkansas Environmental Federation	14
14. Debbie Doss – Arkansas Canoe Club	3

Comment 1 Would the hog farm have been considered a general permit? I've never heard anyone explain how it got a permit in the first place, especially given the water discharge issues.

Would the hog farm have been permitted under the general permit as proposed. If so, this regulation needs to be changed.

Response: The Department acknowledges this comment, but this permit is for industrial stormwater discharges in accordance with 40 CFR 122.26. Liquid Animal Waste Management Systems are regulated under Arkansas Pollution Control & Ecology Commission (APC&EC) Regulation No. 5 or the Concentrated Animal Feeding Operation (CAFO) general permit, ARG590000; these systems are not required to obtain coverage under the Industrial Stormwater General Permit (IGP), ARR000000. The Department is only considering comments regarding the IGP at this time.

Comment 2 I have heard attorney's speculate that a specific site permitted under a general permit cannot be appealed because the statute of limitations runs out when the general permit itself is approved. This should be changed. If it cannot, then general permitting itself should be abandoned and an individual permit issued on each site.

Response: The Department acknowledges this comment and understands the position of the commenter. This permit is meeting all federal and state requirements; therefore, no changes are necessary.

The Department follows all applicable laws and regulations regarding public notices and appeals, including Ark. Code Ann. § 8-4-203 and APC&EC Reg. 8. The Department disagrees that general permitting is inappropriate. The Industrial Stormwater General Permit, ARR000000, currently has approximately 1,975 permittees with active coverage (to put this number into perspective, the Department has approximately 796 total active individual NPDES permits). Permitting each Industrial Stormwater General Permit facility under an individual NPDES permit would take a large portion of the Department's resources while accomplishing little with regard to protection of the environment over a general permit. Ark. Code Ann. §§ 8-4-203(m)(1)(A)(i) & (ii) state:

- (i) The department may issue general permits under subsection (a) of this section [Describing permitting powers of ADEQ].
- (ii) A general permit is a statewide permit for a category of facilities or sources that:
 - (a) Involve the same or substantially similar types of operations or activities;
 - (b) Discharge or release the same type of wastes or engage in the same type of disposal practices;
 - (c) Require the same limitations, operating conditions, or standards;
 - (d) Require the same or similar monitoring requirements; and
 - (e) In the opinion of the director, may be regulated under a general permit.

When a group of permittees have substantially similar types of operations or activities, the Department can make the decision to issue a general permit that those permittees can gain coverage under in order to save Departmental resources. The limits in the general permit are made to be as broadly applicable as possible. If a permittee or the Department feels the limits in the general permit do not fit the facility in question or are not protective of the environment in the case of a specific facility, an individual NPDES permit can be issued for that facility.

Comment 3 There should be a short public notice in the local newspaper when any discharge is taking place that is going to mingle with storm water. If something can go wrong, it will and neighbors should be informed so they can keep an eye out, since there is no continuous monitoring schedule by ADEQ.

Response: This permit is solely for the discharge of stormwater associated with industrial activity. No other types of process waters are allowed to be discharged under this permit, including process water comingled with stormwater. The Department follows all public notice requirements in Ark. Code Ann. § 8-4-203 and APC&EC Reg. 8 Chapter 2 for new discharges; these documents do not include a public notice requirement for those seeking coverage under a general permit.

Comment 4 Location, location, location. No general permits should be allowed within a safe distance of even a headwaters stream. As we know, natural processes can dilute or absorb some kinds of discharges as long as there is proper soil between the discharge and a water body.

Response: The Department acknowledges this comment and understands the position of the commenter. This permit is meeting all federal and state

requirements; therefore, no changes are necessary.

The permit has exclusions from coverage for those facilities discharging: into impaired receiving waters on the 303(d) list (Part 1.8.5); into receiving waters with an approved TMDL (Part 1.8.6); directly into an Extraordinary Resource Water, Natural and Scenic Waterway, or Ecologically Sensitive Waterbody (Part 1.8.7); and when it is determined the discharge will cause impairment or the Department has reason to believe the discharge will compromise Water Quality Standards (Part 1.8.8). The Department believes that these sections of the permit will help prevent pollution to waters of the State and believes further restrictions to location of stormwater discharges associated with industrial activities are not necessary.

Comment 5 The issue of pharmaceuticals and personal care products need to be addressed. As you are aware, there are minute quantities of these substances that are in our water even after processing through water treatment plants. Industries should be required to clean up their water to a standard that can be treated to avoid these problems in our drinking water or local wells.

Response: The Department acknowledges this comment. The issue of pharmaceuticals and personal care products in waterbodies pertains to the discharge of domestic waste, which this general permit does not cover. This permit is meeting all federal and state requirements; therefore, no changes are necessary.

See also response to Comment 3.

Comment 6 When evaluating annual reports and analytical data submitted by the permittee during the last permit cycle, did ADEQ check to see how many of the pH measurements exceeded holding time. Most of the smaller facilities rely on the contract laboratory to perform their pH measurement, however, since the holding time for pH is only 15 minutes it is impractical for contract laboratories to do the pH analysis. The contract lab would have to bring their pH meter to the industrial site and analyze for pH during a measureable rain event. Considering the number of permittees and number of contract laboratories, most of the pH analysis performed by contract laboratories under this permit do not meet holding time limits. This means to be in compliance with the permit as it relates to pH analysis, the smaller facilities will have to obtain the appropriate pH meter and set up a quality control program for the pH analysis (duplicates and statistical analysis). An appropriate pH meter costs are between \$200 and \$1000 and annual pH buffers (standards) add another \$50 in annual costs. This is a hidden cost in this permit that should be considered as part of the economic impact. Additionally, I believe the permit itself should clearly point out the holding time of the pH sample to put the permittees on notice about this

parameter.

Response: The Department supports the commenter's position that the pH holding time requirements should be emphasized in the permit. Part 3.8.2.4 has been revised to add the following language:

[...] Note that 40 CFR Part 136 and *Standard Methods for the Examination of Waste and Wastewater* establish the maximum holding times for each parameter which must be met for sampling results to be considered valid. Some parameters have short holding times, such as pH, which should be analyzed immediately to be considered valid.

By submitting data to the Department on the Stormwater Annual Report (SWAR) form, the permittee is signing that all applicable requirements of 40 CFR Part 136 have been met. Furthermore, the ADEQ's Water Division's inspectors check facilities' records during inspection for compliance with the requirements of 40 CFR Part 136.

The Department does not agree that this holding time requirement must be included in the economic impact statement for this renewal, as the pH requirement was in the previous permit. According to Ark. Code Ann. 8-4-203(m)(3)(B), "If the terms and conditions of a previously issued general permit are revised upon renewal, the economic impact and environmental benefit of only the proposed changes shall be considered."

Comment 7 No Exposure Recertification NOI Requirements (Parts 1.7 and 2.2)

Part 1.7 of the permit states in part: "[...] Facilities operating under a 2009 Industrial Stormwater General Permit No Exposure Exclusion must submit a Recertification NOI under Part 2.2, *assuming the facility still qualifies for the exclusion.*" [emphasis added]

A portion of Part 2.2 of the permit contains a table, which is reproduced below:

Category	Deadline for Submittal	Application Package	Other Required Actions
New Dischargers	Minimum thirty (30) days prior to commencement of stormwater discharge from the facility.	1. Completed NOI 2. Stormwater Pollution Prevention Plan (SWPPP) ¹ 3. Permit Fee	NONE
Existing Dischargers Authorized Under 2009 IGP	The effective date of this permit.	1. Completed Recertification NOI	Update SWPPP, as necessary, to comply with the requirements of Part 4 by the effective date of this permit (Submittal of updated SWPPP is not required.)
New Dischargers – No Exposure	Minimum thirty (30) days prior to commencement of stormwater discharge from the facility.	1. Completed No Exposure Exclusion Certification Form 2. Permit Fee	NONE
Existing Dischargers Under 2009 IGP with a No Exposure Exclusion	The effective date of this permit.	1. Completed Recertification NOI	NONE

¹The Department understands that the SWPPP is a living document and the version submitted with an initial NOI may have portions that are not finalized. All required SWPPP sections must be attempted in the SWPPP submitted with the application package and the SWPPP must be certified as required under Part 7.8.

How does the Department plan to differentiate between those existing dischargers under the 2009 IGP with a No Exposure Exclusion where the facility still qualifies for the exclusion and those where it doesn't?

40 CFR 122.26(g)(4)(iv) provides the statement used to certify No Exposure Exclusion at a facility. This statement requires facilities to re-certify the condition of No Exposure every five years. In order to maintain compliance with federal regulations, existing discharges under the IGP with a No Exposure Exclusion needs to complete a separate form that contains the appropriate No Exposure Certification. I believe it would be more appropriate to have existing dischargers under the 2009 IGP with a No Exposure Exclusion complete a separate document. This would minimize the potential for confusion regarding the No Exposure Exclusion requirements.

Response: The Department believes this comment stems partially from confusion regarding the recertification process. The Recertification NOI is a document the

Department creates with the data from the Department's permits database already filled in on the form. The permittee must then change any data that is not correct, sign that they wish to continue coverage under the new permit, and send the form back to the Department. When corresponding with permittees attempting to renew their permits under the 2014 IGP, it is easiest if staff have a single term for the documents needed to be sent in. Since the Department is creating these Recertification NOIs with data from its database, it can easily include information regarding No Exposure status and the permittees with an existing No Exposure Exclusion will be asked to confirm continuing that status. The Department will take note of this comment to include on the Recertification NOI for existing No Exposure Exclusions information to the permittees regarding what forms are needed if the facility no longer qualifies for the No Exposure Exclusion and will make the Recertification NOI comply with 40 CFR 122.26(g)(4)(iv) for No Exposure Exclusion permittees. To further clarify the application requirements for dischargers with a No Exposure Exclusion who no longer qualify for the exclusion, the Department has added a fifth category to this table.

The revised table is shown below:

Category	Deadline for Submittal	Application Package	Other Required Actions
New Dischargers	Minimum thirty (30) days prior to commencement of stormwater discharge from the facility.	1. Completed NOI 2. Stormwater Pollution Prevention Plan (SWPPP) ¹ 3. Permit Fee	NONE
Existing Dischargers Authorized Under 2009 IGP	The effective date of this permit.	1. Completed Recertification NOI	Update SWPPP, as necessary, to comply with the requirements of Part 4 by the effective date of this permit (Submittal of updated SWPPP is not required.)
New Dischargers – No Exposure	Minimum thirty (30) days prior to commencement of stormwater discharge from the facility.	1. Completed No Exposure Exclusion Certification Form 2. Permit Fee	NONE
Existing Dischargers Under 2009 IGP with a No Exposure Exclusion	The effective date of this permit.	1. Completed Recertification NOI	NONE
Existing Dischargers with a No Exposure Exclusion who No Longer Qualify for the Exclusion	Maximum thirty (30) days after knowledge of disqualification from No Exposure Exclusion.	1. Completed NOI 2. Stormwater Pollution Prevention Plan (SWPPP) ¹ 3. Permit Fee	NONE

¹The Department understands that the SWPPP is a living document and the version submitted with an initial NOI may have portions that are not finalized. All required SWPPP sections must be attempted in the SWPPP submitted with the application package and the SWPPP must be certified as required under Part 7.8.

Comment 8 Erosion and Sediment Controls (Part 3.1.5)

Part 3.1.5 states:

Erosion and Sediment Controls. The operator must stabilize exposed areas and contain runoff using structural and/or non-structural control measures to minimize onsite erosion and

sedimentation, and the resulting discharge of pollutants. [...]

The use of the word “contain” implies that facilities with exposed areas must create a retention basin or other measure to contain the runoff onsite. While I don’t believe the intent is to require retention basins in order to avoid confusion regarding the intent the sentence should be reworded to read:

Erosion and Sediment Controls. The operator must stabilize exposed areas and *control* the runoff using structural and/or non-structural control measure to minimize onsite erosion and sedimentation and the resulting discharge of pollutants. [...][*emphasis added to change*]

Response: The Department agrees that the intent of this part is not to require facilities to completely contain runoff onsite and has revised Part 3.1.5 to reflect the suggested wording.

Comment 9 Management of Runoff (Part 3.1.6)

Part 3.1.6 states:

Management of Runoff. The operator must divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff, to minimize pollutants in the discharges. [...]

The requirement that a facility must reuse, divert, contain or otherwise reduce the runoff from a facility is not a practical alternative for most existing facilities. While this is a good idea for the construction of new facilities, the drainage patterns and direction of runoff is well established for most existing facilities. As a result, the “reduction” of runoff from the facility is not something that could be accomplished without significant changes to the facility outdoors areas. The section should be modified to read:

Management of Runoff. The operator must implement appropriate measures to manage the runoff from the property in such a manner as to minimize the pollutants in the discharge. These measures may include the diversion of the runoff away from areas where pollutants may be present or the reuse of stormwater runoff where practical. New facilities should be constructed such that the runoff from the facility is reduced, to the extent practicable, by the use of measures that divert the runoff, contain the runoff, or allow for reuse of the runoff. [...]

Response: The Department agrees with the proposed changes and has revised Part 3.1.6 to reflect the suggested wording.

Comment 10 Parameter Benchmark Monitoring (Part 3.4)

Part 3.4 states:

Parameter Benchmark Monitoring. All facilities covered under this general permit are authorized to discharge from all permitted stormwater outfalls. All facilities are required to conduct monitoring and sampling of stormwater at each outfall as specified below. The benchmark concentrations are not effluent limitations; a benchmark exceedance, therefore, is not a permit violation. Benchmark monitoring data are primarily used to determine the overall effectiveness of BMPs and control measures in controlling the discharge of pollutants to the environment and to assist the facility in knowing when additional corrective action(s) may be necessary.

The third sentence states that the benchmark concentrations are not effluent limitations and an exceedance of the benchmark is not a permit violation. However, the fourth sentence indicates that the data will be used to determine the overall effectiveness of the BMPs and control measures. By including BMPs as non-numeric technology-based effluent limitations, inspectors can now cite a facility for a violation of the non-numeric limits if a benchmark was exceeded. For example, ADEQ could declare a permittee's current BMPs inadequate if benchmarks are exceeded, and dictate new BMPs to the permittee. This is overly intrusive into the permittee's operation and ADEQ has not provided sufficient justification for why this is necessary.

The Draft permit has established the BMPs previously required for implementation in SWPPP as "Non-Numeric Technology-based Effluent Limits". Consequently, the language above will provide a mechanism to use an exceedance of the benchmark concentrations to indicate a permit violation of the "Non-numeric Technology Based Limits".

Clarification should be provided to indicate that an exceedance of the parameter benchmark values will not result in immediate enforcement action for violating the Non-Numeric Effluent Limits.

Response: The Department agrees with the position of the commenter that further clarification is needed regarding benchmark exceedances not being permit violations. It is the Department's view that benchmark monitoring is primarily a tool for the permittee to use to assess the efficacy of BMPs implemented at the

site. The opening paragraph of Part 3.4 has been revised to the following:

Parameter Benchmark Monitoring. All facilities covered under this general permit are authorized to discharge from all permitted stormwater outfalls. All facilities are required to conduct monitoring and sampling of stormwater at each outfall as specified below. The benchmark concentrations are not effluent limitations; a benchmark exceedance, therefore, is not a permit violation. Benchmark monitoring data are primarily *to be used by the facility staff* to determine the overall effectiveness of BMPs and control measures in controlling the discharge of pollutants to the environment and to assist the facility in knowing when additional corrective action(s) may be necessary. [*emphasis added to change*]

Please note that while parameter benchmark exceedances are not violations based on Part 3.1, improper implementation of Best Management Practices (BMPs) or using ineffective BMPs are violations.

Comment 11 Similar Outfalls (Part 3.8.1)

Part 3.8.1 states:

Similar Outfalls. When a stormwater outfall may be similar to another outfall at the facility, i.e., similar effluents based on a consideration of industrial activity, significant materials and management practices, and activities within the area drained by the outfall, the permittee may sample only the discharge point with the highest concentration of pollutants. The permittee must get approval of the similar outfall designation from the Department prior to monitoring. This provision is not available for discharges subject to the Effluent Limitations Guidelines in Part 1.4.3. The SWPPP must include documentation on how these determinations were made and the description of each point of discharge. The documentation should include the following information:

- 3.8.1.1** Location of each of the similar outfalls;
- 3.8.1.2** Description of the general industrial activities conducted in the drainage area of each outfall;
- 3.8.1.3** Description of the control measures implemented in the drainage area of each outfall;
- 3.8.1.4** Description of the exposed materials located in the drainage area of each outfall that are likely to be significant contributors of pollutants to stormwater discharges; and

3.8.1.5 Why the outfalls are expected to discharge similar effluents.

The requirement that the permittee must get approval of the similar outfall designation from the Department prior to monitoring has been added in the Draft Permit. Permittees are more familiar with the potential pollutants and industrial activities at their facilities than ADEQ, and should be allowed to sample the single outfall that would have the highest potential for a discharge of pollutants exposed to stormwater. Furthermore, justification of this addition was not provided in the Fact Sheet. We request this condition be removed from the permit.

If not removed from the permit, will the Department issue a letter separate from the Notice of Coverage indicating approval? Is the information submitted on the NOI sufficient to request approval or is a separate request required? It is also requested that this condition clarify whether similar outfall designations under the existing IGP will transfer to the renewed IGP or if re-designation of similar outfalls will be required.

Response: The Department disagrees that the requirement to have similar outfalls pre-approved should be removed. The inclusion of the statement, “The permittee must get approval of the similar outfall designation from the Department prior to monitoring” in Part 3.8.1 is to clarify the Department’s existing policy regarding similar outfall designation approval. The Notice of Intent under the 2009 IGP requires the facility to indicate outfalls they consider similar. The Department currently reviews similar outfall designations and indicates that a facility has been approved for similar outfalls sampling by including a statement on the Notice of Coverage (NOC) for the facility. It is the Department’s current policy that the only similar outfall designations that are valid are those shown on the NOC for a facility. The following is an example of language that would appear on an NOC if similar outfalls were approved by the Department at the facility:

Outfalls 001, 002, and 003 are considered similar. Outfall 003 will be sampled.

The NOC will be sufficient to prove the Department’s approval of the similar outfall designation, and the information provided on the Notice of Intent and the items required by Parts 3.8.1.1 through 3.8.1.5 to be included in the SWPPP will be sufficient for the Department’s review in most cases. If additional information is required to make a determination of similar outfalls for a specific facility, the Department will request the information at that time. Since Departmental approval is already required for similar outfalls, the Department feels no need to revise the permit to clarify how existing permittees’ similar outfall designations will be handled. Most permittees with approved similar outfalls reflected on their 2009 IGP NOC will continue to have similar outfalls under the 2014 IGP.

Permittees with similar outfalls under the 2009 IGP should review the permit's requirements of similar outfalls to ensure their SWPPP includes all of the required information from Parts 3.8.1.1 through 3.8.1.5.

Per request, the Department has added justification for this section to the Fact Sheet.

Comment 12 Exceptions to Monitoring Requirements (Part 3.9)

The sampling waiver for four consecutive samples under the benchmark value from the 2009 IGP was removed in the 2014 IGP. ADEQ's justification in Part 4.1.7 of the Fact Sheet is primarily based on the proposal to move from semi-annual sampling to annual sampling. Under the proposed 2014 IGP, it would take four years to get the four samples needed to request the waiver. Since the permit cycle is five years, ADEQ believes it's not beneficial to request a waiver for only one year.

ADEQ is justifying requiring four samples for a sampling waiver because this was the number of samples required to obtain a waiver under the 2009 IGP. However, in IGPs prior to the 2009 IGP, annual samples were taken, resulting in waivers being granted after two years of sampling. What is the justification for requiring four samples to get a waiver?

A section should be added to the permit allowing permittees that effectively demonstrate compliance with the parameter benchmark values for any parameter for two consecutive years to request authorization to forego further sampling for said parameter for the duration of the permit term. This provision should be similar to Part 3.11.1 in the 2009 IGP.

It is also requested that a provision similar to Part 3.8.2.2 of the 2009 IGP be placed back into the permit; this would allow for data collected under previous IGPs to be used to obtain a waiver from sampling.

Response: The Department acknowledges this comment and understands the position of the commenter; however, the Department believes two consecutive annual samples (2 samples) are inadequate to demonstrate continual compliance with the benchmark values in Part 3.4. It is the Department's position that parameter benchmark monitoring data is useful information for facility staff to determine the overall effectiveness of BMPs and control measures in controlling the discharge of pollutants to the environment and assist the facility in knowing when additional corrective action(s) may be necessary. If monitoring has not occurred within the last year, the Department believes that the facility cannot demonstrate the BMPs are still properly functioning and controlling the discharge of pollutants to the environment. While sampling waivers are not required by state

or federal law; a sampling waiver is already available under Part 3.9.2 of the permit that states:

Sampling Waiver. If a parameter is assigned to the facility per Part 3.4, the permittee may request in writing for sampling for that parameter to be waived. Adequate justification or data must be provided to the Department indicating as to why the assigned characteristic is not present at levels that would adversely affect the environment. The Department will review the request and all available information and provide a decision via correspondence.

The Department believes that this section adequately addresses the need for sampling waivers and declines to add any additional waivers to the 2014 IGP.

Comment 13 Non-Numeric Technology-Based Effluent Limits (Part 3.1)

The inclusion of the Non-Numeric Technology-Based Effluent Limits (hereinafter Non-Numeric Limits) as proposed has the potential to be problematic on a number of levels. Historically, these are Best Management Practices (BMPs) used as guides for review and incorporation as appropriate into a facility's Storm Water Pollution Prevention Plan (SWPPP). Most of these Non-Numeric Limits were required to be incorporated into a facility's SWPPP; however, required implementation of *all* Non-Numeric Limits by *all* facilities is problematic, as not all facilities will have activities for which the Non-Numeric Limits apply. It is recommended that language be included that would make these limits apply only for dischargers with conditions that would warrant such limits. Also, by changing these BMPs to Non-Numeric Limits, there is the potential for very subjective or inconsistent permit inspections, impossible compliance, and stronger enforcement actions.

The Non-Numeric Limits should not be listed as actual permit limits, but should remain as mandatory sections of the SWPPP.

Furthermore, Part 4 of the draft permit which deals with SWPPP's conflicts with the requirements in Section 3.1 that makes BMP's mandatory.

Response: The Department disagrees that Part 4 and Part 3.1 are contradictory. The Department believes it should be noted that the following text appeared in the introductory paragraph of Part 4 of the 2009 IGP:

Required elements of the SWPPP, implemented in the form of Best Management Practices (BMPs) in lieu of numerical limitations, are considered to be technology-based non-numeric limits based on 40 CFR 122.44(K)(3).

Therefore, the BMPs as implemented in the 2009 IGP were already technology-based non-numeric limits. The Department believes that the implementation of Part 3.1 should be clarified and many of the comments received regarding confusing or subjective language used in Part 3.1 have merit; the above quote has been reincorporated into the introductory paragraph of Part 4 of the 2014 IGP.

The title of Part 3 and the introductory paragraph in Part 3.1 have been changed to read:

**PART 3: BEST MANAGEMENT PRACTICES,
LIMITATIONS, AND MONITORING REQUIREMENTS**

3.1 Best Management Practices. All facilities must comply with the following Best Management Practices (BMPs). Parts 3.1.1 through 3.1.11 are considered part of every facility's Stormwater Pollution Prevention Plan (SWPPP) unless the permittee has incorporated into the SWPPP adequate justification or data indicating why the BMP does not apply to the facility or the facility's stormwater discharges. BMPs are primarily to be used by the facility as the factors to consider when attempting to prevent pollutants from leaving the facility via stormwater exposed to industrial activities.

The Department believes these changes will help permittees implement the BMPs at their site better and make the intent of Part 3.1 show better than the previous language. Additional sections of the permit were revised to be consistent with this language.

Comment 14 Waste, Garbage and Floatable Debris (Part 3.1.10)

Part 3.1.10 states:

Waste, Garbage and Floatable Debris. The operator must ensure that waste, garbage, and floatable debris are not discharged to receiving waters by keeping exposed areas free of such materials or by intercepting them before they are discharged.

As written, this section makes it a permit violation to have anything leave the site, including such things as cigarette butts and food wrappers and any similar items that might happen to be released/thrown away on-site.

So, if one small item gets off-site, it is a permit violation. Usually storm water BMPs contain some methodology for compliance without an absolute prohibition on the discharge or its pollutants.

EPA is proposing to eliminate as a stand-alone technology limit for waste, garbage and floatable debris and move it into the good housekeeping technology limit. In addition, EPA is proposing to modify the language associated with the waste, garbage and floatable debris requirement to read:

Ensure that waste, garbage, and floatable debris are not discharged to receiving waters by keeping exposed areas free of such materials or by intercepting them before they are discharged.

Response: The Department agrees with the position of the commenter that this BMP could be interpreted in a way that any waste, garbage, or floatable debris leaving the site is a permit violation; however, the Department disagrees that this condition needs to be changed. The Department disagrees that it is necessary to incorporate this item into Good Housekeeping. It is not the Department's intent to issue a violation for each piece of garbage, but facilities must be vigilant in order to prevent the discharge of solids wastes.

Part 3.1.10 already reflects the language suggested, no changes will be made to this condition in response to this comment.

Comment 15 Non-Numeric Technology-Based Effluent Limits & Non-Compliance Notification (Parts 3.1 and 7.23)

Most general permits allow a facility via periodic inspections to discover an issue with its SWPPP and associated BMPs and make corrections/alleviate the situation within a defined number of days or weeks after discovery. If the corrections are made within the allotted timeframe specified in the permit, then these issues are not normally considered permit violations. In addition, most state permits did not require notification to the State of such issues – they normally are to be documented in the SWPPP - along with their associated corrective actions – and the SWPPP is available for agency on-site review. Now not only are they to be documented in the SWPPP, but must be reported independently to the agency. Part 7.23, Non-compliance Notification on page 39 requires notification to the agency if the permittee is unable to comply with any of the terms or conditions of this permit that could result in the discharge of pollutants in a significant amount. The key word is “could” with respect to now classifying these BMPs as non-numeric effluent limits. Alcoa is not sure there would be a legal defense to not complying with any of the now non-numeric BMP effluent limits and having said noncompliance not meet the “could result in the discharge of pollutants in significant amounts” threshold. In other words, every instance of not complying

with a non-numeric effluent limit will most likely trigger the need for non-compliance notification.

Response: The same non-compliance notification was included in Part 6.23 of the 2009 IGP; this condition is not unique to the 2014 IGP. The Department believes that the language “In the event the Permittee is unable to comply with any of the terms and conditions of this permit that could result in the discharge of pollutants in a significant amount[...]" is both clear in intent and protective of water quality. For example, if the permittee finds that they are not complying with a recordkeeping requirement, this would not result in the discharge of pollutants in a significant amount, and so a non-compliance notification would not be necessary. In another example, a BMP is found to be not in working order, but there has been a drought and rainfall is not expected until after the BMP can be repaired. Again, a non-compliance notification would not be necessary, as this would not result in the discharge of pollutants in a significant amount.

The Department does not believe that every instance of not complying with conditions in Part 3.1 would trigger a non-compliance notification from Part 7.23.

See also response to Comment 14.

Comment 16 Non-Numeric Technology-Based Effluent Limits (Part 3.1)

ADEQ should provide greater detail on why the BMP-related provisions of the SWPPP were incorporated in the new permit as Non-Numeric Limits. The Fact Sheet provides little guidance on why this change was required, as there is no guidance on what led ADEQ to conclude that operators need to “implement these practices more thoroughly.” The Department cannot implement new effluent limitations without proper regulatory authorization/justification.

The Non-Numeric Limits should be removed.

Response: The Department has changed the language of Part 3.1 and the Fact Sheet to address the Non-Numeric Effluent Limits and change the language to Best Management Practices.

See also response to Comment 13.

Comment 17 Non-Numeric Technology-Based Effluent Limits & Benchmark Monitoring (Parts 3.1 and 3.6)

In the previous permit, permittees/operators were required to conduct Parameter Benchmark Monitoring to evaluate the effectiveness of BMPs and control measures. Accordingly ADEQ should have five years of sampling data reflecting

the efficacy of various BMPs which could be utilized in assessing current practices. Does this data justify the inclusion of new non-numeric effluent limitations? If so, which particular industries and BMPs were deficient such that ADEQ saw it necessary to create the new non-numeric effluent limits? The inclusion of the new non-numeric effluent limits is especially curious since ADEQ has seen fit to reduce monitoring from bi-annual to annual in the new permit (Condition 3.6) which would seem to indicate that existing practices are sufficient.

Why are additional limitations being added to the permit when monitoring data showed compliance with existing permit requirements?

Response: Nine of the eleven Best Management Practices (BMPs) included in Part 3.1 were already included in the 2009 IGP as SWPPP sections. The inclusion of these BMPs as a separate section was not done due to benchmark monitoring results, nor does the Department believe that benchmark monitoring can be correlated by the Department to specific BMPs. Individual facilities can use the results of benchmark monitoring to determine whether the BMPs implemented at their facility are effective at reducing pollutants in the stormwater discharge.

See also responses to Comments 10 and 13.

Comment 18 Non-Numeric Technology-Based Effluent Limits (Part 3.1)

Part 3.1 uses the term “minimize” throughout the section. The draft permit does not provide a meaning for the word “minimize.”

EPA’s Multi-Sector General Permit (MSGP) attempts to address the Non-Numeric Effluent Limitations compliance issue by including the following at the beginning of its section on control measures and technology effluent limits:

In the technology-based limits included in Parts 2.1 and 8 [of the MSGP], the term “minimize” means reduce and/or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.

Similar language should be added in either Part 3.1 or as a definition in Part 8 of the general permit.

Response: The Department agrees with the position of the commenter that the word “minimize” should be defined. Per suggestion from the commenter, the Department will adapt the definition from EPA’s Multi-Sector General Permit

(MSGP), which states:

Control Measures and Effluent Limits.

In the technology-based limits included in Part 2.1 [of the MSGP] and in Part 8 [of the MSGP], the term “minimize” means reduce or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.

The Department has added the definition of “minimize” to Part 8 as listed below:

“Minimize” means to reduce or eliminate to the extent achievable using control measures (including best management practices) that are technologically available and economically practicable and achievable in light of best industry practice.

The Department believes by implementing this definition of “minimize,” the intent of Part 3.1 becomes clearer. It is the Department’s intent to require facilities to implement the best controls that are technologically available, but the Department acknowledges that they must be economically practicable and feasible to implement at the facility.

Comment 19 It is recommended that ADEQ review the proposed changes to the technology limits EPA is proposing for its renewal 2013 MSGP and incorporate similar language changes to its technology limits. EPA has had 5 years’ experience with similar industrial storm water permit technology limits and ADEQ would be well-served to incorporate EPA’s changes based on this experience.

Response: The Department understands the position of the commenter; however, the EPA’s 2013 MSGP is in its initial draft stages. The EPA is likely to remove or revise considerable portions of the MSGP in the final version in response to public comments. The final version of the EPA’s 2008 MSGP was used to draft some changes to the 2014 IGP, which the Department believes is superior to using a draft version 2013 MSGP. The final versions of the EPA’s MSGPs are typically used in drafting ADEQ’s IGP renewals.

Comment 20 The term “permittee” and “operator” are used interchangeably throughout the permit. “Operator” is defined in Part 8.20. We request the consistent use of one term throughout the permit. If both of the above terms are used, we request that a definition for “permittee” be added to Part 8 of the Permit.

Response: The Department has added the following definition of “Permittee” to the permit, but please note that the Department views the terms “Permittee” and “Operator” to be interchangeable:

"Permittee" for the purpose of this permit is any entity or individual which has obtained coverage under the Industrial Stormwater General Permit.

Comment 21 Eligibility (Part 1.4)

Part 1.4.3 discusses eligible storm water discharges that are subject national storm water-specific effluent limitations guidelines. We request that mine dewater discharges at crushed stone, construction sand and gravel, or industrial sand mining facilities, which are governed under 40CFR436 Subparts B,C, and D, be added to the Permit. This type of discharge is allowed under the 2008 MSGP.

Response: The Department has not incorporated the Effluent Limitations Guidelines (ELGs) for: discharges resulting from spray down or intentional wetting of logs at wet deck storage areas (40 CFR 429, Subpart I); mine dewatering discharges at crushed stone, construction sand gravel, or industrial sand mining facilities (40 CFR 436, Subparts B, C, and D); or runoff from hazardous waste and non-hazardous waste landfills (40 CFR 445, Subparts A and B). ADEQ will permit the discharges subject to these ELGs either under individual NPDES permits or alternative general NPDES permits. However, stormwater discharges in contact with industrial processes at these facilities that are not subject to the ELGs could be eligible to be covered under ARR000000 (subject to all other exclusions and eligibility requirements). Part 1.8.4 excludes stormwater discharges subject to ELGs not listed in Part 1.4.3.

The Department believes that mine dewatering discharges are best permitted under the Aggregate Facilities General Permit, ARG500000, if the facility meets the eligibility requirements for that permit or under an individual NPDES permit.

Comment 22 Categories of Facilities Covered by this Permit (Part 1.5)

We request clarification on the difference between Industrial Sectors L1 and L2.

Response: Industrial Sub-Sector L1 is for Municipal Solid Waste Landfills (MSWLF) Areas Closed in Accordance with 40 CFR 258.60. Industrial Sub-Sector L2 is for All Landfill, Land Application Sites and Open Dumps, except Municipal Solid Waste Landfill (MSWLF) Areas Closed in Accordance with 40 CFR 258.60. The above determination was made in accordance with “L. Storm Water Discharges Associated With Industrial Activity From Landfills and Land Application Sites,” 60 Federal Register 189 (29 September 1995) pp. 50938-

50945. The table in Part 1.5 has been revised to be consistent with this response and the Department will review its records to ensure it is consistent with this determination.

Comment 23 Categories of Facilities Covered by this Permit (Part 1.5)

Per Part 8.2 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 reflect the point that coverage is only required if you have specific activities (maintenance shop, etc) onsite. We request that further clarification be added to these sectors.

Response: Many industrial sectors included in the 2014 IGP have eligibility restrictions listed in 40 CFR 122.26. The Department has added the following language to Part 1.5 to clarify that not all of the eligibility requirements will be listed in the permit itself:

Some Industrial Sectors have additional eligibility requirements that must be met before permit coverage is required. Please refer to 40 CFR 122.26(b)(14)(i-ix, xi) for full sector activity descriptions.

Comment 24 Submitting a Notice of Termination (Part 2.7.1)

Part 2.7.1 states:

Submitting a Notice of Termination. To terminate permit coverage, the permittee must submit a complete and accurate Notice of Termination (NOT). A Notice of Termination form may be obtained from the ADEQ website at: www.adeq.state.ar.us. The permittee is responsible for meeting the terms of this permit until the acceptance of the termination of authorization by the Department.

The language “until acceptance of the termination of authorization by the Department” is confusing. We request clarification on this language.

Response: The submission of a Notice of Termination (NOT) does not automatically terminate the permit coverage. The Department may disagree with

a permittee that the facility is eligible for termination of permit coverage at the time of submission of an NOT. Therefore, the permittee is responsible for meeting the terms of the permit until written notification of acceptance of the NOT is received by the permittee. Part 2.7.1 has been revised as follows to clarify:

Submitting a Notice of Termination. To terminate permit coverage, the permittee must submit a complete and accurate Notice of Termination (NOT). A Notice of Termination form may be obtained from the ADEQ website at: www.adeq.state.ar.us. The permittee is responsible for meeting the terms of this permit until receipt of written acceptance of the termination of authorization by the Department.

Comment 25 Non-Numeric Technology-Based Effluent Limits (Part 3.1)

Part 4.1.2 of the Fact Sheet states “By changing these sections to non-numeric effluent limitations, the Department is emphasizing the implementation of these items. The Department believes that by having these BMP’s as effluent limitations, the facilities will implement these practices more thoroughly....”

No matter which section of the permit (limitations or SWPPP section) the BMP’s are located, they are enforceable all the same. Monitoring data has shown that most facilities are implementing these practices thoroughly. What basis/information does the Department have that points toward the fact that facilities are not implementing BMP’s thoroughly?

Response: The justification in the Fact Sheet stated that the Department believes facilities will implement these practices **more** thoroughly. In 2012, approximately 1,826 parameter benchmark exceedances were reported to the Department on facilities’ Discharge Monitoring Reports. Emphasizing these Best Management Practices by separating them from the Stormwater Pollution Prevention Plan section will hopefully encourage facilities to pay attention to the numerous practices that could help them achieve better sampling results.

Please note that while parameter benchmark exceedances are not violations based on Part 3.1, improper implementation of Best Management Practices (BMPs) or using ineffective BMPs are violations.

Comment 26 Parameter Benchmark Monitoring (Part 3.4)

The sector description was removed from the table in the Draft Permit. We request that the sector description be added back into the table. The table is easier to utilize when the sector description is provided in the table.

Response: Due to the addition of the columns for frequency and sample type to the table in Part 3.4, there was no longer room for all of the columns from the 2009 IGP's parameter benchmark monitoring table with the permit being in portrait page layout orientation. Since the sector descriptions are available in the table in Part 1.5 (Categories of Facilities Covered by this Permit), it was decided that the sector descriptions could be removed without loss of meaning in the permit.

A separate table in landscape orientation has been made available on the Department's website that has all of the columns in Part 3.4 plus the sector descriptions.

Comment 27 Chemical Oxygen Demand (COD) and Oil and Grease (O&G) were removed from the four basic parameters and added to individual sectors based on a statistical analysis of data available from the current permit cycle. There were three limiting factors used to determine which sectors would sample for COD or O&G:

- Top 5 industrial sectors for number of exceedances in 2012.
- Industrial sectors whose average exceeded 50% of the benchmark.
- Industrial sectors whose median exceeded 50% of the benchmark.

No justification was provided in the Fact Sheet for the basis for determining the limiting factors. The decision to take 50% of the benchmark seems to be arbitrary with no statistical basis. According to the calculations in Appendix B, some industrial sectors are required to continue sampling for a parameter because the sector average exceeded 50% of the benchmark but there were no exceedances of the benchmark in 2012. A sector should not have to continue to sample if there was no exceedance of the parameter benchmark value. We request:

- The basis for the three limiting factors be provided in the Fact Sheet and
- That sampling for a parameter should be removed from those sectors that did not have a benchmark exceedance of that parameter but the median or average exceeded 50% of the benchmark.

Response: The Department believes that there was adequate data from the 2009 IGP cycle to show some industrial sectors had little to no potential for exceedance of the benchmarks for Chemical Oxygen Demand (COD) and Oil & Grease (O&G). However, this is a general permit and all waters of the State must be protected. Therefore, in order to eliminate these parameters from sampling for some industrial sectors, criteria had to be set to determine which sectors still needed these parameters to be sampled based on which facilities had been confirmed to have COD and O&G in their stormwater discharges.

The Department believes that the factors chosen produced a conservative result, i.e., some industrial sectors for which COD and O&G may not be a problem will still be sampling for COD and O&G. It was decided to be conservative with this analysis in order to be the most protective of water quality. It was not acceptable for the Department to exclude from sampling some industrial sectors for which COD or O&G could potentially cause significant pollution to the waters of the State. Therefore, the Department decided that facilities with confirmed COD or O&G in their stormwater discharges should continue to monitor COD or O&G in order to ensure that the Best Management Practices implemented at these sites were effective at keeping these parameters below the benchmark values.

The Department decided upon three factors to determine which industrial sectors had confirmed amounts of COD or O&G and needed to maintain benchmark monitoring for these parameters:

1) The top 5 industrial sectors for number of exceedances in 2012

The Department believes that the number of exceedances should be a factor. If an industrial sector had benchmark exceedances for COD or O&G for 2012, this means some facilities in that industrial sector had difficulty meeting the benchmark and therefore need to continue monitoring based on confirmed high levels of COD or O&G. The Department believes that the top 5 industrial sectors for number of exceedances is a fair factor to consider.

Industrial Sectors Proposed to Sample COD in 2014 IGP	
Industrial Sector	No. of Exceedances 2012
A	76
B	8
C	19
I	8
L	6
M	9
N	35
P	41
Q	5
T	0
U	93
AD	8

Industrial Sectors Proposed to Sample O&G in 2014 IGP	
Industrial Sector	No. of Exceedances 2012
A	3
D	1
N	3
P	9
U	13
AA	3
AB	4

- 2) **Industrial sectors whose average value for 2012 exceeded 50% of the benchmark**
- 3) **Industrial sectors whose median value for 2012 exceeded 50% of the benchmark**

The Department believes that while some industrial sectors did not exceed the benchmark frequently in 2012, if the facility's data shows a value 50% or more of the benchmark, this confirms the presence of COD or O&G and the potential for pollutants to escape the facility in the stormwater discharge exists. Therefore, the Department is requiring all industrial sectors where the average value for COD or O&G for that sector exceeded 50% of the benchmark.

Industrial Sectors Proposed to Sample COD in 2014 IGP			
Industrial Sector	50% of Benchmark	Average 2012	Median 2012
A	60	145	80
B		71	39
C		92	53
I		79	49
L		83	66
M		61	40
N		125	59
P		67	44
Q		216	61
T		66	73
U		135	71
AD		95	48

Industrial Sectors Proposed to Sample O&G in 2014 IGP			
Industrial Sector	50% of Benchmark	Average 2012	Median 2012
A	7.5	5	5
D		11	3
N		5	3
P		5	3
U		6	4
AA		5	3
AB		4	3

The justification for factors chosen has been incorporated into the Fact Sheet.

There is only one industrial sector that had no exceedances for COD in 2012 that must sample for COD under the 2014 IGP. That industrial sector is T. There were no industrial sectors for O&G that did not have an exceedance, but have been chosen to sample under the 2014 IGP. Industrial sector T was still chosen to sample for COD despite not having any exceedances reported for 2012 as both the average and median exceeded 50% of the benchmark value. The Department believes this shows the presence of COD and the potential for pollutants leaving the site at these facilities. To be conservative, the Department has decided to continue sampling for COD for this industrial sector.

The Department believes that if facilities that keep the parameters monitored in their stormwater discharges below the benchmark values, then water quality will be protected. The Department has a duty to set requirements in the IGP to control the pollutants that the Director has determined may be discharged at a level which will cause or have the potential to cause or contribute to an excursion of a water

quality standard.

If a facility disagrees with the benchmark parameter monitoring assigned to them according to their industrial sector, there are two options available. The first is that they can obtain an individual NPDES permit, which can be tailored to their specific facility's industrial activities. Part 7.22.3 states that "Any operator covered by this General Permit may request to be excluded from the coverage by applying for an individual NPDES permit." The IGP must be as broadly applicable as possible, due to the nature of a general permit; therefore, some conditions are put on facilities that would not necessarily need them, in order for the Department to be protective of water quality for other facilities under the general permit. A facility can always opt to be covered under an individual NPDES permit instead, which would have limitations and conditions based on their specific facility. The second option for facilities that disagree with their benchmark parameter monitoring is to apply for a sampling waiver under Part 3.9.2. Part 3.9.2 of the permit contains a sampling waiver for facilities if they feel a parameter that has been assigned to them would not be present at levels that would adversely affect the environment.

Comment 28 The statistical analysis was performed on a sector basis. Many of the industrial sectors contain multiple subsectors. It is not equitable to make all subsectors continue to sample if one of those subsectors did not contribute to the exceedances of a benchmark value for the sector. We request that the statistical analysis be performed on a sub-sector basis.

Response: The Department believes aggregating the data for sectors is appropriate, as it gives a broad picture of how an entire industry segment is performing. Part 3.9.2 of the permit contains a sampling waiver for facilities if they feel a parameter that has been assigned to them would not be present at levels that would adversely affect the environment. Facilities also have the option of obtaining an individual NPDES permit under Part 7.22.3.

Comment 29 Part 3.12.1 discusses Corrective Action Plan requirements. The last sentence of the third paragraph states, "This documentation must be included in an annual report and copy retained onsite with the SWPPP." The first portion of the sentence appears to be no longer valid. The requirement to complete and submit an annual report was removed from the draft permit. We request that the first portion of the above referenced sentence be removed.

Response: Part 3.12.1 has been revised to reflect the phrase "Stormwater Annual Report" rather than "annual report" to alleviate any confusion. Corrective Action Plans are required to be documented as part of the facility's Stormwater Annual Report (SWAR). Part 5.2.4 of the permit describes the information to be documented on the facility's SWAR. Part 5.2.4.4 requires, "A summary of any

corrective action plans written under 3.12.1, including the status of any corrective actions not yet completed at the time of submittal of the SWAR.”

Comment 30 The draft permit requires multiple types of records be incorporated into the SWPPP (i.e. spill log, training records, inspection records, maintenance activities, etc). Most industries keep track of these types of records electronically. We request that these records be able to be kept electronically and made available upon request

Response: The Department agrees that records should be allowed to be kept electronically and has added the following language to Part 5.2.1 (Records):

These records can be kept electronically if all permit recordkeeping requirements are met, such as record retention, availability of records, and signatory requirements. If electronic records are kept, information regarding where the records can be accessed must be included in the facility’s SWPPP.

Comment 31 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. This part also states that the Department will audit a percentage of permittees every year to ensure compliance.

Per Part 4.1.6 of the Fact Sheet, the removal of the required submittal of the Annual Report and Discharge Monitor Report was to reduce the burden on Department resources. The requirement to complete the SWAR and maintain it with the SWPPP is pointless and puts an additional burden on the permittee. The Comprehensive Site Compliance Evaluation (Part 5.1.2) documents very similar information; we request either the Comprehensive Site Compliance Evaluation documentation or the proposed SWAR language be deleted from the proposed permit. If ADEQ wishes to keep the SWAR in lieu of the Comprehensive Site Compliance Evaluation documentation, it is requested that ADEQ publish a copy of the SWAR for comment.

If both requirements are kept in the permit, in lieu of requiring all facilities covered under the permit to fill out the SWAR every year, we suggest the following:

Once the Department determines who would be audited in a given time, the SWAR form would be sent to those chosen facilities. The Department would provide the facility with a deadline for completion and submittal back to the Department.

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

Response: The Department acknowledges this comment and understands the position of the commenter; however, the Comprehensive Site Compliance Evaluation documentation requirements (Part 5.1.2) are significantly different than the SWAR requirements (Part 5.2.4). The SWAR in its basic form is a one page form that summarizes the benchmark parameter sampling and Corrective Action Plans for the facility that year. Additional Corrective Action Plans or additional monitoring results beyond the basic annual sampling for pH and TSS will require additional pages. The Comprehensive Site Compliance Evaluation documentation is a more thorough document that details the annual inspection of the facility, including: “summarizing the scope of the inspection, personnel making the inspection, date(s) of the inspection, major observations relating to the implementation of the SWPPP, and actions taken[...]” These two reports are not similar enough to combine. The Department has published a copy of the SWAR form on its website for review. Any comments regarding the requirements listed and their applicability to permitting requirements will be taken into consideration.

In reference to the suggested change allowing the facility to only complete the SWAR form when specifically requested by the Department, the SWAR document would not only be needed by the Department staff when requested, but also needs to be available during routine inspections. The ADEQ inspections staff needs to be able to look over the permittee’s records in a timely fashion. Having the SWAR form prepared and kept with the SWPPP will facilitate a more expedient inspection, as the inspector will have all the needed information gathered into one document. Having all facilities filling out the same form will also save time during inspections as the inspector will be able to have the information in the same format each time. The Department will not make the suggested changes.

Comment 32 Additional time may be needed for permittees to come into compliance with the new permit.

ADEQ intends to issue the new permit on January 1, 2014 and the permit is to become effective July 1, 2014. Should issuance of the permit be delayed for any reason beyond the anticipated issuance date of December 31, 2013, then existing permittees should be given six months from the issuance of the permit to come into compliance with the permit to allow for the original six-month window in which to submit NOIs and revise SWPPPs.

Response: The Department is required to issue the permit by January 1, 2014 and therefore believes additional time is not necessary for permittees to come into compliance with the new permit before it is effective on July 1, 2014.

Comment 33 ADEQ needs to take into account active and unstaffed facilities in Section 3.9 Exceptions to Monitoring Requirements.

Inactive and unstaffed facilities are exempt from monitoring in the proposed permit (see Section 3.9.1). ADEQ needs to also include active and unstaffed facilities to this category.

AECC operates facilities that are active but unmanned. These facilities are designed to be operated remotely. Since they are unmanned, employees must be sent from a manned facility to take storm water samples.

The best example is AECC's Elkins Generating Station. This facility is operational but unstaffed and is permitted under the current IGP. In order to meet the monitoring requirements of the current IGP, AECC has to dispatch personnel from our Fitzhugh plant near Ozark, Arkansas to Elkins, Arkansas just to take a storm water sample.

The employee at Ozark must drive north for approximately 25 miles on Highway 23 – a very narrow and curvy road through the Ozark Mountains – and then 16 miles west on Highway 16 – another curvy road – to get to Elkins. Of course, since the sample must be taken during a storm water discharge event, it's very likely that this drive must be made during a rain event. AECC believes this is a very unnecessary safety risk just to take a storm water sample of a facility that has passive BMPs in place to prevent storm water pollution. (This facility has ditches that lead to a storm water retention pond.)

After the 2009 IGP became effective, AECC submitted a letter to ADEQ dated February 22, 2011 requesting that the Elkins plant be exempt from performing storm water sampling because it was unmanned. ADEQ responded in a letter dated February 28, 2011 that the exemption could not be granted because the plant was not both unmanned and inactive as it specifies in Section 3.8.1 of the 2009 IGP. (For convenience, copies of these letters are attached.)

So, AECC requests that ADEQ either adds a storm water monitoring exemption for active and unmanned facilities or that ADEQ simply exempts all unmanned facilities.

Response: The Department understands the position of the commenter; however, the Department does not believe a waiver for active and unstaffed sites can be implemented in this general permit. If a facility has a stormwater discharge associated with industrial activities as listed 40 CFR 122.26(b)(14), they must obtain a permit for their stormwater discharges. Allowing an active facility that is discharging stormwater associated with industrial activity would be in direct conflict with 40 CFR 122.26(b)(14).

If pollutant activities are occurring, the facility must comply with the conditions of the Industrial Stormwater General Permit, including the sampling requirements. One stormwater sample a year should not be a hardship on facilities that operate unmanned. Furthermore, the inactive and un-staffed waiver in Part 3.9.1 exists because the pollutant generating activities should not be occurring at the site under the inactive and un-staffed waiver. If pollutant generating activities are not occurring, it makes sense that a waiver of sampling can be issued and still be protective of water quality. However, allowing a permittee to have pollutant generating activities and a waiver of sampling is not protective of waters of the State.

Unmanned methods for sampling can be available, such as setting up an automatic sampler, which could be utilized for stormwater sampling at unstaffed sites. The facility should also look into the feasibility of making the site eligible for a No Exposure Exclusion. It is each facility's responsibility to determine how to comply with the sampling requirements of the permit if there is industrial activity at a site. No changes to the permit will be necessary in response to this comment.

Comment 34 The benchmark parameter value for iron should be raised.

Iron is the 4th most abundant element in earth's crust – it's everywhere. So, it's hard to meet the iron benchmark value of 1.0 mg/l in storm water runoff.

This is demonstrated by the fact that in 2012, out of 627 iron storm water sample results submitted to ADEQ in 2012, 247 – or about 40% - were above the benchmark value. (This information was taken from ADEQ's IGP presentation at the AEF Water Seminar on May 15, 2013.)

EPA's Quality Criteria for Water (1976) explains that the 1.0 mg/l benchmark value is derived from impacts to aquatic life. It justifies the value due to iron being toxic to trout at certain levels. Trout are cold-water fish that are present in only select locations in Arkansas. Trout are primarily stocked downstream of high-head dams where cold water is drawn off the deep, cold water of a lake (such as the Little Red River, and the Little Missouri River, and upper portions of the White River).

AECC requests that a higher iron benchmark be added to the IGP. The higher iron benchmark should be based on the data received by ADEQ – such as the 95th percentile or similar statistic.

Response: The Department believes that the 1.0 mg/L benchmark for iron is appropriate, based on the EPA's Quality Criteria for Water, July 1976 (PB-

263943) and EPA's Quality Criteria for Water, May 1986 (EPA 440/5-86-001). These documents are the basis for the parameter benchmark values in the EPA's Multi-Sector General Permit, from which the Department based its parameter benchmark values.

Facilities assigned to an industrial sector required to sample for iron have multiple options for compliance with this standard. The first is to implement all reasonable Best Management Practices to reduce iron in the runoff. Secondly, the permittee can attempt to justify why iron is not present at levels that would adversely affect the environment in accordance with Part 3.9.2, which could produce a sampling waiver for the iron parameter. Lastly, if the facility believes the conditions of the general permit not appropriate, there is always the option to obtain an individual NPDES permit.

The Department does not have adequate data to suggest what an appropriate benchmark for iron above 1.0 mg/L would be. The commenter did agree that the 1.0 mg/L may be appropriate in select locations in Arkansas where trout are present. Since this is a general permit, the limits and conditions must be as broadly applicable as possible.

Comment 35 Discharges into Receiving Waters with an Approved TMDL (Part 1.8.6)

FTN requests that the following sentence be added to Part 1.8.6.2 for clarification:

Where the pollutant(s) addressed in the TMDL is(are) not present in the discharge at levels that cause or contribute to an impairment in the receiving stream, the facility must document the pollutant levels in the discharge relative to those allocated in the TMDL.

Response: The Department understands the position of the commenter. Part 1.8.6.2 currently states:

if a specific numeric wasteload allocation has been established that would apply to the facility's discharges, the operator must incorporate that allocation into its SWPPP and implement necessary steps to meet that allocation.

If a facility has been assigned a wasteload allocation (WLA) by a TMDL, the facility must incorporate that allocation into their SWPPP. The EPA Region 6 office provided the Department an explanation of the approach that they view must be taken with respect to WLAs in TMDLs in an April 24, 2013 letter to the Department:

Approach for implementing TMDL WLAs in permits

We have contacted EPA HQ regarding ADEQ's approach for implementing TMDL WLAs in permits, and have received some guidance from them on how to address this issue. The regulations specify that if a TMDL has assigned a WLA to a permitted discharge, the discharge must be "consistent with the assumptions and requirements" of the WLA (40 CFR 122.44(d)(1)(vii)(B)). Thus, it is not acceptable, for a given pollutant of concern, to compare the facility's effluent to the WLA; assess the reasonable likelihood of exceeding the WLA, and then preclude the facility from permit limits when there is no likelihood to exceed the WLA. Where applicable, ADEQ may explain in the fact sheet that it is believed the discharger is meeting the WLA. However, the WLA must still be included as a limit in the permit. If there is concern that the WLA would provide a discharger authorization to increase its discharge load of the pollutant of concern, it would be appropriate to establish a lower effluent limit that allowed by the WLA.

From this explanation from EPA Region 6, the suggested language cannot be implemented, as it would allow facilities to bypass the requirement to include the WLA as an enforceable part of their permitting requirements.

Comment 36 Non-Numeric Technology-Based Effluent Limits (Part 3.1)

It is not clear how the language in Conditions 3.1.1 through 3.1.11 will be applied and enforced against permittees in different sectors. ADEQ should provide a more detailed justification for why the non-numeric technology-based effluent limits are necessary, as well as more detail on how they would be applied and enforced, as different industries may have different appropriate BMPs and housekeeping procedures.

Non-numeric limitations are perplexing. With numeric limitations, you have enforceable criteria that a facility can readily distinguish. With the use of Best Management Practices as non-numeric limitations, there are no specific criteria to determine if the limitation is being met. BMP's and their implementation differ from industry to industry and site to site. How will these non-numeric limitations

be consistently enforced across varying industries?

Ultimately the non-numeric technology based effluent limits should be removed from the permit.

Response: Language has been added to the permit allowing permittees to justify why certain Best Management Practices in Part 3.1.1 through 3.1.11 do not apply to their facility (see response to Comment 13) and the following clarification has been added to Part 3.1 in response to Comment 13:

BMPs are primarily to be used by the facility as the factors to consider when attempting to prevent pollutants from leaving the facility via stormwater exposed to industrial activities.

The Department believes that the changes made in response to Comment 13 and 18 have clarified how the Department intends to approach enforcement of Part 3.1.

Comment 37 Non-Numeric Technology-Based Effluent Limits (Part 3.1)

The AEF and Tyson are adamantly opposed to the inclusion of BMP's as non-numeric permit conditions. Including BMP's as permit conditions creates very subjective permit requirements that:

1. May or may not be applicable to every given situation;
2. Are open to different interpretations by the permittee, the permitting authority, and the inspector;
3. Creates an un-reasonable standard for regulated community by mandating such things as "all" exposed areas, "all" industrial equipment, "all" control measures, and "must" take all manner of actions.
4. Removes any discretion by the permittee to select the most practical, cost effective steps to consider, construct, and/or implement to control stormwater from any facility covered by this permit.

Response: The Department acknowledges this comment. The Department believes this comment is addressed in previous responses. Please see responses to Comments 13 (Non-Numeric Limits section changes), 17 (benchmarks cannot be correlated to specific BMPs), and 18 (define "minimize").

Comment 38 Non-Numeric Technology-Based Effluent Limits (Part 3.1)

FTN requests that Part 3.1 be renamed from "Non-Numeric Technology Based Effluent Limits" to "Best Management Practices Guidelines". Given their subjective nature, classifying the listed requirements as "limits" is problematic.

Some of the terminology could be interpreted to establish a compliance threshold that is impossible to achieve. Furthermore, the requirement to “minimize” pollutants contradicts other sections of the IGP (e.g. Part 3.4 and 3.10) that define allowable discharge pollutant concentrations. Renaming this section would imply that the requirements are goals that the permittee should strive to achieve rather than limits that must be achieved.

Response: The Department has renamed Part 3.1 Best Management Practices. Please see response to Comment 13 for discussion regarding the changes to Part 3.1.

The Department has defined the word “minimize;” please see response to Comment 18.

Comment 39 Non-Numeric Technology-Based Effluent Limits (Part 3.1)

FTN requests that the phrase “to reasonable extent practicable” be included after “minimize” or “The operator must” in the following sections: Part 3.1.1, Part 3.1.4, Part 3.1.10, and Part 3.1.11. This phrase conveys that the permittee must take reasonable and practicable measures to comply rather than “any and all” measures as implied by the current requirement.

Response: The Department agrees with the position of the commenter; however, the Department believes that defining the word “minimize” (see response to Comment 18) achieves the same end as adding the suggested wording, as each of the four cited sections uses the word “minimize.” The definition includes the language “[...]using control measures (including Best Management Practices) that are technologically available and economically practicable and achievable in light of best industry practice,” which is comparable to the phrase “to reasonable extent practicable.”

Comment 40 Water Quality Standards (Part 3.2)

In the first sentence, FTN requests that the phrase “to reasonable extent practicable and” be included after “must be controlled”. See Comment 39 for rationale.

Response: The Department disagrees with the commenter. The exceedance of water quality standards cannot be allowed. Permittees must control their stormwater discharges through adequate BMPs so as to meet applicable water quality standards. By adding the phrase “to reasonable extent practicable,” the Department would allow permittees to not meet water quality standards if it was documented that they made an effort to comply, which is not the intent of this condition.

Comment 41 Minimize Exposure (Part 3.1.1)

Part 3.1.1 states:

Minimize Exposure. The operator must minimize the exposure of manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings (although significant enlargement of impervious surface area is not recommended). [...]

FTN requests that the phrase “potential pollutant sources of concern in” should be added to the first sentence after “the exposure of”. As currently worded, the requirement is open-ended and applicable to all manufacturing, processing, and material storage areas regardless of whether these areas contain a pollutant of concern.

Response: The Department has revised Part 3.1.1 as follows:

Minimize Exposure. The operator must take actions as appropriate to minimize the exposure of potential sources of pollutants in the manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings (although significant enlargement of impervious surface area is not recommended). [...]

While this does not exactly match the revisions requested, the Department believes that this addresses the commenter’s concerns. This condition was also further revised by response to Comment 61.

Comment 42 Minimize Exposure (Part 3.1.1)

The revised (per Comment 41) Part 3.1.1 states:

Minimize Exposure. The operator must minimize the exposure of potential sources of pollutants in the manufacturing, processing, and material storage areas (including loading and unloading, storage, disposal, cleaning, maintenance, and fueling operations) to

rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings (although significant enlargement of impervious surface area is not recommended). In minimizing exposure, the operator should pay particular attention to the following: [...]

FTN requests that the phrase “when potential pollutant sources are exposed to stormwater” be added to the end of the second sentence.

Response: The Department disagrees with the revisions as requested. If potential pollutant sources are not exposed to stormwater, then there is no need to “minimize exposure” of pollutant sources that are not exposed. The Department believes that the requested revision does not provide any additional meaning to the condition.

Comment 43 Minimize Exposure (Part 3.1.1)

Part 3.1.1 states:

[...] Note: Industrial materials do not need to be enclosed or covered if stormwater runoff from affected areas will not be discharged to receiving waters or if discharges are authorized under another NPDES permit.

FTN requests that the phrase “are not potential pollutant sources,” be added after “discharged to receiving waters,” in the last sentence of this section.

Response: The Department disagrees with the revisions as requested. The note at the end of Part 3.1.1 is giving notice to the permittee that they do not have to minimize exposure of industrial activities to stormwater if the runoff is (a) not discharged to receiving waters; or (b) discharged under another NPDES permit. In both of these cases, the Department does not agree that “[the discharges] are not potential pollutant sources” needs to be addressed. In case (a), any pollutants in the stormwater from exposure to industrial activities will not reach a receiving water and is therefore not contributing pollution to waters of the State. In case (b), another NPDES permit is involved. It is assumed under this case that the limits and conditions in the other NPDES permit will take precedence over this general permit.

Comment 44 Good Housekeeping & Maintenance (Parts 3.1.2 and 3.1.3)

FTN requests that the phrase “incorporate good housekeeping practices in an effort to” be added after “The operator must” in Part 3.1.2.

Furthermore, FTN requests that “all” be deleted from both 3.1.2 and 3.1.3.

The permit contains terms such as “minimize”, “clean”, “any”, and “all” that, when interpreted literally, establish a compliance threshold that is impossible to achieve. These terms should be defined in the permit with consideration towards a reasonable or practicable level of effort to comply. Without a clear definition of compliance, the permittee and/or ADEQ face(s) potential third-party litigation for failure to comply with a selective interpretation of permit requirements and/or for failure to adequately enforce permit requirements.

Response: The Department has incorporated the phrase “incorporate good housekeeping practices in an effort to” as requested in Part 3.1.2.

Removing of the term “all” implies that the word “some” is in its place. The Department disagrees that the permittee should “inspect, maintain, and repair some industrial equipment” or that the “operator must keep clean some exposed areas that are potential sources of pollutants.” The term all is used to say all parts of the facility must be considered when implementing these Best Management Practices. The Department is not making the requested change to remove “all” from Parts 3.1.2 and 3.1.3.

Comment 45 Parameter Benchmark Monitoring (Part 3.4)

The table in Part 3.4 is partially reproduced below:

Effluent Characteristics	Parameter Benchmark Value		Monitoring Requirements	
	Maximum Concentration		Frequency	Sample Type
pH	<u>Minimum</u> 6.0 S.U.	<u>Maximum</u> 9.0 S.U.	once/year	grab
Total Suspended Solids (TSS)	100 mg/L		once/year	grab
In addition to the above effluent characteristics, the following effluent characteristics, which are based on the Industrial Sub-Sectors as defined in Part 1.5, must also be monitored. (Please note that not all Sub-Sectors listed in Part 1.5 have additional characteristics. If the Industrial Sub-Sector is not listed below, only the above effluent characteristics are required.)				

FTN requests that the subheading “Maximum Concentration” be removed. The table contains benchmark concentrations that the permittee should strive to achieve and not permit limitations. The “Maximum Concentration” heading implies a permit limitation or a value that can never be exceeded.

Response: The Department acknowledges this comment; however, the term “Maximum Concentration” does not imply that this is an effluent limit. The words “Parameter Benchmark Value” always appear above the words “Maximum Concentration,” so the Department believes this term is not confusing. Removal of this phrase would be troublesome, as then the intent of the numbers would not be clear; the Parameter Benchmark Values could be Minimum Concentrations, Averages, Medians, or any type of restriction. The term “Maximum Concentration” explains the goal of the Benchmark Parameter Values, which is to give permittees a ceiling which they should strive not to reach.

Comment 46 Non-Stormwater Discharges (Part 4.2.4.4)

The second paragraph of Part 4.2.4.4 starts:

The SWPPP shall also include a certification that the discharge has been tested or evaluated for the presence of illicit non-stormwater discharges and that all unauthorized discharges have been eliminated. [...]

FTN requests that “identified” be added after “all unauthorized discharges.” The permittee is required to make a reasonable effort to identify unauthorized discharges. However, some unauthorized discharges may not be detected because they were not occurring at the time of evaluation. A permittee cannot ensure that “all unauthorized discharges” will be eliminated if this also includes those unauthorized discharges of which they are not aware. The revised wording clarifies the responsibility of the permittee to eliminate only those unauthorized discharges that have been identified.

Response: The Department agrees with the position of the commenter and has made the following revision to Part 4.2.4.4:

The SWPPP shall also include a certification that the discharge has been tested or evaluated for the presence of illicit non-stormwater discharges and that all identified unauthorized discharges have been eliminated. [...]

Comment 47 Discharges into Impaired Receiving Waters (303(d) List) (Part 1.8.5)

FTN requests that the phrase “prevent to the maximum extent possible” be revised to “reduce to the maximum extent practicable”. As currently worded, the implication is that the permittee is expected to take any and all measures possible to prevent exposure to stormwater without regard for the practicality of those measures. The revised wording more accurately conveys the expectation that the

permittee make a reasonable effort to reduce exposure.

Response: The Department agrees with the position of the commenter that it is the intent of this condition for permittees to take all reasonable steps for reducing pollutants in their stormwater. However, the Department believes the emphasis should be on preventing the exposure of stormwater to pollutants, rather than reducing the pollutants. Part 1.8.5.2 has been revised to change “possible” to “practicable.” Please also note that this is an exclusion to the permit and the Department reserves the right to require additional BMPs beyond what the facility may find practicable in order to cover the discharge under the IGP, rather than an individual NPDES permit or other permit. Part 4.2.7.1.2 (SWPPP documentation requirements of Part 1.8.5 and 1.8.6) has also been revised from “possible” to “practicable.”

Comment 48 Direct Discharges into an Extraordinary Resource Waters (ERW), Natural and Scenic Water Ways (NSW), or Ecological Sensitive Waterbodies (ESW) (Part 1.8.7)

Discharges determined will cause impairment or have reason to believe will compromise Water Quality Standards (Part 1.8.8)

Documentation of Permit Eligibility Related to the 303 (d) list (Impaired Water Bodies) and Total Maximum Daily Loads (TMDL) (Part 4.2.7.1)

Direct Discharges into an Extraordinary Resource Water (ERW), Natural and Scenic Waterway (NSW), or Ecologically Sensitive Waterbody (ESW) (Part 4.2.7.2)

Proposed language in Parts 1.8.7, 1.8.8, 4.2.7.1, and 4.2.7.2 states the ADEQ will require the use of “additional BMPs needed to the maximum extent possible” to minimize potential stormwater pollutants to these special waterbodies. AEP/SWEPCO is opposed to the use of the words, “...to the maximum extent possible...” because this can be construed to mean that cost is not a concern. AEP/SWEPCO requests this language be modified to state:

...the permittee develop and incorporate into the SWPPP any reasonable steps needed to minimize possible pollutant exposure to stormwater to sufficiently protect water quality...

Response: The Department acknowledges this comment and understands the position of the commenter; however, these exclusions from coverage are made to protect Outstanding Resource Waters as identified in APC&EC Regulation No. 2 or if it has been determined that a discharge could cause degradation to water quality standards, then the Department has a duty to ensure a facility will prevent

exposure of pollutants to stormwater. The inclusion of language that allows facilities to obtain coverage under the general permit while directly discharging to an Outstanding Resource Water or impaired body was made with the intent that permittees must make significant effort to protect water quality in order to be considered for coverage. Therefore, the Department believes it is inappropriate to dilute the language of this condition to allow permittees to make “reasonable steps” rather than “to the maximum extent.” The Department believes that the protection of ERWs, NSWs, and ESWs should be held to a very high standard and that discharges should not further impair those waterbodies listed on the 303(d) list or those which have TMDLs. APC&EC Regulation No. 2.203 makes it clear that the Department is to protect Outstanding Resource Waters through water quality controls, such as this permit exclusion.

In an effort to address that the Department understands cost can be a factor in implementation of stormwater controls, the language of Parts 1.8.7.1, 1.8.8.1, 4.2.7.1.2 and 4.2.7.2.2 have been changed from “to the maximum extent possible” to “to the maximum extent practicable.”

See also responses to Comments 39, 40, and 47.

Comment 49 Part 1.8.8 currently reads “**Discharges determined will cause impairment or have reason to believe will compromise Water Quality Standards.** Discharges from a facility into receiving waters which the Department has determined will cause an impairment or has reason to believe will compromise Water Quality Standards are not eligible for coverage under this permit unless:”

Suggest changing heading to read “**Discharges determined to cause impairment or will compromise Water Quality Standards.**”

Response: The Department understands the position of the commenter; however, the current wording suggests a more proactive approach, where the permit excludes discharges with a determined potential to cause impairment. The commenter’s suggested wording implies that the discharge has already begun. The Department believes the best course of action is the prevention of potential impairment-causing discharges. The language will not be revised as suggested in order to exclude discharges of this type before they are authorized.

Comment 50 Minimize Exposure (Part 3.1.1)

Proposed language in this section states:

The operator must minimize the exposure of manufacturing processing, and material storage areas...to rain, snow, snowmelt, and runoff by either locating these industrial materials and

activities inside or protecting them with storm resistant coverings...

AEP/SWEPCO is opposed to the change in this language which previously stated the facility should minimize these activities to stormwater. AEP/SWEPCO conducts many outdoor-related activities and may on occasion, temporarily store quantities of materials outdoors where it is not economically practical to store them under cover. AEP/SWEPCO requests this language be changes to:

“The operator should minimize the exposure of manufacturing processing, and material storage areas...to rain, snow, snowmelt, and runoff by either locating these industrial materials and activities inside or protecting them with storm resistant coverings...”

Response: The Department acknowledges this comment and understands the position of the commenter; however, changing the word “must” to “should” significantly alters the meaning of this condition from a requirement to minimize exposure to a suggestion to minimize exposure. The Department does not agree with the suggested change, as it is less protective of water quality.

The Department believes that the language added in the definition of “minimize” addresses the commenter’s concerns regarding minimizing exposure being economically practical. The definition of “minimize” includes the language “[...] using control measures (including Best Management Practices) that are technologically available and economically practicable and achievable in light of best industry practice.”

Comment 51 Maintenance (Part 3.1.3)

Proposed language in this section states:

“The operator must regularly inspect, test, and repair all industrial equipment and systems to avoid situations that may result in leaks, spills, and other releases....”

AEP/SWEPCO is opposed to this language and requests it be changed to:

“The operator should regularly inspect, test, and repair all industrial equipment and systems to avoid situations that may result in leaks, spills, and other releases....”

Additional language states:

“...Nonstructural control measures must also be diligently maintained (e.g., spill response supplies available...”

AEP/SWEPCO is opposed to this language because it is far too restrictive and should be modified to state:

“...Nonstructural control measures should be maintained (e.g., spill response supplies available...”

Spill Prevention and Response Procedures (Part 3.1.4)

Language in this section states:

“The operator must minimize the potential for leak, spills and other releases that may be exposed to stormwater...”

AEP/SWEPCO is opposed to this language and requests this language be modified to:

“The operator should minimize the potential for leak, spills and other releases that may be exposed to stormwater...”

Dust Generation and Vehicle Tracking of Industrial Materials (Part 3.1.11)

Proposed language in this section states:

“The operator must minimize generation of dust and off-site tracking of raw, final, or waste materials.”

AEP/SWEPCO is opposed to this more restrictive language because our facilities take appropriate measures to minimize off-site tracking of materials. Additionally, generation of dust is regulated by the facility’s air permit issued by the ADEQ Air Division, and AEP/SWEPCO is opposed to additional vague dust-related regulations being required by the Water Division. Therefore, this should be revised to state:

“The operator should minimize generation of off-site tracking of raw, final, or waste materials.”

Response: The Department acknowledges this comment and understands the position of the commenter; however, changing the word “must” to “should” significantly alters the meaning of these conditions from requirements to suggestions. The Department does not agree with the revisions, as they would make the permit less protective of water quality.

Comment 52 Data Exceeding Benchmarks (Part 3.12.1)

New language in this section states that if a facility exceeds a benchmark, the facility will:

“...immediately [take] all reasonable steps necessary to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational...”

AEP/SWEPCO is opposed to this language because it is contradictory to the existing language which states the facility, “...shall investigate the cause and/or source of the elevated pollutant levels...” The purpose of this section is for a facility to identify the cause of the pollutant problem; a BMP cannot be immediately implemented if facility management is trying to identify the source of the problem. Therefore, AEP/SWEPCO requests the proposed language be deleted from the permit.

Response: While the Department disagrees with the commenter that the language should be deleted, it was determined that this condition should be clarified. It is the intention of this sentence to require the permittee to commence with any temporary measures if the cause of the impairment is obvious, such as a TSS benchmark exceedance being caused by un-swept areas of the facility. Part 3.12.1 has been revised to the following:

[...] The facility shall commence with the above process within 30 calendar days of the exceedance while immediately taking all readily apparent, reasonable steps necessary to minimize or prevent the discharge of pollutants until a permanent solution is installed and made operational, including cleaning up any contaminated surfaces so that the material will not discharge in subsequent storm events. [...]

Comment 53 Recordkeeping and Internal Reporting Procedures (Part 4.2.6.4)

Proposed language in this section states that records of maintenance activities shall be incorporated in the permit. AEP/SWEPCO requests deletion of the term, “maintenance activities” from this section of the permit. The term, “maintenance activities” is a very vague term and could include a very large number of maintenance activities and supporting documentation for our facilities that are not directly related to stormwater pollution prevention.

Response: The Department agrees that the term “maintenance activities” was not well defined in Part 4.2.6.4. The Department has revised this phrase to state,

“maintenance activities performed on control measures that are used in the implementation of the Best Management Practices or to achieve the effluent limits required by this permit shall be documented [...]”

Comment 54 SWPPP Updates (Part 4.5)

Proposed language in Section 4.5.4 indicates the SWPPP must be reviewed when a BMP was either not installed or is not working properly. Section 4.5.5 also states the SWPPP is to be reviewed if a visual assessment of a stormwater sample shows signs of potential pollution. AEP/SWEPCO requests this language be deleted from the permit because there can be extenuating circumstances whereby a BMP was damaged or pollutants occurred one time in the stormwater sample. For example, a 25 year 24-hour storm event can damage BMPs or sediment to be in a stormwater sample. This does not necessarily indicate the SWPPP needs to be reviewed.

Response: The Department acknowledges this comment and understands the position of the commenter; however, the SWPPP Updates section is for the express purpose of determining if and where revisions may be needed. The six triggers for a SWPPP Update in Parts 4.5.1 through 4.5.6 are to determine whether review of the SWPPP is necessary. Once the facility has reviewed the SWPPP, they are not required to make any changes.

The example given in the comment would possibly trigger an update in accordance with Part 4.5.5, “Visual assessments indicate obvious signs of stormwater pollution (e.g., color, odor, floating solids, settled solids, suspended solids, foam).” If a BMP was damaged causing pollutants to be discharged, the Department believes a review of the SWPPP should be performed, even if the storm was of unusual size. Upon review of the SWPPP, if it was determined that the existing BMP was the most practicable for minimizing pollutants in the stormwater for the facility, the review can be concluded without an update to the SWPPP.

Comment 55 Beaver Water District (BWD) requests that a conditional exclusion from coverage under the general permit be added to Part 1.8 for: **(1) discharges directly into actual drinking water supply lakes and reservoirs; (2) upstream discharges directly into an actual drinking water supply stream; (3) discharges directly into tributaries within a quarter mile of actual drinking water supply lakes and reservoirs; and (4) discharges directly into upstream tributaries within a quarter mile of an actual drinking water supply stream.** BWD believes that discharges into or generally within a quarter mile of drinking water supplies should be subject to either the scrutiny of the individual permit process or to conditional requirements such as those in Draft Permit, Parts 1.8.7.1 and 1.8.8.1 for a stormwater pollution prevention plan (SWPPP) with additional best

management practices (BMPs) and the possibility of additional requirements upon review by ADEQ.

If ADEQ is unwilling to add a conditional exclusion from coverage under the general permit for the four categories of discharges requested above, BWD asks that a conditional exclusion from coverage **at least be included for discharges directly into actual drinking water supply lakes and reservoirs.**

Response: Extraordinary Resource Waters (ERWs), Ecologically Sensitive Waterbodies (ESWs), and Natural and Scenic Waterways (NSWs) are listed as Outstanding Resource Waters by APC&EC Regulation 2.203 and in several instances, regulation may require that these waters have limits established on a case by case basis to protect the specific designation or species. This would result in additional studies and justification to determine a protective limit, which would be outside the scope of the General Permit. However, the limits established in Regulation 2 are specifically established to protect the Fishable/Swimmable and Domestic Water Supply designations. All limitations in the permit are consistent with APC&EC Regulation 2, and when more stringent, APC&EC Regulation 6. Therefore, the Department believes that additional protection is not necessary.

Comment 56 Employee Training (Part 3.1.8)

Part 3.1.8 (revised in response to Comment 13) states:

Employee Training. The operator must train all employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the conditions of this permit (e.g., inspectors, maintenance personnel), including all members of the Pollution Prevention Team. Training must cover both the specific control measures used in the implementation of the BMPs in this Part, and monitoring, inspection, planning, reporting, and documentation requirements in other parts of this permit. ADEQ recommends training be conducted at least annually (or more often if employee turnover is high).

The 2009 version of the IGP, at Condition 4.6.6.6, required employers to carry out employee training programs covering “spill response, good housekeeping, and material management practices.” It also required the SWPPP to identify periodic dates for training and records of training.

The new version of this condition, at 3.1.8, requires “all employees who work in areas where industrial materials or activities are exposed to stormwater” to be trained on “the specific control measures used to achieve the effluent limits in this

part” as well as monitoring, inspection, planning, reporting, and documentation requirements “in other parts of this permit.” This training is much broader in scope, both in terms of employees covered and subjects covered. Riceland Foods respectfully submits that this provision is so broad as to be unduly burdensome. Under this provision, any employee working in an area “exposed to stormwater” must undergo extensive training on the operation of all control measures and all aspects of the general permit’s requirements, even if their particular job duties require no such knowledge. Riceland Foods accordingly requests that ADEQ utilize the language from previous Condition 4.6.6.6.

Response: The Department agrees with the commenter that this condition is overly broad and could be construed as burdensome. The condition has been revised to narrow the focus of the training requirements. The revised language of Part 3.1.8 is as follows:

Employee Training. The operator must train all employees who work in areas where industrial materials or activities are exposed to stormwater, or who are responsible for implementing activities necessary to meet the conditions of this permit (e.g., inspectors, maintenance personnel), including all members of the Pollution Prevention Team. *Training for employees whose job duties include implementation of pollution prevention measures or Stormwater Pollution Prevention Team members* must cover both the specific control measures used in the implementation of the BMPs in this Part, and monitoring, inspection, planning, reporting, and documentation requirements in other parts of this permit. *Training for employees who work in areas where industrial materials or activities are exposed to stormwater, but whose job duties do not include implementation of pollution prevention measures should cover the specific control measures and BMPs used in the facility area in which they work.* ADEQ recommends training be conducted at least annually (or more often if employee turnover is high). [*emphasis added to revisions*]

Comment 57 Recommendations 8 and 9 on page 6 of EPA's letter on the pre-draft permit were not included in the public notice draft permit. These recommendations are as follows:

- (8) **Historic Properties Preservation Requirement:** ADEQ should comply with applicable State, Tribal and local laws concerning the protection of historic properties. EPA recommends including requirements under Part 1.4 Eligibility to preserve historic properties. The State should request MS4 operators to determine whether their MS4’s storm water discharges, allowable non-

stormwater discharges, or construction of best management practices (BMPs) to control such discharges, have potential to affect a property that is either listed or eligible for listing on the National Register of Historic Places.

- (9) **Endangered Species Act Requirement:** To ensure actions required by this permit are not likely to jeopardize the continued existence of any currently listed as endangered or threatened species or adversely affect its critical habitat, EPA recommends include ESA requirement(s) under Part 1.4 Eligibility. The State should ensure regulated stormwater discharges are not likely to jeopardize the continued existence of any listed endangered or threatened species or adversely modify or destroy critical habitat of such species.

ADEQ should incorporate these recommendations and should not remove the 2009 IGP Part 1.9.7 (Endangered and Threatened Species and Critical Habitat Protection) from the 2014 IGP renewal.

Response: The Department must incorporate objections made by the EPA on its permits based on federal requirements, but is not required to implement recommendations. The Department declined to incorporate these recommendations, as other governmental agencies (for example The Department of Arkansas Heritage and U.S. Fish & Wildlife Service) are responsible for the implementation of these requirements.

It is believed these recommendations were adequately addressed by the inclusion of Parts 7.13 and 7.14:

- 7.13 Local, State and Federal Laws.** Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable local, state, or federal law or regulation.
- 7.14 Property Rights.** The issuance of this permit does not convey any property rights of any sort or any exclusive privileges, nor does it authorize any injury to private property, any invasion of personal rights, or any infringement of Federal, State, or local laws or regulations.

Comment 58 Erosion and Sediment Controls & Management of Runoff (Parts 3.1.5 and 3.1.6)

Parts 3.1.5 and 3.1.6 both include the following language:

In selecting, designing, installing, and implementing appropriate control measures, the operator is encouraged to consult with EPA's internet-based resources relating to runoff management, including the sector-specific *Industrial Stormwater Fact Sheet Series*, (www.epa.gov/npdes/stormwater/msgp), *National Menu of Stormwater BMPs* (www.epa.gov/npdes/stormwater/menuofbmps), and *National Management Measures to Control Nonpoint Source Pollution from Urban Areas* (www.epa.gov/owow/nps/urbanmm/index.html), and any similar publications.

The proposed language requires "any similar publications" to be included for BMPs. The regulated community needs specifics, while this rule is open-ended and allows for continual changes without any notification. Changes to BMPs, if not on specific websites documented in the permit, should be cause to notify permit holders. Additionally, "any similar publications" could be interpreted broadly to mean any BMP published on the entire Internet. We do not believe the Department intends for the entire Internet to be our permits, but that could certainly be the end result. We believe that tighter language should be used to give permit holders a clear picture of requirements placed on them according to BMPs.

Response: The language of these sections clearly state "the operator is encouraged to consult" with these resources. There is no requirement in Parts 3.1.5 or 3.1.6 that the listed resources must be used in the selecting, designing, installing, and implementing of appropriate control measures; this language is only intended to give permittees an idea of the resources available to them.

Comment 59 Allowable Non-stormwater Discharges (Part 1.6)

This section states that the following non-stormwater discharges may be authorized by this permit. To be more clear, this statement should be definitive and indicate that these discharges are authorized under this permit. The caveat that the "non-stormwater component of the discharge must meet all requirements of the permit" tends to negate the authorization, especially in circumstances when the non-stormwater portion cannot be physically separated or discerned from the stormwater portion.

Response: The Department agrees with the position of the commenter. Part 1.6 has been revised to state:

Allowable Non-stormwater Discharges. The following non-

stormwater discharges are authorized by this permit: [...]

It is assumed that the requirements of the IGP must be met; therefore, the phrase “provided the non-stormwater component of the discharge meets all requirements of this permit” is unnecessary and deleted as it was confusing.

Comment 60 The inclusion of the narrative permit comments for BMPs also is problematic because the anti-backsliding provisions of the Clean Water Act, which states, in laymen’s terms, that once a primary condition is established, a less stringent condition cannot be included in the reissued permit. Since the BMPs are so broad, subject to interpretation, and their universal applicability is inappropriate, the AEF is concerned that subsequent general permits may not be allowed to remove these conditions as unnecessary or obviate of the provisions of an individual facility’s storm water pollution prevention plan.

Response: The Department understands the position of the commenter. The Department must be vigilant when implementing any conditions in its permits, but must be especially so with general permits, as they affect many more permittees. The anti-backsliding and anti-degradation rules are taken into consideration by the Department when making any new effluent limitations. However, the language of Part 3.1 has been changed to Best Management Practices (BMPs), where items 3.1.1 through 3.1.11 are re-incorporated as part of the Stormwater Pollution Prevention Plan. As such, the 2014 IGP’s BMPs sections are brought substantially back into line with the 2009 IGP’s BMP SWPPP requirements. Since these BMPs did not introduce significantly new restrictions, the Department believes that the anti-backsliding rule is not an issue with this permit’s BMP requirements.

Comment 61 Several commenters made comments with regard to typographical or grammatical errors and suggested clarification on several sections of the general permit. Based on their comments, they believe that some of the permit sections could be reworded or reorganized for better understanding.

Response: The Department agrees. Multiple grammatical errors and clarification suggestions have been revised (see table at end of response to comments document for changes made) with the exception of the following:

Minimize Exposure, Waste, Garbage and Floatable Debris, & Dust Generation and Vehicle Tracking of Industrial Materials (Parts 3.1.1, 3.1.10, and 3.1.11): After “The operator must” consider adding “take actions as appropriate in an effort to”

Response: The Department has revised the language in Parts 3.1.1, 3.1.10, and 3.1.11 to state:

The operator must *take actions as appropriate* to minimize the exposure [...] [*emphasis added*]

Part 3.10 “sources”; consider repairing numbering system at items 1, 2, 3, and 12.

Response: The Department contacted the commenter regarding this comment. It appears to be an error that appeared on their copy of the document. The Department reviewed this portion of the permit and did not find any errors in the numbering system.

The Department acknowledges the following comments:

- Comment 62** We [Arkansas Canoe Club] have some concerns about comments submitted from the Arkansas Electric Cooperative Corporation (AECC). We believe that materials which could damage water quality "must" be stored in safe and dry conditions. We disagree with AECC that the "must" statements be changed to should statements. We fail to see how this could cause an economic hardship.
- Comment 63** ADEQ is reducing the semi-annual sampling to annual sampling. ADEQ did not, however, allow for a waiver of the sampling requirement if there were four consecutive samples in compliance. ADEQ's position to not allow a waiver of the sampling requirement needs to be supported.
- Comment 64** Draft Permit, Part 1.8.7, Page 9: I [Roger Montgomery] support this new provision regarding ERWs etcetera.
- Comment 65** Draft Permit, Part 1.8.8, Page 9: I [Roger Montgomery] support this new provision.
- Comment 66** Draft Permit, Part 1.8.7, Page 9: Beaver Water District supports this new provision that conditionally excludes from coverage under the general permit discharges directly into Extraordinary Resource Waters (ERWs), Ecologically Sensitive Waterbodies (ESWs), and Natural and Scenic Waterways (NSWs).
- Comment 67** Draft Permit, Part 1.8.8, Page 9: Beaver Water District supports this new provision that conditionally excludes from coverage under the general permit “[d]ischarges from a facility into receiving waters which the Department has determined will cause an impairment or has reason to believe will compromise Water Quality Standards”

Summary of Changes to the Industrial Stormwater General Permit

Part	Draft Permit Language	Final Permit Language	Comment #
1.5	---	<i>Some Industrial Sectors have additional eligibility requirements that must be met before permit coverage is required. Please refer to 40 CFR 122.26(b)(14)(i-ix, xi) for full sector activity descriptions.</i>	23
1.5	Industrial Sub-Sector L1- All Landfill, Land Application Sites and Open Dumps	<i>Municipal Solid Waste Landfill (MSWLF) Areas Closed in Accordance with 40 CFR 258.60</i>	22
1.6	Allowable Non-stormwater Discharges. The following non-stormwater discharges may be authorized by this permit, provided the non-stormwater component of the discharge meets all requirements of this permit:	Allowable Non-stormwater Discharges. The following non-stormwater discharges are authorized by this permit	59
1.8.5.2	... (BMPs) needed to prevent to the maximum extent possible exposure to stormwater of the pollutants for which the waterbody is impaired and to sufficiently protect water quality.	... (BMPs) needed: <i>1.8.5.2.1 to prevent to the maximum extent practicable exposure to stormwater of the pollutants for which the waterbody is impaired; and 1.8.5.2.2 to sufficiently protect water quality.</i>	47 & 61
1.8.7.1	to the maximum extent possible	to the maximum extent <i>practicable</i>	48
1.8.8.1	to the maximum extent possible	to the maximum extent <i>practicable</i>	48
2.2 Table	See Table RTC1A at end of this document	See Table RTC1B at end of this document	7
2.4	Water-permit-application@adeq.stat.ar.us	Water-permit-application@adeq.state.ar.us	61
2.4	---	<i>Unless otherwise specified by the Department, the above mailing address should be used for all correspondence.</i>	61
2.7.1	Submitting a Notice of Termination. ...The permittee is responsible for meeting the terms of this permit until the acceptance of the termination of authorization by the Department.	Submitting a Notice of Termination. ... The permittee is responsible for meeting the terms of this permit until <i>receipt of written</i> acceptance of the termination of authorization by the Department.	24
3	PART 3: LIMITATIONS AND MONITORING REQUIREMENTS	PART 3: <i>BEST MANAGEMENT PRACTICES</i> , LIMITATIONS AND MONITORING REQUIREMENTS	13
3.1	3.1 Non-Numeric Technology-Based Effluent	3.1 Best Management Practices. <i>All facilities must</i>	13

Part	Draft Permit Language	Final Permit Language	Comment #
	Limits. All permittees must comply with the following Best Management Practices:	<i>comply with the following Best Management Practices (BMPs). Parts 3.1.1 through 3.1.11 are considered part of every facility's Stormwater Pollution Prevention Plan (SWPPP) unless the permittee has incorporated into the SWPPP adequate justification or data indicating why the BMP does not apply to the facility or the facility's stormwater discharges. BMPs are primarily to be used by the facility as the factors to consider when attempting preventing pollutants from leaving the facility via stormwater exposed to industrial activities.</i>	
3.1.1	Minimize Exposure. The operator must minimize the exposure of manufacturing,...	Minimize Exposure. The operator must <i>take actions as appropriate to</i> minimize the exposure of potential sources of pollutants in the manufacturing,...	41 & 61
3.1.2	Good Housekeeping. The operator must keep clean ...	Good Housekeeping. The operator must <i>incorporate good housekeeping practices in an effort to</i> keep clean ...	44
3.1.3	[...]The operator must maintain all control measures that are used to achieve the effluent limits required by this permit in effective operating condition.[...]	[...]The operator must maintain all control measures that are used <i>in the implementation of the Best Management Practices</i> or to achieve the effluent limits required by this permit in effective operating condition.[...]	13
3.1.5	Erosion and Sediment Controls. The operator must stabilize exposed areas and contain runoff using structural and/or non-structural ...	Erosion and Sediment Controls. The operator must stabilize exposed areas and <i>control</i> runoff using structural or non-structural ...	8
3.1.6	Management of Runoff. The operator must divert, infiltrate, reuse, contain, or otherwise reduce stormwater runoff, to minimize pollutants in the discharges.	Management of Runoff. <i>The operator must implement appropriate measures to manage the runoff from the property in such a manner as to minimize the pollutants in the discharge. These measures may include the diversion of the runoff away from areas where pollutants may be present or the reuse of stormwater runoff where practical. New facilities should be constructed such that the runoff from the facility is reduced, to the extent practicable, by the use of measures that divert the</i>	9

Part	Draft Permit Language	Final Permit Language	Comment #
		<i>runoff, contain the runoff, or allow for reuse of the runoff.</i>	
3.1.8	...Training must cover both the specific control measures used to achieve the effluent limits in this Part, ...	[...]Training must cover both the specific control measures used <i>in the implementation of the BMPs</i> in this Part, ...	13
3.1.8	<u>Employee Training.</u> ... Training must cover both the specific control measures used in the implementation of the BMPs in this Part, and monitoring, inspection, planning, reporting, and documentation requirements in other parts of this permit.	<u>Employee Training.</u> ... <i>Training for employees whose job duties include implementation of pollution prevention measures or Stormwater Pollution Prevention Team members must cover both the specific control measures used in the implementation of the BMPs in this Part, and monitoring, inspection, planning, reporting, and documentation requirements in other parts of this permit. Training for employees who work in areas where industrial materials or activities are exposed to stormwater, but whose job duties do not include implementation of pollution prevention measures should cover the specific control measures and BMPs used in the facility area in which they work. ADEQ recommends training be conducted at least annually (or more often if employee turnover is high).</i>	56
3.1.9	See Part 4.4 for a ...	See Part <i>1.6</i> for a ...	61
3.1.10	<u>Waste, Garbage and Floatable Debris.</u> The operator must ensure that waste,	<u>Waste, Garbage and Floatable Debris.</u> The operator must <i>take actions as appropriate</i> to ensure that waste,	61
3.1.11	<u>Dust Generation and Vehicle Tracking of Industrial Materials.</u> The operator must minimize generation of dust and off-site tracking of raw, final, or waste materials.	<u>Dust Generation and Vehicle Tracking of Industrial Materials.</u> The operator must <i>take actions as appropriate</i> to minimize generation of dust and off-site tracking of raw, final, or waste materials.	61
3.4	<u>Parameter Benchmark Monitoring.</u> ... Benchmark monitoring data are primarily used to determine the overall ...	<u>Parameter Benchmark Monitoring.</u> ... Benchmark monitoring data are primarily <i>to be used by the facility staff</i> determine the overall ...	10
3.4	Footnote to Industrial Sub-Sector S1	<i>For airports where a single permittee or a combination of permitted facilities use more than 100,000 gallons of glycol-based deicing chemicals</i>	61

Part	Draft Permit Language	Final Permit Language	Comment #
		<i>or 100 tons or more of urea on an average annual basis, monitor all parameters in ONLY those outfalls that collect runoff from areas where deicing activities occur. Monitoring is not required for facilities with deicing activities that do not meet the above thresholds.</i>	
3.4	---	[Added COD and O&G monitoring to Industrial Sub-Sector N2]	61
3.8.2.4	---	<i>Note that 40 CFR Part 136 and Standard Methods for the Examination of Waste and Wastewater establish the maximum holding times for each parameter which must be met for sampling results to be considered valid. Some parameters have short holding times, such as pH, which should be analyzed immediately to be considered valid.</i>	6
3.12	<u>Response to Monitoring Results Above/Below Parameter Benchmark Values.</u>	<u>Response to Monitoring Results Above Parameter Benchmark Values.</u>	61
3.12.1	The facility shall commence with the above process within 30 calendar days of the exceedance while immediately taking all reasonable steps ...	The facility shall commence with the above process within 30 calendar days of the exceedance while immediately taking all <i>readily apparent</i> , reasonable steps ...	52
3.12.1	This documentation must be included in an annual report and a copy retained onsite with the SWPPP.	This documentation must be included in <i>the Stormwater Annual Report (SWAR)</i> and a copy retained onsite with the SWPPP.	29
4	...The SWPPP does not contain effluent limitations; the limitations are contained in Part 3 of the permit. The permittee must select, design, install, and implement control measures to meet the non-numeric effluent limits in Part 3.1, to meet ...	<i>...Required elements of the SWPPP, implemented in the form of Best Management Practices (BMPs) in lieu of numerical limitations, are considered to be technology-based non-numeric limits based on 40 CFR 122.44(k)(3). The permittee must select, design, install, and implement control measures to comply with the Best Management Practices in Part 3.1, to meet ...</i>	13
4	A stormwater pollution prevention plan (SWPPP) shall be developed, implemented and complied with for each facility covered by this permit. SWPPPs shall be prepared in accordance with commonly accepted engineering practices	<i>Each facility covered by this permit shall develop, implement, and comply with a stormwater pollution prevention plan (SWPPP). The SWPPP shall be prepared in accordance with commonly accepted engineering practices.</i>	61

Part	Draft Permit Language	Final Permit Language	Comment #
4.2.4.4	The SWPPP shall also include a certification that the discharge has been tested or evaluated for the presence of illicit non-stormwater discharges and that all unauthorized discharges have been eliminated.	The SWPPP shall also include a certification that the discharge has been tested or evaluated for the presence of illicit non-stormwater discharges and that all <i>identified</i> unauthorized discharges have been eliminated.	46
4.2.6.1	Documentation of Control Measures Used to Comply with the Effluent Limits in Part 3.	Documentation of Control Measures Used to Comply with <i>the Best Management Practices</i> in Part 3.	13
4.2.6.3	The operator must document in the SWPPP the procedures for performing, as appropriate, the three types of inspections specified by this permit	The operator must document in the SWPPP the procedures for performing, as appropriate, the inspections specified by this permit	61
4.2.6.4	maintenance activities shall be documented	maintenance activities <i>performed on control measures that are used in the implementation of the Best Management Practices or to achieve the effluent limits required by this permit</i> shall be documented	53
4.2.7.1.2	to the maximum extent possible	to the maximum extent <i>practicable</i>	47
4.2.7.2.2	to the maximum extent possible	to the maximum extent <i>practicable</i>	48
4.5.3	Proposed control measures are not stringent enough for the discharge to meet applicable water quality standards or the non-numeric effluent limits in this permit	Proposed control measures are not stringent enough for the discharge to meet applicable water quality standards	13
5.2.1	---	<i>These records can be kept electronically if all permit recordkeeping requirements are met, such as record retention, availability of records, and signatory requirements. If electronic records are kept, information regarding where the records can be accessed must be included in the facility's SWPPP.</i>	30
5.2.4.4	A summary of any corrective action plans written under Part 3.12.2 , including the status of any corrective actions not yet completed at the time of submittal of the SWAR; and	A summary of any corrective action plans written under Part <i>3.12.1</i> , including the status of any corrective actions not yet completed at the time of submittal of the SWAR; and	61
8	---	8.18 "<u>Minimize</u>" means to reduce or eliminate to the extent achievable using control measures (including Best Management Practices) that are	18

Part	Draft Permit Language	Final Permit Language	Comment #
		<i>technologically available and economically practicable and achievable in light of best industry practice.</i>	
8	---	8.23 "<u>Permittee</u>" for the purpose of this permit is any entity which has obtained coverage under the Industrial Stormwater General Permit.	20

Table RTC1A: Original table from Part 2.2:

Category	Deadline for Submittal	Application Package	Other Required Actions
New Dischargers	Minimum thirty (30) days prior to commencement of stormwater discharge from the facility.	1. Completed NOI 2. Stormwater Pollution Prevention Plan (SWPPP) ¹ 3. Permit Fee	NONE
Existing Dischargers Authorized Under 2009 IGP	The effective date of this permit.	1. Completed Recertification NOI	Update SWPPP, as necessary, to comply with the requirements of Part 4 by the effective date of this permit (Submittal of updated SWPPP is not required.)
New Dischargers – No Exposure	Minimum thirty (30) days prior to commencement of stormwater discharge from the facility.	1. Completed No Exposure Exclusion Certification Form 2. Permit Fee	NONE
Existing Dischargers Under 2009 IGP with a No Exposure Exclusion	The effective date of this permit.	1. Completed Recertification NOI	NONE

¹The Department understands that the SWPPP is a living document and the version submitted with an initial NOI may have portions that are not finalized. All required SWPPP sections must be attempted in the SWPPP submitted with the application package and the SWPPP must be certified as required under Part 7.8.

Table RTC1B: Revised table from Part 2.2:

Category	Deadline for Submittal	Application Package	Other Required Actions
New Dischargers	Minimum thirty (30) days prior to commencement of stormwater discharge from the facility.	1. Completed NOI 2. Stormwater Pollution Prevention Plan (SWPPP) ¹ 3. Permit Fee	NONE
Existing Dischargers Authorized Under 2009 IGP	The effective date of this permit.	1. Completed Recertification NOI	Update SWPPP, as necessary, to comply with the requirements of Part 4 by the effective date of this permit (Submittal of updated SWPPP is not required.)
New Dischargers – No Exposure	Minimum thirty (30) days prior to commencement of stormwater discharge from the facility.	1. Completed No Exposure Exclusion Certification Form 2. Permit Fee	NONE
Existing Dischargers Under 2009 IGP with a No Exposure Exclusion	The effective date of this permit.	1. Completed Recertification NOI	NONE
<i>Existing Dischargers with a No Exposure Exclusion who No Longer Qualify for the Exclusion</i>	<i>Maximum thirty (30) days after knowledge of disqualification from No Exposure Exclusion.</i>	<i>1. Completed NOI 2. Stormwater Pollution Prevention Plan (SWPPP)¹ 3. Permit Fee</i>	<i>NONE</i>

¹The Department understands that the SWPPP is a living document and the version submitted with an initial NOI may have portions that are not finalized. All required SWPPP sections must be attempted in the SWPPP submitted with the application package and the SWPPP must be certified as required under Part 7.8.