

From: [Morton, John D.](#)
To: [Water Draft Permit Comments](#)
Subject: Alcoa Inc. Comments on Draft Renewal Industrial General Permit ARR000000
Date: Monday, December 09, 2013 12:51:45 PM
Attachments: [Alcoa Comment Letter Arkansas General Permit Renewal.pdf](#)

Attached is an electronic copy of the Alcoa Inc. comments on the draft renewal Arkansas general permit for storm water associated with industrial activity, ARR000000. In case there is an issue with opening the file, I have copied the Alcoa comment letter in its entirety below.

John D. Morton, P.E.
Alcoa Inc.
412-553-2996

Comment Letter:

December 09, 2013

Arkansas Department of Environmental Quality (ADWQ)
Water Division
5301 Northshore Drive
North Little Rock, AR 72118-5317

Re: Alcoa Inc Comments

Draft Renewal NPDES General Permit ARR000000 for Facilities Discharging
Stormwater Associated with Industrial Activity located within the State of Arkansas

Gentlemen:

Alcoa Inc. (hereinafter Alcoa) submits the following comments with regard to the subject draft renewal NPDES general permit ARR000000 for facilities discharging stormwater associated with industrial activity located within the State of Arkansas (hereinafter general permit). Alcoa has several facilities in Arkansas that elected coverage under the existing general permit and may contemplate coverage under any renewal general permit.

If you have any questions or require further information, please contact me by telephone at 412-553-2996 or by e-mail at john.morton@alcoa.com.

Very truly yours,

John D. Morton
(Electronic signature)

John D. Morton, P.E.
Alcoa Inc.
Water/Wastewater Group

EHS Services & Sustainability
201 Isabella Street @ 7th Street Bridge
Pittsburgh, PA 15212-5858

Alcoa Comments on the Arkansas general permit renewal, for the discharge of storm water associated with industrial activity.

1. Part 3.1, Non-Numeric Technology-Based Effluent Limits, pages 13 to 16 of 146.

Alcoa believes the inclusion of the non-numeric technology-based effluent limits (hereinafter technology limits) as proposed has the potential to be problematic on a number of levels. Historically, these are BMPs used as guides for review and incorporation as appropriate into a facility's storm water pollution prevention plan (hereinafter SWPPP) – although most were typically required to be incorporated into a facility's SWPPP in some fashion. Why Alcoa believes they are potentially problematic as effluent limits are the following issues:

- a. The permit states all permittees must meet them regardless of whether or not they actually are an issue or apply at a facility.
- b. Their wording, for the most part, is very restrictive and will make compliance difficult if not impossible in many cases. Usually storm water BMP contains some methodology for compliance without an absolute prohibition on the discharge or its pollutants. As an example of restrictive language, Arkansas Department of Environmental Quality (hereinafter ADEQ) added one of EPA's more controversial BMPs – waste, garbage and floatable debris (see Part 3.1.10 on page 15). This condition as written makes it a permit violation to have anything leave the site including such things as cigarette butts and food wrappers (two items specifically identified by EPA as to why this condition was developed for the MSGP), and any similar items that might happen to be released/thrown away on-site. Note that wording of this condition says the "operator must ensure...are not discharged to receiving waters". So, if one small item gets off-site, it is a permit violation.
- c. 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.

It appears ADEQ based these technology limits on the 2008 federal Multi-Sector General Permit (hereinafter MSGP). With both the general permit and the MSGP there is no way for a discharger to determine or measure compliance with these non-numeric technology-based limits. The general permit has does not contain a definition of “minimize”, “clean”, or other words that appear to be included for the purpose of determining compliance. As discussed above, Part 3.1.10 appears to mandate a complete prohibition on the discharge of waste, garbage and floatable debris. This would appear to contradict the definition of “uncontaminated” found in Part 8.32, which states uncontaminated means “also not containing a harmful quantity of any substance”. However, Alcoa believes there are certain remedies ADEQ can make to the proposed permit that would alleviate most of the concerns with these technology limits:

- a) EPA’s recently issued 2013 draft renewal MSGP attempts to address the 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, 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”.

[Note: The Parts referenced above are for the federal MSGP and not the general permit]

Alcoa recommends the addition of similar language in either Part 3.1 or as a definition in Part 8 of the general permit.

- b) 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.”

Alcoa believes that adding the EPA language regarding the meaning of minimizing with respect to technology limits, moving the waste, garbage, and floatable debris requirement into the good housekeeping technology limit, and modifying the language of the waste, garbage and floatable debris condition, will alleviate issues with how facilities can comply with the condition.

- c) Alcoa does not agree that every non-numeric technology-based effluent limit contained in Part 3.1 would apply to every discharger electing coverage under this general permit. Alcoa recommends language be included at the beginning of Part 3.1 (in addition to the explanation of “minimize” discussed above) that would make these limits apply only for dischargers with conditions that would warrant such limits:

“All permittees must review the following Best Management Practices for applicability at their respective sites and stormwater discharges, and comply with all those that are deemed applicable including those proportions of any part of a Best Management Practice if the entire Best Management Practice does not apply. In other words, any part of any Best Management Practice that does apply to a permittee must be complied with even if other parts of the same Best Management Practice do not apply.”

- d) Finally, Alcoa recommends 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 Alcoa believes ADEQ would be well-served to incorporate EPA’s changes based on this experience. As mentioned above, EPA has already determined more clarity around the meaning of “minimize” and the waste, garbage, and floatable debris technology limit language was warranted.

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