

From: [REW](#)
To: [Solaimanian, Jamal](#)
Cc: ["Jarvis Harper"](#); ["Nathan Siria"](#); [Water Draft Permit Comments](#)
Subject: Comments on Draft Industrial Stormwater General Permit (ARR000000)
Date: Monday, December 09, 2013 3:59:41 PM
Attachments: [L-J Solaimanian 2013-12-09.pdf](#)

Jamal,

Please find attached FTN's comments regarding the draft Industrial Stormwater General Permit (ARR000000) that was publicly noticed by ADEQ on November 9, 2013. We appreciate the opportunity to submit these comments and look forward to discussing them with you should you have any questions.

Thanks,
Ray



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December 9, 2013

Dr. Jamal Solaimanian, PE
General Permits Section Supervisor
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Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

RE: Comments on Draft Industrial Stormwater General Permit ARR000000

Dear Dr. Solaimanian:

FTN Associates, Ltd. (FTN) respectfully submits the following comments regarding the draft Industrial Stormwater General Permit (IGP) publicly noticed by the Arkansas Department of Environmental Quality (ADEQ) on November 9, 2013.

1. **Part 1.8.5.2:** 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.
2. **Part 1.8.6.2:** FTN requests that the following sentence be added 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.”
3. **Part 2.2:** This section requires Notice of Intent (NOI) submittal and Stormwater Pollution Prevention Plan (SWPPP) revision by the permit effective date which is anticipated to be six months from the issuance date (i.e. July 1, 2014). Should issuance of the permit be delayed for any reason beyond the anticipated issuance date of December 31, 2013, FTN requests that the permit effective date remain six months from permit issuance or that the specified deadlines be extended accordingly to allow for the original six-month window in which to submit NOIs and revise SWPPPs.
4. **Part 3 (General Comment):** As written, compliance with this section is virtually impossible. Many of the requirements are subjective and open to selective interpretation. 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. The Environmental Protection Agency’s (EPA’s) Multi-

Sector General Permit (MSGP) defines “minimize” as “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.” FTN requests a similar definition be included in the IGP.

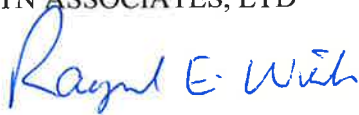
5. **Part 3.1:** FTN requests that Part 3.1 be renamed from “Non-Numeric Technology Based Effluent Limits” to “Best Management Practices Guidelines”. Given their subjective nature, classifying the listed requirements as “limits” is problematic. As discussed in Comment #5, some of the terminology could 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.
6. **Part 3.1.1:** In the first sentence, FTN requests that the phrase “to reasonable extent practicable” be included after “minimize”. 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.
7. **Part 3.1.1:** FTN requests that the phrase “potential pollutant sources of concern in” 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.
8. **Part 3.1.1:** FTN requests that the phrase “when potential pollutant sources are exposed to stormwater” be added to the end of the second sentence. The rationale for this request is similar to Comment #7.
9. **Part 3.1.1:** FTN requests that the phrase “are not potential pollutant sources,” be added after “discharged to receiving waters,” in the last sentence of this section. The rationale for this request is similar to Comment #7.
10. **Part 3.1.2:** FTN requests that the phrase “incorporate good housekeeping practices in an effort to” be added after “The operator must”. Furthermore, FTN requests that “all” be deleted from this requirement. See Comment #4 for rationale.
11. **Part 3.1.3:** FTN requests that “all” (both instances) be deleted from this requirement. See Comment #4 for rationale.
12. **Part 3.1.4:** In the first sentence, FTN requests that the phrase “to reasonable extent practicable” be included after “minimize”. See Comment #6 for rationale.
13. **Part 3.1.10:** In the first sentence, FTN requests that the phrase “to reasonable extent practicable” be included after “The operator must”. See Comment #6 for rationale.
14. **Part 3.1.11:** In the first sentence, FTN requests that the phrase “to reasonable extent practicable” be included after “minimize”. See Comment #6 for rationale.
15. **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 #6 for rationale.
16. **Part 3.4:** In the benchmark table, 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.

17. **Part 3.8.1:** FTN requests 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.
18. **Part 4:** For clarification, FTN requests that the first sentence be revised to "Each facility covered by this permit shall develop, implement, and comply with a stormwater pollution prevention plan (SWPPP)." In addition, FTN requests that the second sentence begin with "The SWPPP" rather than "SWPPPs".
19. **Part 4.2.4.4:** FTN requests that "identified" be added after "all unauthorized discharges" in the first sentence of the second paragraph. 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.

FTN appreciates ADEQ's consideration of these comments. Should you have any questions, please feel free to contact me or Nathan Siria at (501) 225-7779.

Respectfully submitted,
FTN ASSOCIATES, LTD



Raymond E. Wieda, PE
Project Manager

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