

From: [Russell McLaren](#)
To: [Water Draft Permit Comments](#)
Cc: [Solaimanian, Jamal](#); [Temple, Jessica](#); [Bailey, John](#)
Subject: Comments for the Draft NPDES General Permit ARR000000 for Facilities Discharging Stormwater Associated with Industrial Activity
Date: Monday, December 09, 2013 2:07:15 PM
Attachments: [ARR000000 Draft Permit Comments 2013.docx](#)

Please find attached our comments for the Draft General Storm Water Permit. Please respond to verify receipt of the comments. Thank you.

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December 9, 2013

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

Re: Draft Industrial Storm Water General Permit (ARR000000) Comments

Dear Mr. Solaimanian:

GBM^c & Associates has reviewed the above referenced draft permit and offers the following comments.

1. 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.
2. 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.
3. Part 1.5 provides the breakdown of industrial sectors.
 - a. We request clarification on the difference between Industrial Sectors L1 and L2.
 - b. 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.

4. Part 2.7.1 discusses submitting a Notice of Termination. The end of the last sentence states "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.
5. Part 2.2 discusses deadlines for submitting a Notice of Intent. The last row of the table within Part 2.2 requires existing Discharges under the 2009 IGP with a No Exposure Exclusion to submit a completed Recertification NOI by the effective date of the permit.

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.

6. Part 3.1 discusses Non-Numeric Technology Based Effluent Limitations.
 - a. In accordance with Part 3.4, data from parameter benchmark monitoring is primarily used to determine the overall effectiveness of BMP's and control measures in controlling the discharge of pollutants and to assist the facility in knowing when additional corrective actions may be necessary.

Benchmark monitoring frequency was reduced in the draft permit and two sampling parameters were removed from the "four basic" parameters and added to specific sectors. Why are additional limitations being added to the permit when monitoring data showed compliance with existing permit requirements?

- b. 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?
 - c. 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 to the fact that facilities are not implementing BMP's thoroughly?

- d. The Department cannot implement new effluent limitations without proper regulatory authorization/justification. The Fact Sheet did not provide any regulatory justification for the additional non-numeric limitations.

Since proper justification and reasoning was not provided, we request the removal of the non-numeric effluent limitations from the draft permit.

7. Part 3.1 uses the term “minimize” throughout the section. The Part 2 of the 2008 EPA MSGP defines minimize as “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.”

The draft permit does not provide a meaning for the word “minimize”. We request that a definition of “minimize” be added to the permit.

8. Part 3.3 provides the required parameter benchmark monitoring for each Industrial Sector.
 - a. 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.
 - b. 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.
- c. 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.

- d. When sampling for COD or O&G was applied to a specific sector, the table in Part 3.4 for additional parameters did not include all sub-sectors. Sector N2 was missed for COD and O&G.
9. Part 3.8.1 discusses similar outfalls and its associated requirements. 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. Justification of this addition was not provided in the Fact Sheet. We request this condition be removed from the permit.
10. Part 3.9.2 discusses sample waivers. The sample waiver in the current permit that allowed existing dischargers to request a waiver for those effluent characteristics that were sampled under the previous permit was removed in the draft permit. We request that this specific waiver be placed back into the permit.
11. The title for Part 3.12 is "Response to Monitoring Results Above/Below Parameter Benchmark Values". The section only discusses results that are above the benchmark values. The title of the section should be revised appropriately.
12. 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.
13. 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
14. Part 4.3.6.3 states "The operator must document in the SWPPP the procedures for performing, as appropriate, the three types of inspections specified by this permit." Part 5.1 only references two types of inspections. The above statement needs to be revised appropriately.
15. 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 with SWPPP is pointless and puts an additional burden on the permittee. The permit already requires extensive recordkeeping requirements. All of the information included in the SWAR is contained in the various other records and documentation already required by the permit.

15 cont.

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.

We greatly appreciate the opportunity to present these comments and look forward to the resolution of these issues. If you have any questions, please do not hesitate to contact me or Russell McLaren at 501-847-7077.

Respectfully Submitted,
GBMC & ASSOCIATES



Amanda Gallagher, P.E.
Environmental Engineer