



west virginia department of environmental protection

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Harold D. Ward, Cabinet Secretary
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January 26, 2021

Re: WV NPDES Permit No. WV0111457
Multi-Sector General Water Pollution Control Permit
Draft - Modification 1 - Response to Public Comments

Dear Citizen,

Permit Number WV0111457 was reissued on September 12, 2019 and subsequently appealed to the Environmental Quality Board (EQB). The Division of Water and Waste Management (DWWM) was ordered to modify the permit per Settlement Order 19-13-EQB. DWWM received comments from the EPA about the draft, which prompted further modifications to the permit, and public notice took place on September 17, 2020. DWWM would like to take this opportunity to thank those who submitted written comments on the draft modification of Permit Number WV0111457. This responsiveness summary highlights the issues and concerns that were identified through the comments received during the public noticing of the draft modification. In many cases, multiple comments were provided on the same issue, therefore the responses have been summarized to the greatest extent possible.

Comment 1: Add specific requirements to include for each industrial sector in the Stormwater Pollution Prevention Plan.

Response 1: The general permit requires the Stormwater Pollution Prevention Plan (SWPPP) to be site specific. DWWM intends to carry on its process of reviewing each submittal to look for pollution control measures that are particular to the site. Section B.17 states "... the SWPPP shall describe the implementation of practices which are to be used to reduce the pollutants in stormwater discharges associated with industrial activity at the facility and to assure compliance with the terms and conditions of this permit.

Comment 2: Include requirements for enhanced Stormwater Best Management Practices in areas with sensitive water resources.

Response 2: The general permit prohibits water quality degradation. As explained in Response 1, site specific SWPPPs must be developed for each facility. Section B.12. requires permittees to protect existing [water body] uses and states that the level of water quality necessary to protect the existing uses shall be maintain and protected.

Section B.13 prohibits new sources from discharging pollutants of concern to TMDLs from coverage under this general permit. Dischargers to 303(d) waters without a TMDL must develop, gain approval for, implement, and maintain specific controls for the pollutants that caused the impairment, even for industrial sectors that are not known sources of the pollutant of concern. Furthermore, the Director has authority to require monitoring of the 303(d) listed pollutants of concern.

Comment 3: Include monitoring requirements for stormwater discharges to impaired waters.

Response 3: Please see Response 2.

Comment 4: Update benchmark values for human health criteria.

Response 4: The parameters in question are Butyl benzyl phthalate, Fluoranthene, Trichloroethylene, Ethylbenzene and Toluene. None of these parameters are found in any of the industrial sectors eligible for coverage under the general permit. The parameters were listed in the draft fact sheet only. Industries with these pollutants in stormwater will be referred for an individual permit. The Director's authority to require individual permits is found in Section B.1. of the general permit.

Comment 5: Include benchmark values for surfactants and Cyanide.

Response 5: EPA has established a benchmark for Cyanide of 0.022 mg/l for industries classified as Hazardous Waste Treatment, Storage or Disposal facilities, whereas the state permit has included Cyanide as a monitoring parameter for Salt Storage facilities under Sector U since 2009. This type of facility may use cyanide in very small quantities as an anti-clumping agent.

DWWM does not have any Hazardous Waste Treatment, Storage or Disposal facilities covered under the general permit and does not intend to provide coverage for this type of facility under the MSGP. DWWM has issued just six (6) registrations for coverage under Sector U since 2009 and based upon the data review does not deem it necessary to impose benchmarks for Cyanide this permit cycle. This permit requires continued monitoring of Cyanide for the Sector U category. However, the Director does possess the authority to impose monitoring for any individual registration if he/she finds it necessary.

Industries classified under SIC 2841-2844 - Soaps, Detergents, Cosmetics, and Perfumes are required to monitor and report for Surfactants (see Table C-3). This requirement is in addition to the parameters found in the federal permit for Nitrate plus Nitrite Nitrogen and Total Recoverable Zinc (See Table 8.C-1. Subsector C3 of the federal permit).

Comment 6: Increase monitoring frequency for parameters with monthly average effluent limits to ensure compliance with permitted limits. The monitoring frequency should be at least twice a month where pollutant effluent limitations are listed as monthly average. Some of these parameters are fluoride, Total Suspended Solids and Oil and Grease.

Response 6: This general permit applies to discharges of stormwater runoff associated with industrial activity, and certain non-stormwater discharges, into surface waters in the state. The general permit specifies which industrial facilities are eligible for authorization by the general permit, which must be authorized by a separate permit, and which must be authorized to comply with effluent guidance-based limits. The permit continues the requirement for certain industrial sectors to collect discharge samples for comparison to benchmark levels. Some of these parameters are Fluoride, Total Suspended Solids and Oil and Grease. These benchmark values are not effluent discharge limitations. Exceeding a benchmark is not a permit violation; however, exceeding benchmark values will require the facility to update their Storm Water Pollution Prevention Plan (SWPPP). Not updating the SWPPP is a violation of the permit. Storm Water discharges are associated with precipitation events and requiring more frequent monitoring is not going to capture effectiveness of the SWPPP. Suggested monitoring in this general permit is similar to EPA's Federal General Permit for MSGP. Based upon EPA's suggestion, this permit now requires certain categories to comply with effluent based limitations (discharge associated with phosphate manufacturing facility & asphalt paving and roofing material facilities, for example). However, currently, we do not have any facility operating under this section of the MSGP. As noted on the previous comment, the Director has the authority to require individual parameters' monitoring and/or to require more frequent sampling on individual registrations if deemed necessary.

Comment 7: Sampling must continue for the entire permit term and must not be allowed to be waived at any time even if four consecutive samples are meeting benchmark values.

Response 7: The federal permit, under Section 6.2.1.2. states: After collection of four quarterly samples, if the average of the four monitoring values for any parameter does not exceed the benchmark, you have fulfilled your monitoring requirements for that parameter for the permit term. Low Concentration Waivers, as provided in Section B.4. of the state permit is similar to the federal criteria, however, the state requires permittees to apply to suspend monitoring and are also required to submit an annual certification that there has not been a significant change in the industrial activity or the pollution prevention measures in the area of a facility that drains to the outlet for which the sampling was waived.

Section B.17.A.2.8. requires quarterly inspections of pertinent areas and B.17.A.3. requires an annual inspection of the site to verify SWPPP integrity. Additionally, B.17.C. requires quarterly inspections to ensure all elements and equipment of the groundwater protection programs are in place, functioning properly and are appropriately managed. Added together, the draft permit requirements for stormwater runoff water quality are reasonable safeguards.

Comment 8: Sampling measurement frequency must be one to three months and not quarterly.

Response 8: DWWM has been ordered by the EQB to change the monitoring frequency to Quarterly. Prior to the 2019 permit, benchmark monitoring was on a semiannual frequency. EPA's 2015 MSGP required quarterly sampling instead of semiannual sampling, and DWWM has appropriately changed the schedule to be consistent with EPA's general permit.

Comment 9: The benchmarks for Total Recoverable Copper, Total Recoverable Lead, Total Recoverable Zinc, and Ammonia are above the EPA's MSGP benchmark.

Response 9: The benchmark parameters for the three recoverable metals were determined using a hardness value of 100 mg/l for receiving waters. This is a conservative value for all waters of the state accepted by EPA.

In the federal permit, the benchmark for Ammonia is 2.14 mg/l. The state permit has the same benchmark – 2.14 mg/l – See Sector H, Table H-1 (SIC 4581) Industrial Activity from Vehicle Maintenance Areas, Equipment Cleaning Areas, or Deicing or Anti-Icing Areas Located at Air Transportation Facilities Monitoring Requirement.

Comment 10: EPA comments about incorrect benchmarks have not been corrected.

Response 10: EPA concurred with the draft modification on September 8, 2020.

Comment 11: Section B.6. Benchmark monitoring. Why is it stated as “after the average of four consecutive samples are above the benchmark level for the sampled parameter” and not two consecutive samples the permittee must modify their stormwater pollution prevention plan.

Response 11: To be consistent with federal permit requirements and 19-13-EQB, benchmark monitoring must be conducted quarterly. Based on EPA input, Section B.6. outlines requirements when the first exceedance occurs as well as when the second or third averages out to be an exceedance, and finally, the fourth requires the modification. Corrective actions are required along the way, throughout the year if exceedances occur.

Comment 12: Section C.1 should still say “All GPP must contain the following information.”

Response 12: Section C.1 has the following language Groundwater Protection Plans (GPPs) shall be prepared in accordance with this Section and the requirements of 47 CSR, Series 58, Section 4.11., et. seq. (Groundwater Protection Regulations). It then lists all requirements for a complete GPP.

Comment 13: All permittees must apply for coverage under the new modified general permit even if currently covered under the 2019 Multi Sector Stormwater General Permit.

Response 13: This comment seems to suggest that all permittees should submit the long application form. Under the section titled "Retaining or obtaining coverage under this permit" on pages 2 and 3 of the modification, application requirements are spelled out for the benefit of all parties. However, DWWM does not expect recently permitted entities to fill out the long form application, provided the due date for short form submittal is met.

Comment 14: Permittees who fail to apply for the modified general permit in a timely fashion must discontinue operations.

Response 14: When referring to entities that fail to apply on time, the modification states, “Until a valid registration is issued, such dischargers are operating without permit coverage, which is a violation of federal and West Virginia law.” Based on this statement, any operator who continues to discharge without permit coverage should understand serious repercussions would result, should DWWM or EPA conduct an inspection.

Comment 15: In Section B.2. in the version of the draft permit the EPA reviewed, there is a sentence following the nine-component list of now allowable non-stormwater discharges that states: “These other sources of non-stormwater must be identified in the facility’s SWPPP.” Why is this requirement missing?

Response 15: Language for Section B.2. was taken from 19-13-EQB. The draft permit on the DWWM website and the draft permit in EPA’s concurrence email were compared. The documents match.

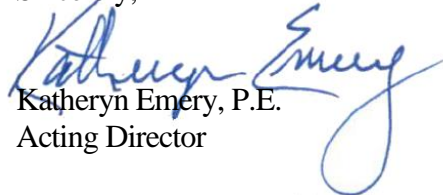
Comment 16: Petition for public hearing.

Response 16: Permit WV0111457 was public noticed at reissuance. The permit was appealed, and this modification is based upon settlement order 19-13-EQB. At this time, DWWM is only modifying the portions of the permit based on the order and subsequent EPA comments. After review of the public comments, it was determined there is insufficient public interest to hold another public hearing.

This permit modification will be issued on January 26, 2021 with an effective date of February 25, 2021. Notice is hereby given of your right to appeal the terms and conditions of this permit modification of which you are aggrieved to the Environmental Quality Board by filing a NOTICE of APPEAL on the form prescribed by such Board, in accordance with the provisions of Section 21, Article 11, Chapter 22 of the Code of West Virginia within thirty (30) days after issuance of this permit registration. Thank you for your interest in this application.

If you have any further questions or concerns, please do not hesitate to contact Larry Board of my staff at (304) 926-0499 ext. 43883 or by email at larry.d.board@wv.gov.

Sincerely,


Kathryn Emery, P.E.
Acting Director