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west virginia department of environmental protection

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# Response to Public Comment

## Class II General Permit G20-C

For the Prevention and Control of Air Pollution in regard to the  
Construction, Modification, Relocation, Administrative Update  
and Operation of Hot Mix Asphalt Plants

Date: July 18, 2018

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## **BACKGROUND INFORMATION**

During the week of March 19, 2018, pursuant to §45-13-8, the West Virginia Division of Air Quality (DAQ) provided notice to the public of a preliminary determination to issue General Permit G20-C for the Prevention and Control of Air Pollution in regard to the Construction, Modification, Relocation, Administrative Update and Operation of Hot Mix Asphalt Plants. At that time, the draft permit and Engineering Evaluation/Fact Sheet were made available to the public for review.

The public notice was followed by a public comment period (required to be a minimum of 30 days under §45-13-8) scheduled to end at 5:00 P.M. on April 23, 2018. During the public comment period, the DAQ accepted comments on our preliminary determination to issue General Permit G20-C and on all documents related thereto.

## **OVERVIEW OF COMMENTS RECEIVED**

The DAQ received written comments during the public comment period. Comments were received by and/or on behalf of the following individuals, groups, and organizations: Asphalt Pavement Association of West Virginia (APAWV). Based on the comments received from APAWV on April 23, 2018, the DAQ met with APAWV on May 9, 2018 to gain clarification on comments submitted. As a result of this meeting, subsequent comments were received from APAWV on June 15. Pursuant to §45-13-8.8, all submitted comments received during the public comment period have been reviewed and are appropriately addressed in this document.

## **ORGANIZATION OF COMMENT RESPONSE**

The specific responses summarize each relevant comment that falls within the purview of the DAQ and provides a response to it. This document may not reproduce all the comments here (they are available for review in the G20-C file). Instead, each comment is summarized, and key points are listed. The DAQ makes no claim that the summaries are complete; they are provided only to place the responses in a proper context. For a complete understanding of submitted comments, please see the original documents in the file. The DAQ responses, however, are directed to the entire comments and not just to what is summarized. Comments that are not directly identified and responded to in the specific response section of this document are assumed to be answered under the general response section.

## **GENERAL RESPONSE TO COMMENTS**

### ***Statutory Authority of the DAQ***

The statutory authority of the DAQ is given under the Air Pollution Control Act (APCA) - West Virginia Code §22-5-1, *et. seq.* - which states, under §22-5-1 (“Declaration of policy and purpose”), that:

It is hereby declared the public policy of this state and the purpose of this article to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state.

### ***DAQ Permitting Process in Context***

It is important to note that the DAQ permitting process is but one part of a system that works to meet the intent of the APCA in WV. The DAQ maintains a Compliance/Enforcement (C/E) Section, an Air Monitoring Section, a Planning Section, *etc.* to effect this. Most pertinent to the permitting process, the C/E Section regularly inspects permitted sources to determine the compliance status of the facility including compliance with all testing, monitoring, record-keeping, and reporting requirements.

### ***General Response Conclusion***

In conclusion, in response to any substantive non-air quality issues, the APCA and 45CSR13 does not grant the DAQ the authority to take into consideration such issues in determining to issue or deny the permit. Further, the requirements of 45CSR13 require the DAQ to, when denying a permit, explicitly state the reason pursuant to §45-13-5.7. Additionally, the permit is but the beginning of the involvement of the DAQ with a source. After issuance, the facility will receive regular inspections to determine compliance with the requirements as outlined in the applicable permit.

## **RESPONSES TO COMMENTS**

### **Comment #1**

Section 2.3.1.c. As written, this language does not appear to include emissions units associated with hot mix asphalt (HMA) after it has been mixed, e.g., HMA conveyors, HMA storage silos. We suggest the following revision, "...systems for mixing hot mix asphalt, loading, transfer, and storage of hot mix asphalt...".

### **DAQ Response**

This permit condition did not intend to prohibit these activities. The permit condition will be updated to reflect accordingly.

### **Comment #2**

Section 2.3.2. As written, this language does not appear to include equipment associated with HMA after it has been mixed, e.g., HMA conveyors, HMA silos. We suggest the following revision, "...systems for mixing hot mix asphalt, loading, transfer, and storage of hot mix asphalt...".

### **DAQ Response**

This permit condition did not intend to prohibit these activities. The permit condition will be updated to reflect accordingly.

### **Comment #3**

Section 4.1.2. This section should include 45CSR7 – To Prevent and Control Particulate Matter Air Pollution from Manufacturing Processes and Associated Operations, because crushers are included in the definition of "manufacturing process". Crushers are included in the General permit as components of recycled asphalt pavement (RAP) systems.

This section should also include 45CSR2, To Prevent and control Air Pollution from combustion of Fuel in Indirect Heat Exchanges and 45CSR10, To Prevent and Control Air Pollution from Emissions of Sulfur Oxides based on the use of small heaters to heat oil used to warm asphaltic cement tanks and HMA silos.

This and other sections of the permit should not include 45CSR17 because sources that are subject to the fugitive particulate matter emission requirements of 45CSR3 and 45CSR7 are exempt from Regulation 17 (§45-7-10.2 §45-17-6.1).

### **DAQ Response**

This permit condition was intended to be a summary of all rules that may apply to these types of operations but was not entirely inclusive. The permit condition will be updated to include all applicable rules. Furthermore, 45CSR17 does not apply to these operations and all references and regulatory requirements will be removed from this permit.

Comment #4

5.0. Source-Specific Requirements [Hot Mix Asphalt Plants]. This section of the permit combines the regulatory requirements for HMA plants and RAP systems. As not all HMA plants will use permanent RAP systems and the requirements associated with RAP systems are not the same as those required for HMA plants, we believe the permit would be more easily understood and complied with if a separate Source-Specific Requirements section would be added for RAP systems.

DAQ Response

These activities will be separated. The permit conditions will be updated to reflect these separate activities.

Comment #5

We are requesting that the 40CFR60, Subpart OOO opacity limits for screening operations, transfer points on belt conveyors, storage bins, etc. be added to the permit so that sources with RAP screens can obtain coverage under this permit.

DAQ Response

This permit did not intend to prohibit these activities. The permit conditions will be updated to reflect accordingly.

Comment #6

Section 5.1.3.e. This section of the permit does not include the 40CFR60, Subpart OOO opacity limits for crushers at affected facilities that commence construction, modification or reconstruction on or after April 22, 2008. We are requesting that they be added so that sources with newer RAP crushers can obtain coverage under this permit.

DAQ Response

This permit condition did not intend to prohibit these activities. The permit condition will be updated to reflect accordingly.

Comment #7

Section 5.1.3.g. This section of the permit includes a 20% opacity limitation for fugitive dust control systems but does not include a regulatory citation. It is our understanding that the opacity limitations for HMA plants and RAP systems are set forth in 40CFR60 Subparts I and OOO, 45CSR3, and 45CFR7. Please provide a regulatory citation.

DAQ Response

The permit condition will be updated to reflect accordingly.

Comment #8

Section 5.1.3.h. This section of the permit references 45CSR17. As stated above, sources covered by this permit are subject to the fugitive particulate matter requirements of 45CSR3 and 45CSR7 and are exempt from 45CSR17. Opacity limitations are provided in 45CSR7 and specific opacity limitations relating to materials handling activities (e.g., crushing, screening, transfer points on belt conveyors, and storage bins) are detailed in 40CFR60, Subpart OOO and could be included in previous sections of the permit (i.e., Section 5.1.3.e) if they are revised as requested.

DAQ Response

The permit condition will be updated to reflect accordingly.

Comment #9

Section 5.1.i. This section of the permit references 45CSR17. As stated above, sources covered by this permit are subject to the fugitive particulate matter requirements of 45CSR3 and 45CSR7 and are exempt from 45CSR17. Requirements relating to stockpiles are detailed in 45CSR3.4.6. and 45CSR7.5.2., which both require good operating practices to be implemented in relation to stockpiling to minimize particulate matter generation and atmospheric entrainment. We are requesting that this section of the permit be revised accordingly.

DAQ Response

The permit condition will be updated to reflect accordingly.

Comment #10

Section 5.1.6. Minimization of Fugitive Emissions, Methods and Required Systems. This section of the permit contains requirements for specific types of control devices that are not present on most of the asphalt plants that are currently operating in the state in compliance with applicable regulations and specified opacity limitations. The imposition of specific types of control equipment not required by applicable state or federal regulations could affect the usefulness of this general permit. We would like to discuss these issues.

DAQ Response

Based on the meeting with the APAWV on May 9 and subsequent comments received on June 15 and attached to this document, the permit condition will be updated to reflect the specific types of control devices that are utilized at these facilities.

Comment #11

Section 5.1.6.iv. Minimization of drop height is the primary method of fugitive emissions control at existing HMA plant load-in dump bins and feed hoppers because it is effective in minimizing emissions, does not require retrofitting existing equipment through the installation of enclosures, hoods or shrouds and does not add additional moisture to the aggregates that would have to be burned off in the dryer.

DAQ Response

Based on the meeting with the APAWV on May 9 and subsequent comments received on June 15 and attached to this document, the permit condition will be updated to reflect the specific types of control devices that are utilized at these facilities.

Comment #12

Section 5.1.6.vii. Open stockpiles at HMA plants are typically not large sources of emissions and we believe that the current requirement for the use of good practices associated with material storage specified in 45CSR3.4.6. and 45CSR7.5.2. sufficiently address this issue without the need for mandated controls.

DAQ Response

Based on the meeting with the APAWV on May 9 and subsequent comments received on June 15 and attached to this document, the permit condition will be updated to reflect the specific types of control devices that are utilized at these facilities.

Comment #13

Section 5.1.6.viii. While many transfer points in the material handling circuit of an HMA plant have enclosures or water sprays, others rely on carry-over moisture and/or minimization of drop height to meet applicable opacity limitations.

DAQ Response

Based on the meeting with the APAWV on May 9 and subsequent comments received on June 15 and attached to this document, the permit condition will be updated to reflect the specific types of control devices that are utilized at these facilities.

Comment #14

Section 5.1.6.e. This section of the permit appears to repeat the requirements of Section 5.1.6.vii. Please also note previous comments regarding the applicability of 45CSR17.

DAQ Response

45CSR17 does not apply to these operations and all references and regulatory requirements will be removed from this permit.

Comment #15

Section 5.1.6.f. This section of the permit imposes requirements on the plant relating to trucks not owned or operated by the facility. HMA plants sell asphalt to other companies, state government entities and private individuals and do not have control over the construction of the vehicles used to transport the material. Additionally, the nature of HMA is such that it is unlikely to release particulate matter in transit. Please also note previous comments regarding the applicability of 45CSR17.

DAQ Response

45CSR17 does not apply to these operations and all references and regulatory requirements will be removed from this permit.



Comment #16

Section 5.1.13. To avoid confusion between requirements in the same section (5.1.13.b.i. through iv.), we request that the timeframes be set the same in all the sections. We believe that a three month inspection frequency for each item is sufficient to determine proper working conditions. Operational issues that do arise would be caught during normal operation and/or with the visible emissions checks in Section 5.2.1. which are conducted monthly.

DAQ Response

Based on the meeting with the APAWV on May 9 and subsequent comments received on June 15 and attached to this document, the permit condition will be updated to reflect the updated inspection frequencies.

Comment #17

Section 5.2.1. The first sentence in this section refers specifically to 45CSR3. We would suggest clarification regarding the applicability of other opacity limitations, such as those in 45CSR7 and 40CFR60, Subpart OOO.

DAQ Response

The permit condition will be updated to reflect accordingly.

Comment #18

Section 5.3. We would like clarification on what type of recordkeeping will meet the requirements in the permit. We would also like to have the required recordkeeping sheets for this permit attached to the permit. This would aid in compliance for each site in making sure the records that are necessary are being maintained.

DAQ Response

The forms will be made available on our website.

Comment #19

Section 6.0. Should be clarified to state that the requirements of 6.1.1. through 6.1.7., 6.2. (entire section), 6.3. (entire section excluding 6.3.6.), and 6.4. (entire section) and 6.5 (entire section) do not apply to nonroad engines in 6.1.8.

DAQ Response

Section 6.0 will be updated to reflect that this section does not apply to non-road engines. Non-Road Engines will be moved to Section 7.0, and Section 7.0 which pertains to small heaters and boilers will be moved to Section 8.0.

Comment #20

Section 7. This section should be revised to include the use of alternate fuels, like Section 5.1.8. Fuel Type for dryer burners.

DAQ Response

Permit condition 8.1.2 will be added to this permit that states that the allowable fuels for the small heaters and boilers are natural gas, diesel fuel, and other distillate fuel oils. Recycled or used oils are not allowable fuels for small heaters and boilers.