

Industrial Stormwater Permit Drafts

(Review of DEQ draft they will send to EPA for approval, then DEQ will open up formal draft public notice/standard 30-day comment period; must issue draft permit by June 30th)

Office Water Quality Meeting

9 February, 2023, 9:00 a.m.

Attendees:

Office Water Quality

Kai Imamura, office water quality, Jessica Tears (?), Carol, Stacie Wassell, Alan Wassel

AEF: Stephen Cain, AECC; Ray Weida, FTN; Seth Pickens, ECO; Kim Fuller, Entergy; Mark Allison; Allan Gates; Lynn Cornelius, FutureFuel; Jordan Wimpy; Randall Whitmore, Martin Operating Partnership; Evan Teague, Arkansas Farm Bureau

I. Fact Sheet:

a. High points:

- i. reorganization
- ii. Switching to E-portal
- iii. Technical issues:
 1. Some increased monitoring for facilities that discharge to national resource waters and streams that have a TMDL;
 - a. As data comes in, facility can request to go back to annual with favorable data.
 2. Some revisions to permit as to training: “clarified language”
 3. Added provisions in an industrial sector:
 - a. Sector L, waste facilities: included in L2, coverage could be eligible for not only landfill but also other solid waste facilities that operate under solid waste management act or incinerators that have to have an incinerator air permit under the water act;
 - i. Reasoning: most solid waste facilities have outdoor waste storage (or waste like materials), so provide coverage for potential stormwater runoff
 - b. Adjusted language on inspection requirement: who, what, how inspect
 - i. Combined requirements: quarterly inspection and an annual inspection and changed that to one type of inspection done quarterly. Intention: to make it more uniform.
 - c. Non stormwater evaluation has been revised: it was unclear on what to monitor
 4. Permit: some facilities/stormwater ELGS included in permit: any facility that has these limits not considered benchmarks are

considered limits. If any facility exceeds limit, have to notify DEQ rather than keeping that on site.

- a. Corrective measures may be included in this report (unclear in call)
5. Facilities covered by no exposure exclusion, those facilities have in the past certified a one-page checklist and turn in to DEQ every 5 years upon recertification;
- a. Now: that no exposure certification must be provided each year and certified and updated each year by staff;
reasoning: new people/staff turnover new people didn't realize they were under this exposure.

II. Feedback:

- a. New definition for Co-Located Industrial Activities; walk through how supposed to work.
 - i. Leamons: If added it was because term included in permit and definition had not been included; I do not remember any specific examples over last 5 years of that being an issue.
 1. Kai: more that it wasn't included and if there were two industrial activities, one was primary and one was not....
 2. Leamons: there have been cases of permittees that had multiple things going on that were different that were considered multiple sectors (may be related topic) with examples of facilities with multiple sectors and in past few years we've acknowledged facility could be considered multiple sectors under permit and either could or should be monitored.
 3. If required for more than one facility, DEQ will document that to be clear that has occurred.

Send draft comments to Brian Leamons or any supervisors at OWQ; if have questions, call OWQ.

Asked AEF to look for opportunities to improve;

Comments submitted electronically to Ava by AEF Member February 13, 2023:

DEQ's latest permit revision has two different issues as follows:

1. DEQ has retained magnesium as a sample parameter. There has been significant consideration about the benchmark levels required by EPA/the states for permitted stormwater monitoring programs. The current benchmark is 0.636 mg/l. Contrary to EPA latest revision of the 2021 MSGP, DEQ's latest revision of Permit #AR000000 takes no action at removing magnesium from standard stormwater monitoring under the draft permit. Research indicates magnesium benchmark levels were previously developed as a somewhat arbitrary standard. The following excerpts from published documents are provided for EPA's reasoning in removing magnesium as a sample parameter in contrast to the DEQ's draft action:

o Magnesium is the 4th most common element on earth (after iron, oxygen & silicon), making up 13% of the earth's mass, and a large fraction of earth's mantle. It is also the 3rd most common dissolved element in seawater after sodium and chlorine [see Reference 1]. Per EPA, the concentration of magnesium in natural bodies of water is second highest after the concentration of sodium.

o "According to the 2008 Multi-Sector General Permit (MSGP) Fact Sheet, the benchmark levels for pollutants (0.064 mg/L for magnesium) were based on the EPA's National Recommended Water Quality Criteria list. For pollutants that were not on the criteria list (magnesium), the "EPA instead used a value equal to 3.18 times the MDL [method detection limit] for that pollutant in lieu of the water quality criterion." Magnesium is not on the EPA's water criterion list. Therefore, according to the Fact Sheet, the "EPA used other sources of data to determine the appropriate benchmark value." Note that Reference 1 does not state what EPA sources were used. However, according to Reference 1, EPA's Region III freshwater screening benchmark for magnesium is 82 mg/L – over 1,200 times higher than the MSGP's and IGP's benchmark of 0.064 mg/L. The intake (non-limit) of magnesium from drinking water varies widely, depending on the hardness of the water.

o The 2021 MSGP Fact Sheet presented by EPA states that magnesium is being suspended for benchmark monitoring thresholds based on lack of documented acute toxicity. [Reference 2]

In summary, monitoring of magnesium should be removed from the latest issue of the Permit #AR000000 rather than burden Arkansas industries with additional illogical monitoring.

2. DEQ is proposing annual filing of the Storm-Water Annual Report (SWAR) by facilities that qualify for the No-Exposure Exclusion. This was not previously a requirement, nor has it been required by EPA under previous or the most recent permit update. Filing of the Certification for the No-Exposure Exclusion is required every five (5) years, or whenever the general permit is reissued. Notably, the SWAR is a report of storm-water sampling conducted by permittees which is not required by facilities certified under the No-Exposure Exclusion.

In summary, the additional annual reporting of the SWAR for Arkansas facilities certifying the No-Exposure Exclusion should not be required. These facilities are not subject to either development of a SWPPP or the outfall sampling requirements.

IGP Meeting 2.13 9:30 a.m.

Larry Williams: IGP: members need to be concerned about state only things that aren't really beneficial but just things they want to do to make their jobs easier and it isn't helping environment;

-may be contrary to what government said to do: has more requirements than border states. Creates more cost, function, etc.

EX: if DEQ keeping minerals in and Feds keeping out, why is DEQ keeping in?

Mark Allison: looked at 2021 EPA permit after call: looks like DEQ went through 2021 permit and decided to pull some things that re-organized AR permit in same way EPA permit organized and picked items to take out of 2021 AR permit; other staff member (Kai) made some reference to going through something to analyze things. May have tried to re-structure this more like EPA permit. Maybe ask them:

Other than wanting to incorporate items from EPA permit, why is that necessary to the AR permits?

LW: why do we not have what they added in addition to the Fed stuff?

Randall Whitmore: Any increase in regulatory inspections, sampling, reporting, etc., that exceeds Federal requirements and/or current requirements needs to be backed up with justification. This draft document does not supply that information.

Steve Patrick: if that's the main comment, the bigger item and the justification; talk about the Governor's policy/exec.

Like in waste: why is this more stringent than surrounding states.

Proposal:

Include comments received from AEF member

Then ask: Why do you add more than are required under the Feds? Why are we more harsh than surrounding states? We need a list of the parts of the document where you are being more rigorous than the Feds. Any increase in regulatory inspections, sampling, reporting, etc., that exceeds Federal requirements and/or current requirements needs to be backed up with justification. This draft document does not supply that information.

Say: Does not coincide with Governor's executive order and policy of not being as rigorous