

**NPDES General Permit #8: External Stakeholder Meeting
5-20-2015**

Questions for Stakeholders Concerning Proposed General Permit #8

- How many people have used the online storm water general permit application?
 - Stakeholder Comment: This is pretty smooth and I like it, but there are glitches with the mapping system sometimes
 - Stakeholder Comment: The turnaround is pretty quick, like a week, for the online NOI for GP #2

- Concerns with e-notification in general
 - Stakeholder Question: Is DNR updating databases to comply with EPA's e-reporting rule?
 - DNR Response: We are trying to develop this database to comply with the e-reporting rule, but that is tricky to do with the rulemaking timeframe; the plan is to make it so the user interface does not change when we need to transmit general permit data to EPA

- Is anyone familiar with antidegradation alternative analyses or temporary and limited degradation?
 - Stakeholder Comment: Use temporary and limited often, and it goes smoothly
 - Stakeholder Comment: It would be nice if there was a de minimus

- What would be an appropriate volume to exclude ballast water from NOIs?
 - Stakeholder Comment: Many have 4 tanks which would be 80,000 gallons and one smaller tank
 - Stakeholder Comment: Maybe increase it to 100,000 or 120,000 gallons
 - Stakeholder Comment: Tanks are typically 90% to 100% filled
 - Stakeholder Comment: 80,000 gallon limit would not cover new larger industrial facilities
 - Stakeholder Comment: A tank farm with 3 to 5 decent sized tanks would be over the 80,000 gallon limit

- How many NOIs would each company expect to need in a year using our current volume/chemical additive thresholds?
 - Stakeholder Comment: Have had two clients in the last month over the 80,000 gallon limit
 - DNR Response: wants NOIs for facilities that are of concern, such as those adding biocides and pesticides to the water, and those with very large volumes going to small streams
 - Stakeholder Comment: The chlorine residual going to a water of a state could be an issue; there will not be a chlorine residual when the discharge reaches a stream, but there will be when it gets to the ditch
 - Stakeholder Comment: NOIs will depend on how big the line is and what the run of the line is

- Do emergency repairs to water lines involve more than 80,000 gallons? If so, should there be an exception to the requirement for an NOI?
 - Stakeholder Question: Does this apply to water main breaks?
 - DNR Response: No, DNR is thinking of events such as natural gas pipeline breaks

- How long before the commencement of a discharge should the DNR receive an NOI? What seems reasonable? How much prior notice do you usually have?
 - Stakeholder Comment: 30 days could be difficult; the week turnaround for GP #2 is really nice
 - Stakeholder Question: If there is online NOI submittal, why does the timeline have to be 30 days?
 - DNR Response: That is because DNR needs time to review the antidegradation analysis, and because there are no staff dedicated to reviewing these NOIs (unlike storm water); 30 days is much safer for DNR than saying a week

- DNR Comment: The NOI is not setting the timeframe; the antidegradation review and staffing resources are setting the 30 day timeframe
- Should the permit require that containers be cleaned before test or ballast water is added to them?
 - DNR Comment: This would be for used tanks
 - Stakeholder Comment: The contaminants in the used tanks would prevent a discharge from meeting the eligibility requirements
 - DNR Question: Does DNR need to make sure that the tanks are cleaned and the eligibility requirements are met, or should the discharger do that?
 - DNR Question: Should a BMP to clean used tanks be included in the permit?
 - DNR Question: Is cleaning used tanks normal? That is what DNR wants to know
- Other Discussion
 - DNR Comment: Stakeholders can send DNR thoughts on these questions at any time and we can put this presentation on the webpage
 - Stakeholder Question: What is timeframe for finalizing the permit?
 - DNR Response: It is a bit out of our control; after reviewing the comments from this meeting, we have to develop an economic and jobs analysis, and then we send the rule to the governors' office for clearance, which can take several months
 - DNR Comment: After we get clearance from the governors' office, we can begin the formal rulemaking process, which has a fairly set timeline and will allow for formal public comment
 - DNR Comment: Right now, we are looking at the possibility of a final general permit next spring

Discussion of Proposed GP #8

- Part I.C. Discharges Covered Under GP #8
 - Stakeholder Comment: Routine water line flushing usually happens regularly, and this does not fit well here
 - Stakeholder Comment: The permit does not cover multiple 90 day periods for the same discharge
 - Stakeholder Comment: Water line flushing usually lasts only a few hours
 - Stakeholder Comment: Each individual water line discharge will be temporary
 - Stakeholder Question: The permit covers a 90 day period, so is each flushing event a separate discharge or not?
 - DNR Response: We do not want NOIs for routine water line flushing, so we need to figure out how to word this and we need to develop an antidegradation rationale for it
 - Stakeholder Question: Is the flushing covered under the MS4 permit for those that have it?
 - DNR Response: Yes, so this general permit would not be needed for cities who have an MS4 permit and who are doing hydrant flushing
- Part I.C. Discharges Not Covered Under GP #8
 - Stakeholder Question: Is ballast water not covered under GP #2?
 - DNR Response: There is heartburn with the uncontaminated ground water in GP #2; if the discharger thinks they have coverage under GP #2, that is fine, but if the discharger does not have a GP2 or is not comfortable with the coverage, this general permit is another option
 - Stakeholder Comment: Stakeholders need to know if ballast water is covered under GP #2
 - DNR Comment: DNR will talk with storm water staff about this
 - Stakeholder Question: How will dischargers verify endangered species?
 - DNR Response: There is critical habitat delineated for Topeka shiner; it is published
 - DNR Comment: The wording habitat "as designated" is critical here; if the habitat is not designated, we don't have to worry about it
 - DNR Comment: DNR and dischargers can do the best they can to find designated critical habitat

- Part I.D. Eligibility Criteria
 - Stakeholder Comment: Stakeholders will send info on drinking water contaminants
 - Stakeholder Question: Why 45 for TSS and not 100?
 - DNR Response: 45 is used regularly as a limit for TSS
 - Stakeholder Comment: The benchmark for EPA general permits for storm water is 100 for TSS
 - DNR Comment: 30 and 45 is generally used for industries for TSS; DNR will consider the TSS number
 - DNR Comment: If stakeholders have something that shows that getting down to 45 for TSS is not cost effective, DNR would like to see it
 - DNR Comment: DNR does not have the data to show that PCBs are not present
 - DNR Comment: There are a few more eligibility requirements for petroleum products
 - Stakeholder Question: A community is about to get flooded, and they fill their ballast tanks, can we treat to meet these eligibility requirements?
 - DNR Response: Yes, treating to meet the eligibility requirements is acceptable

- Part I.E Eligibility Demonstration Requirements
 - Stakeholder Question: How do you determine from visual observation that you meet the eligibility criteria?
 - DNR Response: You can use visual observation to meet the general water quality criteria eligibility requirements, but not the chemical criteria
 - DNR Comment: If there is heartburn over the eligibility requirements, DNR can go back to monitoring requirements and limits, but that will require more submittals from permittees and a heftier DNR database

- Part I.G. Notice of Intent for Coverage Under GP #8, 1 & 2, Discharges to a Water of the State and to the Ground Surface
 - DNR Comment: DNR will look into raising the 80,000 gallon threshold
 - Stakeholder Comment: Maybe DNR should look at different limitations for new and used containers; there can be less requirements for new containers than for used containers
 - Stakeholder Comment: Maybe there could be a higher threshold for new containers that meet all the other eligibility requirements
 - DNR Response: DNR does expect less issues with new tanks
 - DNR Comment: DNR needs to add dechlorinating agents to the bullet the “no chemicals will be added other than chlorine”
 - Stakeholder Comment: Maybe we need a list of acceptable dechlorinating agents
 - DNR Response: There might be new dechlorinating agents that are not included on the list, and adding these would require a rule change

- Part I.G. Notice of Intent for Coverage Under GP #8, 3 Discharges Requiring a Notice of Intent and Alternatives Analysis
 - Stakeholder Comment: New definition of waters of the U.S. could be a challenge; there is less time to decay when the water of the U.S. has moved from the stream to the ditch
 - DNR Response: Using waters of the state already backs the discharge up to the ditch, rather than the stream
 - DNR Comment: There are still water quality protections for ditches, they are just set at different levels than the protections for streams
 - Stakeholder Comment: Much of the work covered by this permit will be in rural areas, and there will be more focus on the delineation of the waters in rural areas in light of the new waters of the U.S. definition

- DNR Response: DNR will keep considering the waters of the U.S. definition; we use waters of the state in most cases in this permit because that definition will not be changing
 - Stakeholder Comment: There are considerations when the discharge goes from a ground surface discharge to a discharge to water during rain events as well
 - Stakeholder Question: Will there be a new NOI form?
 - DNR Response: Yes
 - Stakeholder Question: Will it piggy back on existing NOI forms?
 - DNR Response: Somewhat, but a new form is needed because there is differing information between this GP and the storm water GPs
 - DNR Comment: DNR will change “complete alternatives analysis” to “either a complete an alternatives analysis or a temp and limited justification”
- Part I.H Duration of Coverage
 - DNR Comment: Duration is 90 days because we consider a temporary discharge to be 90 days
 - Stakeholder Comment: There are always delays in construction projects that cannot be anticipated two months out
 - Stakeholder Question: Would it be better to have the date be 90 days from the authorization?
 - DNR Response: That is DNR’s intent; that the 90 days should be from the date of authorization
 - Stakeholder Comment: In that case, the sentence under the duration of coverage needs to be changed
 - Stakeholder Comment: This could cause problems too, if an NOI is submitted ahead of time
 - Stakeholder Question: Could it be 90 days from the commencement of discharge?
 - DNR Response: Yes, it could be 90 days from the anticipated date that the discharge will begin
 - DNR Comment: The first paragraph under duration of discharge is for temporary discharges, and the second paragraph talks about longer discharge periods where an NOI is required
 - DNR Comment: You can have longer than 90 days when you are submitting an NOI, and those dates must be in the NOI
- Part II. Requirements for Discharge to a Water of the State, A. General Requirements
 - Stakeholder Question: Is #3 concerning chlorination referring to the 0.19 level?
 - DNR Response: Yes
 - DNR Comment: DNR will change the language to dechlorinating prior to reaching a water of the state
 - Stakeholder Question: For #4, going back to a flooding situation, would a tank have to be cleaned before ballasting if there is a pending flood?
 - DNR Response: It is hard to write a permit for such situations; the way the permit is written cleaning would be required before the tank is ballasted even if there is a flood
 - DNR Question: Does this situation happen often?
 - Stakeholder Response: It has been pretty regular lately
 - DNR Comment: The current emergency discharge section applies only to NOI situations, but we can consider expanding the emergency discharges to include such flooding situations
- Part II. Requirements for Discharge to a Water of the State, B. BMP Plans
 - Stakeholder Comment: Add language that the BMPs could be combined with a SWPP plan for another general permit
 - Stakeholder Comment: The general permit could include references to BMP resources; that would be nice
- Part III. Requirements for Discharge to the Ground Surface
 - Stakeholder Comment: we will check on this and get back to DNR

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- DNR Comment: You don't have to meet the eligibility requirements (80,000 gallons) to discharge to the land surface
- DNR Comment: You don't want to cause ponding because you don't want to saturate the soil and cause runoff to a water of the state, which brings different requirements into place
- DNR Comment: You also don't want to kill the vegetation, because you are relying on it for treatment
- Part V. Reporting and Recordkeeping
 - Stakeholder Question: If there a requirement concerning where records are maintained, like on site?
 - DNR Response: No
 - DNR Comment: We could say something like "maintain records according to customary business practices"; EPA says that in their general permits

Other Discussion of GP#9

- Stakeholder Question: is the permit intended to be five years?
 - DNR Response: Yes, it is
- Stakeholder Comment: you could use guidance on developing SWWPs from the storm water general permits
- Stakeholder Comment: the FDA may have something on cleaning tanks; their requirements for cleaning will be much more stringent
- Stakeholder Question: concerning MS4 permit, if an industry wants to discharge in the city under the MS4 permit, will this general permit apply, or will the MS4 permit still be governing?
 - DNR Response: MS4 will still be governing, but we will consult storm water staff
- Stakeholder Question: Will there be changes in the coverages under storm water GP #2 because of this permit?
 - DNR Response: we will need to ask the storm water staff
- DNR Comment: Any assistance stakeholders can provide on the Fiscal Impact Statement or the Jobs Impact Statement for the rulemaking would be appreciated; we can make drafts of these available for stakeholder comments