

**STATE OF MARYLAND DEPARTMENT OF THE ENVIRONMENT
WATER MANAGEMENT ADMINISTRATION**

NOTICE OF FINAL DETERMINATION TO ISSUE

**General Permit for Discharges from Mineral Mines, Quarries, Borrow Pits and
Concrete and Asphalt Plants**

The Department proposed to reissue State/NPDES (National Pollution Discharge Elimination System) General Permit for Discharges from Mineral Mines, Quarries, Borrow Pits and Concrete and Asphalt Plants, Permit **No. 10MM (NPDES No. MDG49)** for the next five years to meet federal requirements and to protect water quality. The permit replaces one issued in October 2000, and has been updated to include toxicity testing, more stringent limits for total suspended solids during wet weather, and to limit new facilities discharging to waters on the 303(d) list.

A public notice on the tentative determination to reissue the discharge permit was published on November 6, 2009 in the Maryland Register and in fourteen newspapers throughout Maryland during the first two weeks of November, 2009. The Department held a public hearing concerning the tentative determination on Monday, December 7, 2009 at 11 am in the Aqua Conference Room at MDE, 1800 Washington Blvd, Baltimore, MD 21230, and received written comments through December 14, 2009.

A final determination has been made by the Department to reissue the permit with significant revisions from the tentative determination as follows:

The biomonitoring provisions in the draft permit have been replaced with the following:

- biomonitoring will apply at an internal monitoring points since infrequent discharges at many facilities make effluent for monitoring unavailable at times.
- biomonitoring will be limited to those facilities that discharged at least two times last year, and plan to operate for at least twenty days during the first year of the permit.
- the proposed quarterly chronic biomonitoring test has been replaced with one acute and one chronic biomonitoring test during different quarters of the first year.
- the Department may require a second round of the same biomonitoring tests without reopening the permit.
- if biomonitoring tests show toxicity, the permittee may be required to repeat the biomonitoring, and the Department may reopen the permit as a major modification to establish additional permit conditions regarding biomonitoring or a toxicity reduction evaluation.
- the option to perform the biomonitoring tests in a group instead of at individual facilities has been removed, but no single operator will be required to perform biomonitoring tests at more than three facilities within Maryland.

- the Department has removed the requirement to submit manufacturer's information on concrete additives. The request for information was intended to determine which facilities were using additives that might be toxic and needed to perform biomonitoring, but the performance of biomonitoring at most concrete facilities will provide better information.

The lower pH limit of 6.5 has been revised to 6.0 in most areas of the State, except in Western Maryland where some waters are impaired by low pH. This change recognizes that naturally occurring pH is low in many areas, and that discharges of water between 6.0 and 6.5 standard units will not compromise water quality in most of Maryland.

A definition of freeboard was added to clarify the requirement to prevent overflows from sediment ponds, and particularly to prevent the discharge of solids from the ponds.

The monthly average total suspended solids limit will not apply during those months in which there are only one or two discharges, or discharges on fewer than three days.

The deadline for current permittees to apply for the renewal permit by submitting the required storm water pollution prevention plan and a Notice of Intent to be covered by the permit has been changed from 60 days to 90 days after the effective date of the general permit.

Any person adversely affected by this final determination may file a petition for judicial review. Petitions for judicial review of a final determination or permit decision subject to judicial review must be filed in accordance with §1-605 of the Environment Article no later than April 26, 2010 (30 days following publication by the Department of this notice of final determination in the Maryland Register), and must be filed in a circuit court in Maryland. Petitions for judicial review must conform to the applicable Maryland Rules of Civil Procedure. Failure to file a petition for judicial review by April 26, 2010 will constitute a waiver of any right to a judicial review of this final determination.

The permit is available on MDE's website at www.mde.state.md.us/Permits/WaterManagementPermits/water_applications/AMines.asp. Any questions regarding this final determination, and permit, should be directed to Patsy Allen or Ed Gertler at the Maryland Department of the Environment, Water Management Administration, at pallen@mde.state.md.us or egertler@mde.state.md.us, by telephone at 410- 537-3599 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Persons wishing to review the proposed final permit and associated file may do so by contacting Ms. Allen to make an appointment. Copies of documents may be obtained at a cost of \$0.36 per page.