



MARYLAND DEPARTMENT OF THE ENVIRONMENT

Water and Science Administration
Wastewater Permits Program
1800 Washington Boulevard, Suite 455
Baltimore, MD 21230-1708

FINAL

Response to Public Comments

Regarding

General Permit for Discharges from Tanks, Pipes, Other Liquid Containment Structures,
Dewatering Activities, and Groundwater Remediation

State Discharge Permit Application No. 17-HT

NPDES Permit No. MDG67

Final: May 13, 2020

INTRODUCTION

The Department has been processing a reissuance of the State/NPDES (National Pollution Discharge Elimination System) permit 11HT (NPDES No. MDG67) as the new 17HT. The 11HT permit's full title was the General Discharge Permit from Tanks, Pipes, and Other Liquid Containment Structures. The 17HT will be known as the General Discharge Permit from Tanks, Pipes, Other Liquid Containment Structures, Dewatering Activities, and Groundwater Remediation. The 17HT permit applies to discharges of wastewater from hydrostatic testing, potable water systems, construction dewatering, groundwater remediation, flushing of fire control systems, and tank bottoms, and stormwater from storage tank containment structures in the state of Maryland.

Notice of a tentative determination regarding this permit was published in various newspapers across the state between July 30, 2018 and August 3, 2018 and again between August 6, 2018 and August 10, 2018. The notice was published in the Maryland Register on August 3, 2018. The Department held a public hearing regarding the tentative determination on September 6, 2018. Notice of the hearing was included in the aforementioned publications. The public comment period concluded on September 13, 2018. The Department published a notice of a new informal comment period regarding some proposed changes from the tentative determination in the Maryland Register on July 19, 2019, and in various newspapers across the state between July 24 and July 26, 2019. Substantive comments which were received during the public comment period and during the informal comment period, as well as the Department's responses to those comments, have been summarized in this document, below.

In the event of any inconsistencies between the factsheet and this document, this document shall take precedence.

SUMMARY OF CHANGES FROM THE TENTATIVE DETERMINATION DRAFT

1. The Department has established specific procedures for approving chemical additives for sediment control and included those in the final permit. The updated approval procedures will provide a list of pre-approved additives on the Department's website, identify a specific procedure for requesting the addition of a new additive to the pre-approved list, specifically require written approval as part of the permit registration letter, outline necessary information regarding additive selection and usage procedures to be followed and documented in the facility's Pollution Prevention Plan, and require more extensive application requirements for cationic polymers,
2. The Department has amended the requirements for what requires permittees to submit a Notice of Intent (NOI) for coverage of construction dewatering discharges. In the final determination, an NOI is only required if discharges are either over 10,000 gallons per day or are the permittee is proposing to use chemical additives for sediment control. The remainder of dischargers under this category would be automatically authorized to discharge in compliance with permit requirements.
3. The numerical limitations for pH for construction dewatering in the presence of fresh concrete have been changed to a narrative requirement to better align with other permits that cover this type of discharge.
4. The Department has clarified that submission for coverage to discharge stormwater from containment areas is only necessary if other types of discharge that require an NPDES permit are present at the site.
5. Language from the 11-HT permit which exempted groundwater discharges of hydrostatic test water, potable water sources, and fire suppression system wastewater from numerical monitoring has been restored. This language was mistakenly omitted in the tentative determination.
6. The Department has removed the requirement for notification of WSA Compliance in the event that a discharge exceeds half the flow of the receiving stream. The notification remains a requirement for discharges exceeding 100,000 gallons.
7. The Department has amended the coverage for discharges of "untreated water" such that only sources that are 100,000 gallons per day or greater will be required to submit an NOI. Discharges that are between 10,000 and 100,000 gallons per day will be authorized by the permit without submission of the NOI and such dischargers must adhere to permit terms to comply.
8. The Department has added clarifying language to express that no permit is required for discharges of water from vaults, manholes, etc. so long as the water is uncontaminated by site activities.

9. The Department clarified that the wash water exception from Part I.C.3 of the permit refers to washing the interior of tanks.
10. The Department has altered language regarding what must be included in the submission of a map to better suit the specific nature of larger water systems. The Department reserves the right to require specific items on maps on a case-by-case basis.
11. The Department has clarified that the definition of “water” is synonymous with “untreated water” for the purposes of this permit.
12. The Department has clarified that it reserves the right to require submission of monitoring data or site assessments on a case-by-case basis for dischargers of construction dewatering. Such assessments are not to be automatically required and determinations will be made using best professional judgment. This matches the intent of the tentative determination but required minor language changes to resolve a conflict between varying permit sections.
13. The Department has added language regarding antidegradation reviews where necessary for dischargers into Tier II receiving streams or catchments. The Notice of Intent requirements have been updated to require an applicant to indicate if discharges are into Tier II receiving waters or catchments. All dischargers into Tier II receiving waters or catchments will now be required to submit a Notice of Intent for coverage under this permit where they would otherwise have been covered under this permit without submitting a Notice of Intent.
14. Under Discharge Category E for discharges from fire control systems, the Department has removed temperature from the monitoring table for dischargers under 100,000 gallons per day or half the receiving stream. The monitoring and limitation requirement is now expressed in the narrative form (as it was in the previous permit) for the purposes of increasing clarity.
15. Requirements for permittees under Discharge Category H for stormwater discharges from aboveground tank containment areas have been adjusted to include narrative clean-up requirements, reduce the need for numeric sampling following clean-up to a single event, and clarifies requirements for sample collection. The updated language better aligns with other Maryland general permits for stormwater.

RESPONSES TO SPECIFIC COMMENTS

1. **COMMENT** (Dominion Energy)

Dominion Energy requests changes to Part I.B.9 of the permit to include an additional bullet identifying dewatering of vaults, manholes, conduit, etc. containing uncontaminated stormwater or groundwater and clarification that the term “building” includes structures with exterior surfaces that are not significantly influenced by process activities.

RESPONSE

The Department has reviewed the issue regarding the dewatering of vaults, manholes, etc. and determined that this type of discharge does not require a permit. The stormwater and groundwater which is collected in such items would typically runoff or otherwise flow into the nearest surface water should those items not be in place, so there is no foreseeable significant addition of pollution. The permit will stipulate that this type of discharge does not require a permit so long as the discharges are not impacted by any ongoing site activities.

The Department agrees that the washdown of other structures uninfluenced by process activities should be categorized with “buildings” and will clarify this in the final permit.

CHANGES FOR THE FINAL PERMIT

The Department has added language which specifies that no permit is required for discharges from vaults, manholes, etc. to Part I.D of the permit.

The Department has amended Part I.B.9.d to include “other structures” with a qualifying clause stating “so long as the wash water discharges are not influenced by process activities.”

The specific language included in the final permit is reprinted below:

(Part I.D)

D. No Permit Required

...No discharge permit is required for the discharge of stormwater or groundwater from collection devices such as vaults, manholes, and conduit so long as such discharges have not been impacted by other activities ongoing at the site.

(Part I.B.9)

- 9. *Other allowable discharges:*** *These types of discharge may be covered under this permit as ancillary discharges, but do not require coverage under this permit as standalone discharges. They are not subject to a category found in Appendix A, but should adhere to all other permit terms, particularly those in Part III.C:*

- a. *water used to fight active fires (not from fire system cleaning or testing),*
- b. *pavement wash waters where no detergents are used and no spills or leaks of toxic or hazardous materials have occurred (unless all spilled material has been removed);*
- c. *landscape watering, only if all pesticides, herbicides, and fertilizer have been applied in accordance with the approved labeling;*
- d. *routine external wash down of buildings or other structures in the absence of detergent use and where any dislodged paint chips are filtered (so long as the wash water discharges are not influenced by process activities);...*

2. **COMMENT** (Dominion Energy)

Dominion requests that the condition in Part 1.C.3 make an exception for wash water from tanks containing cryogenic liquids or liquefied gases because they do not have exterior contamination characteristics of the chemical/petroleum storage tanks, pipes, and pipelines for which this condition was created.

RESPONSE

The wash water referred to by Part I.C.3 was for washing of the interior of such tanks, which remains prohibited for all chemicals. The response to comment #1 addresses the external washing of structures which are not influenced by process activities, which will allow external wash down of the tanks referred to by this comment.

CHANGES FOR THE FINAL PERMIT

The Department clarifies that Part I.C.3 refers to the interior of such tanks.

The specific language included in the final permit is reprinted below:

3. Wastewater from the washing of the interior of chemical and/or petroleum storage tanks, pipes and pipelines

3. **COMMENT** (Dominion Energy)

Dominion requests that the language regarding the deadline for coverage for eligible dischargers which are in operation prior to the permit effective date but not covered by an existing permit be modified to account for the new types of discharge covered under this permit, specifically dewatering from construction activities. Dominion proposes that the permit allow 30 days for such dischargers to obtain coverage. The reasoning for this request is such that upon the effective date of the 17-HT permit, any such discharges would become a non-compliance condition and require immediate notification to WSA Compliance.

RESPONSE

While dewatering and groundwater remediation discharges are new to the scope of the HT permit, the requirement to have a permit to discharge such wastewater is not new for many of these discharges. Additionally, there is always a period of 15 to 45 days between the issuance date of a general permit and its effective date, so that does provide an additional buffer time for potential dischargers in this situation to complete and submit a Notice of Intent for coverage.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

4. **COMMENT** (Dominion Energy)

Dominion requests modification of the language of Part III.A.1 of the draft 17-HT permit which requires notification to WSA Compliance in the event that discharges will exceed 100,000 gallons within a 24-hour period or the rate of discharge will equal at least 50% of the flow of the receiving stream. Discharges under this permit will often occur into onsite stormwater basins that may or may not immediately discharge (wastewater is tested to meet permit limits prior to discharge into the basin) and these basins discharge into intermittent or ephemeral streams which are typically dry or have very low flow. This would essentially require notification for every such discharge. The permit is also unclear on what stream flow criterion (e.g. mean annual) would be used to evaluate the 50% flow.

RESPONSE

The Department has re-evaluated this requirement and determined that notification should only be required in the event that flow will exceed 100,000 gallons within a 24-hour period. The rationale for the prior condition appears to have been a concern for causing erosive conditions or temperature concerns in ephemeral or small streams, but permit conditions in Part III.C of the permit already address narrative requirements for erosion and sediment control and pollution prevention. Non-compliance with these conditions or causing an exceedance of any water quality criteria (including temperature) is a cause for notification already. Based on those items, the Department has determined that universal notification for all discharges which comprise half of the flow of a receiving stream is not necessary.

Correspondingly, the Department has reviewed the threshold requirement for Discharge Category F, as they align closely with this reporting requirement. Since the regulation at COMAR 26.08.04.09(K)(c) continues to indicate a threshold for coverage of "untreated water" at 10,000 gallons per day, the permit has been updated to match this requirement. However, facilities will not be required to submit an NOI for coverage under Discharge Category F unless the discharge is larger than 100,000 gallons per day. This best reconciles the permit with the removal of a State regulation which formerly required discharge permits for ALL discharges of water above 10,000 gallons while maintaining adherence to COMAR 26.08.04.09(K)(c). The coverage of permittees absent submission of an NOI is similar to the Department's instructions

for private pool owners in the *General Permit for Discharges from Swimming Pools and Spas, including Baptismal Fonts* (No. 12-SI).

CHANGES FOR THE FINAL PERMIT

The Department has amended the language of Part III.A.1 to indicate that notification is only required when discharges will exceed 100,000 gallons. Discharge Category F in Appendix A has been amended to require a Notice of Intent only for dischargers larger than 100,000 gallons per day while covering dischargers between 10,000 and 100,000 gallons per day without submission of an NOI.

The specific language included in the final permit is reprinted below:

(Part III.A.1)

A. Notification Requirements

1. Notification Prior to Discharge

If the total wastewater discharge from any single discharge event will exceed 100,000 gallons within a 24-hour period, you shall notify the Water and Science Administration's Compliance Program by phone at 410-537-3510 no later than 48 hours prior to the first discharge.

(Appendix A, Discharge Category F)

Eligible Discharges:

Discharges of untreated "water" in excess of 10,000 gallons per day (as a monthly average), or untreated "water" otherwise specifically required for coverage by the Department on a case-by-case basis from water storage or distribution systems, including but not limited to hydrogeologic/aquifer/wellhead yield testing. This category is designed primarily to cover discharges of raw water overflows from intakes or aqueducts. This category excludes any water sources which have been chlorinated.

Notice of Intent Requirements:

Submission of a Notice of Intent for discharges under Discharge Category F shall only be required if the flow is in 100,000 gallons per day or greater (as a monthly average). All other dischargers under this category shall meet the numerical (if applicable) and narrative effluent limitations for this category (as well as other applicable portions of the permit), but are not subject to the submission of an NOI. Dischargers that are not required to submit an NOI are automatically authorized to discharge in compliance with the requirements of this permit.

5. **COMMENT** (Dominion Energy)

Dominion proposes a minor change to the language of Part IV.F.2 to now read (changed language in italics): “*Permittees shall submit the name and address of any laboratories that the permittee uses to perform analyses as an attachment to your first DMR submission. If you change or add laboratories during the permit term, the Department shall be notified by attaching a letter identifying the change with the ensuing DMR submission.*”

RESPONSE

The initial change from “You” to “Permittees” is noted, but the Department has recently shifted to using second person in many instances in its general permit, which aligns with language in EPA’s *Multi-Sector General Permit*. The first paragraph of Part I states that “you” or “your” refer to the permittee or permit applicant.

The Department has mostly accepted the remaining suggestions, as the previous language suggested that a laboratory was mandatory for all permittees, which is not the case.

CHANGES FOR THE FINAL PERMIT

The language of Part IV.F.2 has been slightly altered, as expressed below.

The specific language of Part IV.F.2 included in the final permit is reprinted below:

Laboratory Identification

You shall submit the name and address of any laboratory which you use to perform analyses (including your own laboratory, if applicable) as an attachment to your first DMR submission. If you change or add laboratories during the permit term, the Department shall be notified by attaching a letter identifying the change with the ensuing DMR submission.

6. **COMMENT** (Dominion Energy)

Dominion requests a blanket statement be added to the permit which specifies that if a discharge is not subject to numerical limits, then NetDMR reporting is not required.

RESPONSE

The Department agrees that further clarification that NetDMR registration is only required for permittees that need to submit monitoring results or reports is warranted.

CHANGES FOR THE FINAL PERMIT

The Department has added a sentence at the top of Part IV.F which clarifies that section only is only applicable to permittees that are subject to numerical limits/monitoring or submission of

routine reports which are specified to be attachments to DMRs.

The specific language of Part IV.F included in the final permit is reprinted below:

This section is only applicable if you are subject to numerical limits or monitoring (including "REPORT" parameters) or submission of reports/documents which the Department specifies are to be submitted as attachments to DMRs.

7. **MULTIPLE COMMENTS: GROUNDWATER DISCHARGES** (Dominion Energy)
- If it is the intent that this permit will only cover surface water discharges, Dominion Energy requests that a blanket statement be added specifying exemption of groundwater discharges.
 - Dominion requests monitoring exemptions for discharges to groundwater found in the 11-HT be included in the 17-HT, specifically in Discharge Categories A, B, and E. Similar language is requested for new Discharge Category C.

RESPONSE

The Department mistakenly omitted this language from the 11-HT and has restored it within the appropriate discharge categories. Some categories under this permit require monitoring and/or limits for groundwater discharges, so a blanket statement in the base permit is not appropriate.

With regards to Discharge Category C, see Comment #23 for final permit language regarding concrete/cement, as the monitoring table has been removed pursuant to that response. That change renders this comment moot with respect to Discharge Category C.

CHANGES FOR THE FINAL PERMIT

Language has been added to Discharge Categories A, B, and E which exempts the permittee from monitoring if the discharge is to groundwater.

The specific language included in the final permit is reprinted below:

***NOTE:** Discharges under this category which occur to groundwater only are exempt from all numerical limits, monitoring, and reporting.*

8. **COMMENT** (Dominion Energy)

Dominion requests that the permit include a definition of "untreated water."

RESPONSE

The definition of "water" in Appendix B was intended to cover "untreated water." The "untreated water" term will be added to that definition for clarity.

CHANGES FOR THE FINAL PERMIT

Addition of “untreated water” as an alternative term for “water” in the definitions list found in Appendix B.

The specific language included in the final permit is reprinted below:

Water or Untreated Water – the liquid substance which is derived from a groundwater source, a surface water source, or any combination of these sources, and which will be discharged, without a change in quality, into waters of this state, with the exception of storm water runoff.

9. **COMMENT** (Dominion Energy)

The existing Notice of Intent (NOI) form only allows latitude and longitude for one outfall. Dominion requests that this form be modified to include multiple outfalls.

RESPONSE

The Department has not published an NOI form to correspond with the 17HT to date. However, the draft version of this form currently in the process contains space for the identification of additional outfalls.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

10. **COMMENT** (Dominion Energy)

In Appendix A - Discharge Category B, Dominion requests a blanket statement which states non-chlorinated/untreated potable water systems are exempt from the requirements of Discharge Category B.

RESPONSE

If water is entirely untreated and has never been chlorinated, it would be eligible for coverage under Discharge Category F: Untreated “Water” Discharges and would only require permit coverage if it met one of the thresholds under that category. Even if this type of water were part of a potable water system and the applicant would seek coverage under Discharge Category B, it would not fall into any of the categories which require numerical monitoring; rather it would require only a Pollution Prevention Plan containing applicable information to such a type of discharge – which would be very minimal. The Department feels such a case would also be very infrequent and finds it better to handle such on a case-by-case basis rather than include a blanket statement that could be misconstrued and result in dischargers who require coverage mistakenly

think they are exempt. Any questions about specific discharges can contact the Department prior to applying.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

11. **COMMENT** (Dominion Energy)

In Appendix A – Discharge Category C, Dominion requests clarification on “concrete materials in use.” Does this specifically mean “fresh concrete” because many construction excavations are in areas with existing concrete?

RESPONSE

The referenced language was designed to reference fresh concrete or concrete being actively used in the construction process. Existing concrete structures in the area of a construction site should not have reasonable potential to affect pH in the runoff, which is the reasoning for the associated limitations in Discharge Category C. The Department has clarified this as part of its changes that are outlined in the response to Comment #23.

CHANGES FOR THE FINAL PERMIT

See Comment #23 for final permit language regarding concrete/cement, as the monitoring table has been removed pursuant to that response.

12. **COMMENT** (Dominion Energy)

In Appendix A - Discharge Category E, Dominion requests a blanket statement which states non-chlorinated/untreated potable water systems are exempt from the requirements of Discharge Category E.

RESPONSE

The Department anticipates that a large majority of discharges under Discharge Category E will originate from chlorinated source water since potable water is most often used to supply fire suppression systems. However, the Department recognizes that this may not always be the case and that testing for total residual chlorine is unnecessary if source water was not chlorinated.

It would not be appropriate to relinquish discharges of non-chlorinated source water from temperature requirements, so the requested blanket statement has not been adopted for the final determination.

CHANGES FOR THE FINAL PERMIT

A footnote has been added to the "Total Residual Chlorine" row on the monitoring table which indicates that testing for total residual chlorine is only required when source water has been chlorinated. Footnotes have been renumbered as needed to accommodate the new note.

The specific language from Appendix A - Discharge Category E included in the final permit is reprinted below:

Requirements for all discharges under this category:

<i>Parameter</i>	<i>Daily Minimum</i>	<i>Daily Maximum</i>	<i>Monthly Average</i>	<i>Units</i>	<i>Monitoring Frequency</i>	<i>Sample Type</i>	<i>Notes</i>
<i>Total Residual Chlorine</i>		<i>ND</i>		<i>mg/L</i>	<i>2/Discharge</i>	<i>Grab</i>	<i>(2) (3) (4)</i>

Notes (for all tables)

(2) *Testing for total residual chlorine is only required when the source water has been chlorinated. If sampling is not applicable then report "NODI 9" on your discharge monitoring report.*

13. **COMMENT** (Dominion Energy)

In Appendix A – Discharge Category H, Dominion requests that the specification of “Aboveground **Petroleum** Storage Tank Containment Structures” be restored from the 11-HT (17-HT omits “Petroleum”). Additionally, the 11-HT specifies a capacity of 10,000 gallons or more, which should also be restored.

RESPONSE

As a result of the comment regarding the threshold of 10,000-gallon capacity, the Department has re-examined the overall necessity for coverage under this Discharge Category. The presence of storage tank containment does not in and of itself trigger a requirement for industrial stormwater coverage pursuant to 40 CFR 122.26. In both EPA's *Multi-Sector General Permit* and the Department's *General Permit for Discharges of Stormwater Associated with Industrial Activity* (No. 12-SW-A), containment areas are identified as part of coverage within other activities or sectors which are already otherwise requiring coverage. Thus, the Department has determined it is appropriate to utilize a similar approach for Discharge Category H in the 17-HT.

The final permit will state that coverage is only required under Discharge Category H if a permittee either has coverage under another discharge category of the 17-HT or is instructed by Department personnel that coverage is required based on that specific site (where coverage does not currently exist and the site is not subject to a different stormwater permit). This preserves the ability for the Department to use this permit to cover sites that are determined to have a higher reasonable potential on a case-by-case basis. The final permit will note that facilities with

containment structures that do not require the 17-HT are advised nonetheless to follow the terms of the permit.

With regard to the request to add "petroleum" back into this category, the Department has chosen to remove the "petroleum" in order to be able to utilize this permit for the storage of other potentially hazardous chemicals. Therefore, the proposed addition of "petroleum" is rejected.

Correspondingly, upon further review of the language from Appendix A – Discharge Category H, the Department has determined that additional narrative language is required to address the possibility of spills from tanks containing chemicals other than petroleum or gasoline (which are addressed by numerical limitations). Since it would be unfeasible to provide limitations for every possible chemical which could be contained in such a storage tank, the Department has decided to include narrative criteria which denote the permittee's responsibility to ensure that discharges do not cause an exceedance of water quality standards in the receiving stream and reserves the rights of the Department to specify site-specific limitations and/or require an individual permit if necessary to protect water quality.

CHANGES FOR THE FINAL PERMIT

The Department has changed the requirements of Discharge Category H such that they are only applicable if other coverage under the permit is required or if a permittee is specifically identified for coverage.

Narrative criteria have been added to specify that dischargers must ensure that they do not cause an exceedance of water quality standards in the receiving stream.

The specific language included in the final permit is reprinted below:

Eligible Discharges:

Discharges of stormwater from within dikes, berms, walls, or any other containment structure for sites of actively-used aboveground storage tanks which are not already covered by a different NPDES permit. This permit does not authorize discharges resulting from a spill event including any spilled material or stormwater which is impacted by any spilled material.

The presence of a containment structure for aboveground tanks does not in and of itself trigger a requirement for coverage under this or any other discharge permit.³ If your facility seeks coverage under this permit for other types of discharges and your facility has tanks within a containment structure, you must also obtain coverage under this section for discharges of stormwater from that containment structure for the duration of time you hold this general permit.

Footnote: ³ Unless specifically directed by the Department, facilities containing no other source of discharges that require coverage under this general permit or an NPDES permit for industrial stormwater are not required to obtain permit coverage for stormwater discharges from aboveground tank containment structures. Such facilities are, however, advised to follow the requirements of this section and implement good housekeeping to ensure the protection of receiving waters.

Narrative Requirements:

1. ***Water Quality Limitations:*** *In addition to meeting any applicable numerical limitations specified for this Discharge Category, your discharge must be controlled as necessary to meet applicable water quality standards, as specified in COMAR 26.08.02. If at any time you become aware, or the Department determines, that your discharge causes or contributes to an exceedance of applicable water quality standards, then you must (1) notify the Department in accordance with Part IV.H of this permit, (2) develop a corrective action plan to prevent future discharges from exceeding water quality standards, and (3) report corrective actions to the Department. The Department reserves the right to impose water quality-based limitations on a site-specific basis (based on criteria in COMAR 26.08.02.03) or require you to obtain coverage under an individual permit if necessary for the protection of water quality standards.*

(NOTE: Narrative Requirements previously numbered 1 through 3 have been renumbered 2 through 4)

14. **COMMENT** (Dominion Energy)

For Appendix A – Discharge Category H, Dominion requests an exemption from numerical monitoring for containment areas that are pumped out and cleaned following a spill event.

RESPONSE

Following a spill event, the Department expects that the containment structures will most likely require being pumped out and cleaned prior to resuming direct discharges. The purpose of the numerical limitations is to ensure that sufficient cleaning has taken place prior to the resumption of discharges. It would not be appropriate to waive monitoring requirements in those instances.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

15. **COMMENT** (Maryland Environmental Service)

Part II.A.1.a requires permittees to attach a site map. Due to the large number of facilities supervised by MES, it is requested that the Department accept coordinates for water treatment plants in lieu of site maps.

RESPONSE

The Department believes that a map provides a significant amount of insight into the site of a facility, particularly since site visits are rarely conducted for general permit applications.

However, the Department also recognizes that this permit is applicable to several types of facilities which may have varying levels of documentation available to them. Further, the Department recognizes that for this particular permit, there may be a few contractors that are responsible for a large number of NOI submissions. As a result, the Department has softened the map requirement slightly by requiring a map, but removing a number of the “must” contain items required in the TD. Additionally, the Department has added a sentence that gives it discretion to determine specific map requirements on a case-by-case basis – in order to be certain that there is enough detail to adequately process NOIs. Regulations at 40 CFR 122.28(b)(2)(ii) do not specifically require submission of a map for general permit applications, so these changes are allowable – and the Department has determined they are reasonable.

CHANGES FOR THE FINAL PERMIT

The Department has changed the requirements for map contents to suggest items rather than identify “must” contain items. A sentence has been added to authorize the Department to make case-by-case determinations on map requirements as needed.

The specific language included in the final permit is reprinted below:

(Part II.A.1.a)

You must also attach a site map to the NOI. The map should identify the outfall(s) and/or facilities associated with discharges. The map should provide significant points of reference (i.e. roads, buildings, etc.) near each point of discharge and identify all surface waters within a quarter-mile of the discharge location(s). For publicly owned potable water systems, you may provide a map of the entire system bounded by the community with the identification of all major discharge points (e.g. storage tanks, wells, etc.). All outfall locations should correspond to those identified on the NOI. The Department may use discretion in determining specific map requirements as needed on a case-by-case basis.

16, **COMMENT** (Maryland Environmental Service)

MES is concerned about the 90-day minimum approval time to modify permits in Part II, Section E.1.a. MES intends to submit NOIs for all facilities under its supervision. Once a facility is approved under category B for discharges that are not subject to numeric limitations it will be understood that the NOI was complete with all required site and contact information. To obtain coverage for other discharges covered by numeric limitations under category B, a revised NOI and updated pollution prevention plan (PPP) will need to be submitted. Due to the quick nature of super chlorinated events, MES requests that facilities be provisionally approved upon submission of a revised NOI and PPP. MES feels this is appropriate since facility and contact information have already been submitted and approved. This request is being made as a potential cost saving to water systems, as mechanical cleaning and super chlorinated discharges might require hauling if not approved in the 90 days listed in the permit.

RESPONSE

The Department specifies a maximum turnaround time of 100 days for all general permit applications. This timeframe includes the time for updating database information, processing of the notice of intent, and setting up discharge monitoring report information in NetDMR and considers that the same staff is completing tasks for several general and individual permits.

While the Department agrees that modifications are often processed more quickly because verification of facility information and creation of such a facility in the Department's database is already completed, the change discussed in the example from this comment would require enrolling the permit in NetDMR and setting up reporting, which must be completed after processing the review of the updated NOI. Such a provisional approval would potentially have discharges subject to monitoring and reporting occurring prior to setting up NetDMR. Furthermore, the Department has determined that the proposed method of provisional approval would amount to approving a discharge without complete information, which is not permissible.

In order to avoid a need for a permit modification, permittees who foresee the potential need for mechanical cleaning and/or super chlorination should indicate this activity on their original NOI, which will trigger the Department to set up NetDMR. Since monitoring is only required in the event that mechanical cleaning or super chlorination occurs, the permittee would simply report "NODI 9" for "Conditional Monitoring – Not Required This Period" for all quarters during which monitoring is not applicable.

Another alternative would be for the permittee to specify a separate outfall for discharges following mechanical cleaning and/or super chlorination. For example, Outfall 001A could be for Discharge Category B discharges that do not feature mechanical cleaning/super chlorination and Outfall 001B could be Discharge Category B discharges with mechanical cleaning (even if 001A and 001B are the same structure at the same coordinates). Then, only 001B would be subject to monitoring and the permittee could simply check "No Discharge" on Outfall 001B for all quarters when there were no discharges that featured mechanical cleaning.

Also note that the permit does not require submission of a Pollution Prevention Plan unless requested by the Department, only that the permittee develop a plan, maintain it on-site, and update the plan to remain current to ongoing activities.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

17. **COMMENT** (Maryland Environmental Service)

Footnote 3 for the tables in Appendix A – Discharge Category B suggests that permittees need to report "NODI 9" for the parameter in the table if you are not subject to monitoring. This is confusing because if super chlorination isn't occurring, there should be no reporting required per permit terms.

RESPONSE

Footnotes are intended only to refer to the tables which are under the numerical limitations section, so they would not refer to any discharges for which numerical monitoring is inapplicable. However, in the review of this comment, the Department realized that the footnote only referenced Total Residual Chlorine, even though all limits in each table would not be applicable during any quarter when the qualifying occurrence for that table (i.e. mechanical cleaning or super chlorination) were not ongoing. To increase clarity, the Department has removed the footnote entirely and will address the use of “NODI 9” in the language above the tables.

CHANGES FOR THE FINAL PERMIT

Footnote 3 has been removed from the monitoring tables of Discharge Category B and all other footnotes have been renumbered accordingly. Language has been added to the paragraph above the monitoring tables which specifies that for any quarter where monitoring is not applicable, the permittee should report “NODI 9.”

The specific language included in the final permit is reprinted below:

Numerical Limitations for Discharges to Surface Waters Under this Category:

... Limitations presented in each table below are applicable only if the condition in the heading (i.e. mechanical cleaning) has occurred for the wastewater being discharged. Should you have a quarter where you are discharging, but some limitations are not applicable (i.e. you did not execute mechanical cleaning), you should report “NODI 9” for the parameters not required...

18. **COMMENT** (Maryland Environmental Service)

In Appendix A – Discharge Category B, MES feels it is unclear that facilities using dechlorination tablets are not subject to numerical limitations and would not require a DMR submission.

RESPONSE

The Department has defined chemical dechlorination in Appendix B of the permit and included a note on the header for this section which stipulates that the use of dechlorination tablets does not constitute chemical dechlorination. The note also refers to the definition in the permit. The section also notes at the top of Discharge Category B that discharges which do not fall into any of the categories which require numerical monitoring are not subject to reporting. The Department feels this fully addresses the situation.

Additionally, the Department believes that including a sentence which states that facilities using dechlorination tablets are absolved from monitoring and reporting in any other place besides that

specific table would potentially cause confusion and make permittees think it absolves monitoring for all parameters, when, in fact, those who are mechanically cleaning or super chlorinating would still be subject to a monitoring requirement.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

19. **COMMENT** (Maryland Environmental Service)

MES requests additional footnotes under the tables in Appendix A – Discharge Category B which define dechlor tabs and super chlorination as well as specifying that NetDMR reporting is not required for dechlorination using dechlor tabs.

RESPONSE

Definitions for these terms are found with all relevant terms in Appendix B. As discussed in the response to Comment #18, the Department feels the issue regarding the use of dechlorination tablets not constituting chemical dechlorination is already best addressed.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

20. **COMMENT** (Maryland Environmental Service)

Appendix A – Discharge Category B contains an error in that the second table on Page A-5 fails to list correct units for pH and Cl₂. Please add the correct units to these limits.

RESPONSE

The tentative determination posted on the Department’s website identifies “s.u.” as the units for pH and “µg/L” as the units for total residual chlorine. Each of these is correct for the respective parameter.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

21. **COMMENT** (Transco)

In Part II.A.1 of the draft permit, it states “For discharges of non-contaminated construction dewatering, you will either be asked to submit groundwater testing data which exhibits no contamination or an environmental assessment which indicates there is no reasonable expectation for contamination.” Transco’s maintenance activities frequently require excavation

of a pipeline which sometimes includes the need to dewater and it is not reasonable to obtain sampling or an environmental assessment for each site.

RESPONSE

The Department agrees that it is not always practical to obtain sampling data or site assessments, which is why it implemented a best professional judgment clause in Appendix A – Discharge Category C for this requirement. Slightly altering the permit language of Part II.A.1 (fully excerpted in the comment above) to read “...you *may* be required...” would better align with the intent of the requirement. This also better aligns with the terms of the Department’s *General Permit for Stormwater Associated with Construction Activity*, which does not require submission of sampling data, and only requires that the permittee ensure the water is uncontaminated.

CHANGES FOR THE FINAL PERMIT

The Department will change the phrase “you will either be” to “you may be” in Part II.A.1.a regarding submission of monitoring data or environmental assessments for discharges from construction dewatering.

The specific language included in the final permit is reprinted below:

(Part II.A.1.a, paragraph 6)

For discharges of non-contaminated construction dewatering, you may be asked to submit groundwater testing data which exhibits no contamination or an environmental assessment which indicates there is no reasonable expectation for contamination.

22. **COMMENT** (Transco)

The 11HT permit contains a waiver of all monitoring except flow and oil & grease for hydrostatic test discharges, but this was not found in the 17HT permit. Transco requests that this language be restored from the 11HT.

RESPONSE

See response to Comment #7.

CHANGES FOR THE FINAL PERMIT

See response to Comment #7.

23. **COMMENT** (Transco)

The draft permit appears to include pH reporting as a numerical limit to be reported via NetDMR and also as a narrative requirement where the data is monitored as part of the Pollution

Prevention Plan. From the discussion at the public informational meeting and hearing, it was our understanding that the numerical reporting requirement was in error. Transco requests that pH monitoring be only included under the narrative PPP requirements.

RESPONSE

The Department's intent for requiring pH monitoring is to ensure that dewatering discharges would not cause an excursion from water quality criteria in surface waters. The intent of the permit language in the tentative determination was to note that all dischargers must monitor pH, but that instead of reporting via NetDMR, the reporting was to be done as part of the PPP. In the review of this language, the Department sees how specifying the monitoring requirement in a table under numerical limitations makes it appear as if reporting via NetDMR is the intent.

There is no significant benefit to require the reporting of data since no limits are imposed and the data would only likely be reviewed upon a site inspection (during which the inspector could review on-site results in the PPP). The requirement of corrective actions and documentation in the PPP also aligns with the Department's management of dewatering discharges in other permits.

There is also no significant benefit to requiring the reporting of flow data. This requirement shall also be removed from the numerical monitoring section with a narrative condition requiring that the permittee maintain discharge flow estimates on site.

Note that the limitations for pH in excavations featuring active use of fresh concrete shall also be removed because it is illogical to require this for dischargers under this permit, but not for larger dischargers who dewater under the *General Permit for Stormwater Associated with Construction Activity*. Instead, this requirement will be replaced with increased monitoring frequency under the narrative requirements and corrective actions required if excursions occur for more than two hours.

CHANGES FOR THE FINAL PERMIT

For Discharge Category C, the Department has removed the monitoring table from the "Numerical Limitations" section and expressed monitoring requirements for flow and pH solely as a narrative condition.

The specific language included in the final permit is reprinted below:

Narrative Requirements:

Monitoring for Flow and pH: All dischargers to surface water under this category are required to monitor flow and pH. For discharges that are not subject to the numerical limitations/monitoring/reporting above, you are required to document flow measurements/estimations and pH measurements as part of your Pollution Prevention Plan (PPP). Should pH be outside the range of 6.0 to 9.0 for two consecutive weeks, you must

implement a corrective action to restore pH to the range specified. All necessary corrective actions shall be documented in the PPP

Concrete/Cement Use: *If raw materials for concrete or cement are present on-site and/or you are actively utilizing concrete or cement in your construction, you shall minimize contact with stormwater or groundwater. During such times, the monitoring for pH required under Narrative Requirement #1 in this section shall be increased to a minimum of once daily and the sample collected must be representative of when the concrete/cement materials are present. Any result outside of the range of 6.0 to 9.0 shall require follow-up monitoring every 15 minutes until the pH returns to a range of 6.0 to 9.0. If an excursion occurs for longer than two consecutive hours, you shall cease discharge and implement a corrective action. The discharge may resume again once the pH is between 6.0 and 9.0. Documentation of concrete/cement use, appropriate controls, and monitoring results shall be maintained in your PPP.*

24. **COMMENT** (Transco)

Transco suggests adding language to Discharge Category C regarding discharges solely to groundwater being exempt from numerical and narrative requirements.

RESPONSE

See response to Comment #7.

CHANGES FOR THE FINAL PERMIT

See response to Comment #7.

25. **COMMENT** (Transco)

The 11HT permit specifies a capacity threshold of 10,000 gallons storage for requiring a permit for Discharge Category H. Transco requests this be included in the 17HT. Additionally, Transco requests clarification whether the 10,000 gallons capacity is applicable per tank, per containment, or per site.

Also, the 11HT specifies that the permit pertains only to Aboveground Petroleum Storage Tank Containment Structures. Transco requests that the requirement remain specific to petroleum storage.

RESPONSE

See response to Comment #13.

CHANGES FOR THE FINAL PERMIT

See response to Comment #13.

26. **COMMENT** (Transco)

Under Appendix A – Discharge Category H, Narrative Requirement 3.b includes the language “outlets are properly sealed.” Is this a requirement to use a lock on the valve? The next sentence says to check that plugs are properly affixed. Does this mean that the drain pipe must have a plug installed in the end? Transco suggests replacing these wordings with a requirement to verify that outlets are not leaking during the quarterly inspection.

RESPONSE

This condition only requires that you inspect the tanks and controls which are in place to ensure that no leaking is occurring. None of the language specifies that locks, plugs, or any specific equipment items are required; only that any such equipment which is present be inspected to ensure it is working properly. The Department is choosing to maintain the language of the tentative determination as it aligns with other general permits.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

27. **COMMENT** (Washington Gas)

Utility companies routinely conduct maintenance, abandonment, installation and testing on underground infrastructure within the state of Maryland. The majority of these construction sites result in minimal ground disturbance and do not require coverage under the General Permit for Stormwater Associated with Construction Activities (COMAR 26.08.04.09A).

To perform required maintenance activities, construction crews must periodically pump accumulated water from trenches. Discharges associated with these sites are very limited in time and volume. The current Monitoring Frequency listed in the Draft General Permit for Discharges from Tanks, Pipes, Other Liquid Containment Structures, Dewatering Activities, and Groundwater Remediation requires monitoring 1/month and 1/week. Discharges associated with these sites normally last less than one day, but the current permit language would result in monitoring of all discharges.

Regarding the requirement of Discharge Category C, to submit pH and flow Discharge Monitoring Reports of the water to be discharged, we ask that the Maryland Department of the Environment allow a utility exemption for these types of small projects. It would be more feasible and equally effective to require specific narrative requirements for a system wide Pollution Prevention Plan that will ensure compliance with the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control.

RESPONSE

The Department has reviewed permit terms for construction dewatering and examined how this type of wastewater is managed by other permits. After review, the terms of the tentative determination appear to be as stringent or more stringent in all cases compared to the *General Permit for Stormwater Associated with Construction Activity* and management practices under that permit have been found to be protective of water quality. Furthermore, the facilities which are expected to register under the 17HT permit for dewatering discharges are those which are *too small* to require the *General Permit for Stormwater Associated with Construction Activity*, making it more illogical to apply more stringent requirements.

This permit includes a 10,000 gallons threshold requirement for discharges of untreated water to require a permit. While not entirely “untreated” because sediment controls are typically utilized, the two types of wastewater are both largely expected to have minimal reasonable potential to impact water quality. Therefore, the Department has determined it would be appropriate to institute a threshold of 10,000 gallons per day to delineate which dischargers of uncontaminated construction dewatering with no additives would be required to submit an NOI. For facilities which are beneath 10,000 gallons per day, the language will be included in the final permit specifying that they must comply with the narrative requirements of the permit, but are not required to submit an NOI. This is similar to the practice that the Department uses for its *General Permit for Discharges from Swimming Pools & Spas, including Baptismal Fonts* (No. 12-SI) in which private pools servicing less than four residences are required to abide by permit terms without registering under the permit. Essentially, the Department has determined that there is minimal reasonable potential for discharges of uncontaminated construction dewatering which are less than 10,000 gallons per day.

If a discharger requires the use of chemical additives, including flocculants or coagulants, to meet water quality standards, they must also register under this permit, even if they are below 10,000 gallons per day. This permit may also be used to regulate dischargers of construction dewatering which are registered under the *General Permit for Stormwater Associated with Construction Activity* but require the use of additives, as additive usage is not allowed by that permit. Additional discussion of the chemical additive issue is presented in Comment #30.

CHANGES FOR THE FINAL PERMIT

The specific language included in the final permit is reprinted below:

(Part I.B.3)

3. *Discharge Category C: Dewatering from construction activities*¹

Footnote: ¹Submission of a Notice of Intent is only required for discharges of uncontaminated dewatering which are not covered under another permit and are either greater than 10,000 gallons per day (as a monthly average) or require the use of chemical additives to meet

water quality standards. See the section for Discharge Category C in Appendix A for further details.

(Appendix A – Discharge Category C)

Eligible Discharges:

This category authorizes discharges from construction dewatering activities and foundation drainage, so long as the water being discharged is uncontaminated (such as by organics or metallic elements in the groundwater). Contaminated groundwater may be eligible for coverage under Discharge Category D at the Department’s discretion. Groundwater may be pumped out via a well-point system or removed from the excavation. Commingled stormwater is also permissible under this permit. Dewatering from basins consisting of solely stormwater may be regulated under this section if activities are beyond the scope of a different stormwater permit (i.e. flocculant use). (Unless otherwise directed by the Department on a case-by-case basis, dewatering of sediment basins containing stormwater only does not require permit coverage under any permit if less than one acre of land disturbance and not using additives for treatment,)

Notice of Intent Requirements:

Submission of a Notice of Intent for discharges under Discharge Category C shall only be required if you:

- a) discharge greater than 10,000 gallons per day,*
- b) use a chemical additive as part of your management practices for erosion and sediment control (pursuant to Part III.C.4 of this permit), OR*

*All other dischargers under this category shall meet the narrative effluent limitations for this category, but are not subject to the submission of an NOI. Dischargers that are not required to submit an NOI are automatically authorized to discharge in compliance with the requirements of this permit. **NOTE:** This does not absolve the need to obtain and adhere to the terms other permits including but not limited to the General Permit for Stormwater Associated with Construction Activities or other permits identified in Part I.G of this permit where applicable.*

28. **COMMENT** (Washington Gas)

Similar to the requirements for Discharge Category H, visual monitoring should be sufficient for discharges under Discharge Category C given that all construction dewatering is completed in accordance with the Dewatering guidelines provided in Section F of the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control. Specific Pollution Prevention Plan requirements should require crews performing the dewatering operations to follow environmental best practices, including using appropriate filtration controls to prevent particulate matter from leaving the site, contracting with a licensed waste hauler to remove and

dispose of any visibly-contaminated water that is encountered, or sampling only when suspected contamination is present due to visible inspection or site background information.

RESPONSE

There is no longer a reporting requirement for parameters via NetDMR (see Response to Comment #23). However, the Department has determined that routine on-site monitoring for pH and documentation in a Pollution Prevention Plan is warranted for discharges to ensure the protection of the receiving water. Note that visual monitoring is required for all discharges under this permit pursuant to Part III.C.5.

CHANGES FOR THE FINAL PERMIT

No additional changes are required for this comment. See response to Comment #23 for related changes.

29. **COMMENT** (Department of Veterans Affairs)

The VA Maryland Health Care System currently holds three 11HT permits for stormwater discharges. If a facility is required to have both the 17HT permit and an MS4 permit, could the facility combine the pollution prevention plan for the MS4 with the stormwater management plan for the 17HT?

RESPONSE

For clarification, the three 11HT permits held by the VA Maryland Health Care System are for discharges from the fire suppression system, which would not fit the definition of “stormwater.” However, the overarching issue of the question is whether the pollution prevention plans (PPP) for two different permits can be combined. The language of the 17HT permit does not specify the format of the PPP, so a combined plan would be allowable, so long as it is available for viewing if requested by Department personnel. It should also be apparent or easily demonstrated by permittee staff where the provisions of the PPP which are applicable to the 17HT are located within the combined plan.

Also, note that this response does not indicate that a combined plan is allowable per the terms of any other permit. The permittee should confirm with the MS4 system that they are amenable to a combined plan as well.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

30. **COMMENT** (MDE Sediment, Stormwater, and Dam Safety Program)

Use of Chemical Additives

During the comment period, the Department's Sediment, Stormwater, and Dam Safety Program (SSDS) provided a comment that clarification was required regarding requirements for permittees wishing to use chemical additives for sediment control. SSDS suggested changes which would provide information to permittees, Department staff, and site inspectors, as well as the general public, in order to specifically outline what chemical additives may be approved and at what concentration.

Part I.B.10 of the tentative determination draft permit states "**10. Use of Chemical Additives:** Use of any chemical additives (defined in Appendix B) requires prior notice, indicating your intent to use them on your NOI and listing the additives in your PPP. The specific language of this section stated "*Any substances not approved by the Department are prohibited*" which was intended to apply to all additives. The changes identified in this response are a result of the Department making a determination regarding the specific methodology for reviewing proposed chemical additive usage and making a determination on approval. An excerpt from Part III.C.4 of the tentative determination draft permit states "Additives must be selected that are certified under ANSI/NSF Standard 60 for drinking water and only discharged in concentrations that are nontoxic to aquatic life." (emphasis added). The changes to the draft permit simply reflect the means by which a permittee will be required to make this demonstration - the final determination does not change the actual standard which must be met by permittees wishing to use additives.

After consultation within the Department, the following revisions were determined to be necessary for the language regarding use of chemical additives. The tentative determination allowed for implied approval for all additives except for cationic chemical additives so long as the additive(s) were identified on the Notice of Intent and the permittee followed a set of guidelines in Part III.C.4 of the permit which required proper erosion and sediment controls, minimization of additive use, training of personnel handling the additives, and ensuring that the additives were certified under the ANSI/NSF Standard 60 for drinking water and only discharged in concentration that are nontoxic to aquatic life. After further review and consideration of EPA methods for determining aquatic toxicity and how they are applied to actual additive review practices in other states (specifically Wisconsin and North Carolina), the Department has determined that all additives should require express approval before use.

The Department has established a new policy for approval of chemical additives, which is anticipated to be used in all general discharge permits moving forward. A list of pre-approved additives shall be maintained on the Department's website at <https://mdewwp.page.link/MDFlocs>. The original listing of approved additives has been adopted from a review of similar lists used in North Carolina and Wisconsin and reviewed to ensure their usage is protective of aquatic life. If an applicant wishes to utilize an additive(s) from the pre-approved list, he/she shall be required to identify the chemical(s) on the NOI and document its use in the PPP. The registration letter will authorize such use. Applicants wishing to use cationic chemicals will be subject to submission of an additional form with attached copies of

their relevant PPP sections. A document outlining additional standards for use of chemical additives has been created and is referenced in the updated permit language. This document will be maintained on the MDE website.

In order for a permit to request use of an additive not on this list, the Department has chosen to model its approval method after that which is used in Wisconsin which incorporates EPA methodology for determining aquatic toxicity. The Department's document outlining requirements for approval will be available on the MDE website.

Language of Part III.C.4 has been amended to reflect this practice. Additional language will specify that all conventional best management practices for erosion and sediment control should be followed prior to resorting to use of chemical additives for sediment control.

The specific language included in the final permit is reprinted below:

(Part III.C.4)

4. *Use of Chemical Additives for Sediment Control*

If you are using chemical additives (defined in Appendix B) for control of sediment (such as polymers or flocculants) at your site, you must comply with the requirements identified in this section. You shall refer to the most current version of Standards for Use of Chemical Additives for Sediment Control document available on the Department's website at <https://mdewwp.page.link/ChemAddStandards> for specific instructions on information which must be included in your PPP, additional requirements, and assistance in applying for additive use.

- *The use of chemical additives for sediment control should only be considered in the event that water quality standards cannot be met using conventional best management practices.*
- *Should the use of chemical additives be necessary, you must utilize conventional best management practices for erosion and sediment controls prior to and after the application of chemical additives.*
- *Additives may only be applied where treated stormwater is directed to a sediment control (e.g., sediment basin, perimeter control) prior to discharge. This permit intends to authorize additives used to create flocculation of suspended materials in stormwater or groundwater.*
- *Chemical additives must be approved by the Department prior to use. The Department maintains a current list of pre-approved polymers/flocculants including approved application method and maximum allowable dosage*

*concentration or application rate on its website
(<https://mdewwp.page.link/MDFlocs>).*

- *If you wish to use a chemical additive that is not found on the approved list, you must request approval according to Procedures for Review of Chemical Additives for Sediment Control (<https://mdewwp.page.link/ChemAddReview>). You may not begin the use of any chemical additive absent from the pre-approved list until you receive express written approval for that additive from the Department.*
- *You are required to identify all additives you will be using on your Notice of Intent (pursuant to Part II.A.1 of this permit). Any initial approval of additives shall be expressly identified in your permit registration letter and you may not commence use of additives absent such approval.*
- *If you wish to change or add another preapproved anionic chemical, you shall provide notification to the Industrial and General Permits Division within 30 days of commencing the use of the new pre-approved additive. If you wish to change or add another preapproved cationic chemical, you must obtain express written approval for that specific cationic additive prior to use.*
- *You must minimize the exposure of stored chemicals to stormwater.*
- *You must comply with relevant local requirements affecting the use of chemical additives. If requested by the E&SC plan approval authority, provide an SDS with your E&SC plan.*
- *You must use chemical additives and chemical treatment systems in accordance with good engineering practices and with dosing specifications and sediment removal design specifications provided by the provider/supplier of the applicable chemicals, or document specific departures from these practices or specifications and how they reflect good engineering practice. The selection of additives and dosing rates should be determined based on site-specific test results. Documentation of the chemical selection process and dosing rate determination shall be included in your PPP. Dosing rates cannot exceed those found on the Department's list of pre-approved additives.*
- *Ensure that all persons who handle and use chemical additives at the site are provided with appropriate, product-specific training. Among other things, the training must cover proper dosing requirements and safe handling practices.*
- *If you plan to use cationic chemical additives (as defined in Appendix B), you are ineligible for coverage under this permit unless you notify the Department's Industrial and General Permits Division at least 30 days in*

advance and the Department authorizes coverage under this permit. To receive authorization under this permit, you must identify in your PPP appropriate controls and implementation procedures (including where the chemical is applied, description of active treatment systems required, dosing, filtering, pH monitoring, etc.) designed to ensure that your use of cationic additives chemicals will not lead to a violation of water quality standards. See the Standards for Use of Chemical Additives for Sediment Control document (<https://mdewwp.page.link/ChemAddStandards>) for additional instructions for completing your PPP and requesting use of cationic chemical additives. A copy of the PPP section regarding the use of cationic chemical additives must be submitted along with the NOI and Request for Use of Cationic Chemical Additives form (<https://mdewwp.page.link/CationicForm>). You are required to comply with all such requirements if you have been authorized to use cationic chemicals at your site by the Department.

- *Depending on the additive selected for use, you may be required to sample discharges and test for residuals or other components. Any such monitoring requirement will be laid out in your registration letter. Results of required monitoring shall be maintained with the PPP and made available if requested by Department personnel.*

Authorization is conditioned on your compliance with additional requirements necessary to ensure that the use of such chemicals will not cause an exceedance of water quality standards. If you use polymers and/or other chemical treatments as part of your controls, you must identify the polymers and/or chemicals used and the purpose in your PPP.

The following comments and responses occurred during the informal comment period following the July 19, 2019 publication.

31. **COMMENT** (Environmental Action Center)

We are concerned by the proposal to restrict the universe of applicants that would be required to file a Notice of Intent (NOI) for coverage under the permit. The concern is that (1) the process of applying for coverage under a general permit forces the discharger to become familiar with their obligations under the permit and (2) the NOI itself is a critical element of transparency. If an NOI is not filed, we question how local residents and concerned citizens would be provided notice of a request to discharge potentially hazardous pollutants. We are also concerned that dischargers not required to file an NOI might also be subject to less oversight by MDE and, as such, might be less likely to comply with the law. We are also concerned and seek clarification from MDE regarding how they will track and count dischargers who do not submit NOIs and what system is in place to map them and calculate pollution loads from them.

RESPONSE

The Department has proposed changes for the need to submit an NOI for two categories: construction dewatering (Discharge Category C) and untreated “water” (Discharge Category F).

“Water” or “Untreated water” is defined in the permit as “the liquid substance which is derived from a groundwater source, a surface water source, or any combination of these sources, and which will be discharged without a change in quality, into waters of this state, with the exception of stormwater runoff.” Essentially, this category deals with water which was removed from State waters and is being put back into State waters at the same quality. One example would be the need to drain a raw water tank at a water treatment plant.

The primary purpose for the inclusion of this type of discharge in prior HT permits was the previous language under COMAR 26.08.04.01B(1) which required a permit for any discharge which exceeded 10,000 gallons per day. The language of this regulation was amended in September 2015 to remove the flow requirement – such that permits are now only required for discharges of “waste or wastewater.”

The Department regards untreated “water” discharges to have no reasonable potential to cause an excursion of water quality standards with the sole exception of temperature - which may increase if the water is stored above ground during periods of hot weather. The Department has determined that there is minimal potential for thermal impact for a majority of such dischargers and is thus only proposing to require an NOI for those who exceed 100,000 gallons per day.

Under Discharge Category C, a permittee is only authorized to discharge water from construction dewatering activities that are uncontaminated by anything except sediment. The Department is proposing to only require NOIs for sites discharging greater than 10,000 gallons per day or sites that propose the use of chemical additives for sediment control. All sites with land disturbance of 5,000 square feet or more are required to have an approved erosion and sediment control plans. Thus, even if the dewatering flows do not exceed 10,000 gallons per day (and require submission of an NOI under the 17-HT permit), these dischargers will remain subject to the need for approved erosion and sediment control plans. Any site which is less than 5,000 square feet in land disturbance is unlikely to require any dewatering of groundwater and if they did, the discharges would be minimal. If there are no additives being used at a site, the Department regards uncontaminated dewatering sites to have no reasonable potential for toxicity and the reasonable potential for sediment pollution is managed by narrative E&SC plan requirements, which is akin to BMPs in discharge permits for stormwater.

The allowance of dischargers without submission of an NOI for facilities with extremely limited reasonable potential ***does not*** authorize those facilities to cause any excursion of water quality standards. Rather, it serves to lessen the regulatory burden on the Department permitting and compliance programs in monitoring facilities with extremely minimal (if any) reasonable potential and lessen the burden of the regulated community to obtain permits in this situation as well. The Department has already implemented the practice of permit coverage without submission of an NOI in the General Permit for Discharges from Swimming Pools and Spas

(current permit number 12-SI) for residential swimming pools. This practice is also used in some of EPA's general permits as well. The Department has determined that the benefits of burden reduction far outweigh any benefit to be gained by requiring an NOI for such facilities.

Any such discharges from these facilities are either already accounted for because the source is from surface waters (with no change in quality) or as part of the aggregate loadings from stormwater/construction. Based on the relative insignificance of the discharges and minimal reasonable potential, the Department has determined it is not needed to map locations of such facilities.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

32. **COMMENT** (Environmental Action Center)

The NOI form must require Applicants to affirm or deny whether discharges go to a Tier II water or Tier II catchment. The NOI should also include checkboxes or statements regarding whether an Antidegradation Review is required

RESPONSE

While this was not an issue listed within the public notice for informal comments, the Department agrees that this was an omission from the Notice of Intent requirements. The final NOI will contain a checkbox to indicate if a discharge occurs into a Tier II stream or catchment. The Department will also add a paragraph to the permit which stipulates that additional requirements or an individual permit may be required for new or expanding discharges into Tier II streams or catchments. Such requirements would be determined by the Department on a case-by-case basis. Language added will be modeled after that which is used in other Maryland general permits such as the 12-SW permit.

CHANGES FOR THE FINAL PERMIT

The "Receiving Waters" bullet point in Part II.A.1.a of the permit has been amended to include the need to identify discharges to Tier II streams or catchments. Part III.D has been added to the final permit regarding Tier II Antidegradation Requirements.

The specific language included in the final permit is reprinted below:

(Part II.A.1.a, 3rd paragraph, 3rd bullet)

- *Discharge Information: You must identify:*
 - *Water characteristics: Discharge Category(ies) and any applicable associated information (e.g. cleaning methods, disinfection, etc.), estimated volume, frequency, and duration*

- *Receiving Waters: groundwater or surface water; if surface water: name of receiving stream, identification of designated use class and whether they qualify as Tier II waters, and coordinates in degrees decimal for each outfall.*

(Part III.D)

D. Tier II Antidegradation Requirements for New or Increased Dischargers

If you are a new discharger, have increased your discharge volumes from previous permit registration(s), or are required to notify the Department of a modified discharge (Part II.E.1), and you discharge directly to waters designated by the State as Tier II for antidegradation purposes under 40 CFR 131.12(a), the Department may notify you that additional analyses, control measures, or other permit conditions are necessary to comply with the applicable antidegradation requirements, or notify you that an individual permit application is necessary, in accordance with Part I.E of this permit.

33. **COMMENT** (Environmental Action Center)

If MDE does not restore the requirement to submit an NOI for all applicants, they should restore the NOI requirement for any applicant with potential to discharge into a Tier II stream or catchment.

RESPONSE

The Department agrees that facilities discharging into Tier II streams or catchments should provide notice to the Department so that any necessary antidegradation reviews may be performed.

CHANGES FOR THE FINAL PERMIT

The Department has amended the “Notice of Intent Requirements” under Discharge Categories C and F to reflect that all facilities discharging into a Tier II stream or catchment must submit an NOI.

The specific language included in the final permit is reprinted below:

(Appendix A, Discharge Category C)

Notice of Intent Requirements:

Submission of a Notice of Intent for discharges under Discharge Category C shall only be required if you:

- a) *discharge greater than 10,000 gallons per day,*

- b) *use a chemical additive as part of your management practices for erosion and sediment control (pursuant to Part III.C.4 of this permit), OR*
- c) *discharge into a Tier II stream or catchment (consult COMAR 26.08.02.04-1O and/or search the map at <https://mdewwp.page.link/Tier2Map> to determine if your receiving stream is Tier II)*

(Appendix A, Discharge Category F)

Notice of Intent Requirements:

Submission of a Notice of Intent for discharges under Discharge Category F shall only be required if you

- a) *discharge 100,000 gallons per day or greater (as a monthly average), OR*
- b) *discharge into a Tier II stream or catchment (consult COMAR 26.08.02.04-1O and/or search the map at <https://mdewwp.page.link/Tier2Map> to determine if your receiving stream is Tier II)*

34. **COMMENT** (Environmental Action Center)

MDE should restore the notice requirement for discharges that exceed half the flow of the receiving stream if that stream is a Tier II stream, located in a Tier II catchment, or is intermittent.

RESPONSE

With regards to Tier II, the changes outlined in Comments 32 and 33 above allow for the Department to institute requirements on a case-by-case basis if the discharge occurs into a Tier II stream or catchment. A notification requirement is one such possibility.

The Department considered the impacts to intermittent stream when making the decision to amend the notification requirement to apply solely to flows above 100,000 gallons per day. It was determined that the narrative requirements regarding erosion and sediment control coupled with the numerical limitations of the permit would be protective of intermittent stream quality for the types of discharges covered by this permit.

CHANGES FOR THE FINAL PERMIT

No additional changes are required for this comment.

35. **COMMENT** (Environmental Action Center)

Erosion and Sediment Control plans are based on the standards and specifications last updated in 2012. These plans must be informed by designs, specifications, and regulations that are based on updated rainfall and stormwater data and projected trends. MDE must evaluate whether the state regulations and guidance on E&SC are sufficient to adequately protect surface waters from increased stormwater flows. This analysis should be done for this general permit and all others.

RESPONSE

Erosion and sediment control (E&SC) requirements are typically based upon parameters such as 2-year, 24-hour storm events or 10-year, 24-hour storm events, which require years of data to adjust. Moreover, the regulations which govern E&SC are not promulgated or reviewed by permitting staff as part of an NPDES permit. The Department has determined using best professional judgment that applying the current E&SC requirements as a narrative requirement is protective of water quality standards with respect to the Discharge Categories for which they are included. If there are adjustments to the State requirements for E&SC, the permit specifies that current practices are to be followed, so the permit conditions will automatically implement any updated E&SC requirements.

CHANGES FOR THE FINAL PERMIT

No changes are required for this comment.

36. **ADDITIONAL CHANGES MADE FOLLOWING INFORMAL COMMENT PERIOD**

Following the publication of the draft iteration for soliciting informal comments, the Department spoke with a number of stakeholders to gauge concerns about the permit. The following changes have been made for the final determination as a result of those conversations in an effort to make permit requirements more clear and increase consistency across all of the general permits.

A) Discharge Category E: Draining and Flushing of Fire Control Systems

The Department reviewed the draft permit language in Appendix A for Discharge Category E and determined that the numerical temperature monitoring requirement under the “Requirements for all dischargers under this category” was confusing, particularly considering the additional temperature requirements for large dischargers. The Department expressed the temperature requirement in tabular form for the 17HT (as opposed to how it was expressed in the 11HT) in an effort to increase clarity in how a permittee should monitor the temperature to ensure the protection of the receiving stream. However, after further review and discussion with stakeholders, it was determined that expressing this as a numerical monitoring requirement in the table only served to increase confusion. The Department has determined it is more appropriate to utilize a narrative condition, similar to the 11-HT for a majority of dischargers (namely the smaller ones). This does not relinquish the requirement to control temperature, only does so in a corrective action manner, explaining where samples should be taken and what the permittee must

do if the discharges exceed the applicable water quality standard. This aligns with the 11-HT and the general principle followed in the Department’s other general permits where applicable. The numerical requirement for large dischargers to demonstrate compliance with the water quality standard for its receiving stream during summer months shall remain because those dischargers have a greater potential for causing an in-stream exceedance of the water quality standard as a result of the size of the discharge.

It must be noted that this change does not lessen the burden of the permittee to control temperatures of their discharge, only increases the clarity of how to do so and avoids confusion when compared to the requirements of the large discharges.

The Department also wanted to offer clarification as to why fire hydrants have been excluded from this category. Fire hydrants are typically fed from a potable water source and use underground piping to feed them. This does not generate a potential for temperature concern due to the natural cooling provided by the ground. Discharges from other fire suppression systems are often from aboveground storage tanks or systems which can be susceptible to increased temperatures during hot summer months.

Additionally, fire hydrants are often managed by large potable water systems, making it logical to regulate them under Discharge Category B.

The specific language included in the final permit is reprinted below:

(Appendix A, Discharge Category E)

Numerical Requirements

Requirements for all discharges under this category:

Parameter	Daily Minimum	Daily Maximum	Monthly Average	Units	Monitoring Frequency	Sample Type	Notes
Flow		REPORT	REPORT	gpd	1/Discharge	Measured	(1)
Total Residual Chlorine		ND		mg/L	2/Discharge	Grab	(2) (3) (4)

Narrative Requirements

- 2. Temperature:** Discharges shall not cause the temperature of the receiving waters, beyond a mixing zone which extends 50 feet radially (in still water) or 50 feet downstream (in flowing water), to exceed the applicable water quality standard for the receiving stream (68°F for Use III or III-P, 75°F for Use IV or IV-P, or 90°F for all other Uses). If the ambient temperature of the receiving waters exceeds these standards, then the temperature shall not exceed the ambient temperature of the stream.

You must apply controls to your discharge to prevent temperature exceedances and be able to demonstrate compliance with this condition if requested. Any monitoring results for temperature must be maintained on-site and made available if requested by the Department. If your discharge is causing an exceedance for temperature, you shall either reduce flows or decrease effluent temperatures to a level where in-stream dilution is sufficient for the water quality standards to be met at the edge of the allowable mixing zone. In addition to this narrative requirement, please note the numerical monitoring required for discharges that exceed 100,000 gallons per day or half the flow of the receiving stream (above).

B) Discharge Category H: Stormwater Discharges from Aboveground Tank Containment

One particular discussion with Dominion, a stakeholder under the HT permit, brought some concerns to the attention of the Department regarding actions required following a spill in a containment area. Specifically, the Department came to understand that the permit language from the draft permit, which required compliance with numerical limitations for three consecutive discharge events following a spill or leak of a petroleum-based product was problematic.

Dominion notified that Department that in order to assure compliance with the limitations, they would not be able to actually discharge the collected stormwater in this scenario because the oil and grease lab test would take 5 to 7 days to return results, and they could not risk allowing stormwater to remain in the containment area that long. Thus, they would theoretically never be able to achieve the three “discharge events” required to cease the need for sampling. To correct this issue, the Department has added language which specifies that a sample collected from the containment area satisfies the required test result even if the water is not discharged for that event.

During the conversation, the Department collected information regarding the clean-up procedures used by Dominion. After hearing the precautions that are in place at this facility, the Department determined that the permit requirement could be improved by including language specifying requirements and options for cleaning of the containment area following a spill. Utilizing this approach would also better align with the corrective action philosophy employed through the Department’s general permits, particularly the *General Permit for Discharges of Stormwater Associated with Industrial Activities (12-SW)*.

In an effort for consistency, the Department took a closer look at the language of the 12-SW to see how it regulates containment areas. This was relevant because one of the previous changes made between the tentative determination and draft published for informal comments was already made to align with the practices under the 12-SW. That change regarded altering the universe of permittees who were required coverage under Discharge Category H. A review of the 12-SW shows that it does not contain a numerical monitoring requirement following spills, rather it requires the collection of a sample after the first storm event which follows a spill/leak within the containment area and observation of that sample for oil sheen, floating solids, and/or

noxious smell. Thus, the Department has amended Discharge Category H of the 17-HT to include the same requirement.

In order to prevent backsliding, the numerical monitoring following spill events containing petroleum-based products will remain. However, the language shall change to require only one compliant sample to resume discharging without monitoring. Essentially, the Department has determined that if the narrative clean up requirements are following and the first stormwater event results in clean discharges, there is no basis to reasonably expect a second or third event to be contaminated - absent an additional spill or leak (which would restart the cleanup and sampling requirements). Overall, with the addition of the language outlined above regarding clean up and visual/smell monitoring, the Department finds that the final determination contains a stronger and more stringent condition for managing discharges of stormwater from containment areas.

One additional change that the Department has made regards to the submission of results. Since the numerical monitoring for these facilities is expected to be very infrequent (only following spill events), it is onerous to require the submission of results via NetDMR. While the actual submission of results under NetDMR for an event would not be particularly onerous, the need for the Department to set up a separate DMR report and for the permittee to register for a NetDMR account for such infrequent monitoring would be a significant effort. Therefore, the Department will require all monitoring results to be maintained on-site and made available if requested by Department personnel. Note that this does not lessen any monitoring requirement, only eliminates the need for recurrent submission of DMRs with "NODI 9" (a code for "monitoring not required") indicated for routine discharges.

Since results will not be submitted to NetDMR for these discharges, the Department recognizes that it would be logical to further clarify that notification to MDE Compliance is required if a numerical permit limitation is exceeded for water which was discharged. While this requirement exists for all dischargers in the main/base section of the permit, the Department has determined it should be explicitly noted in the updated language for Discharge Category H because the importance of such notification increases with the removal of the requirements for NetDMR submission.

The specific language included in the final permit is reprinted below:

(Appendix A, Discharge Category H)

Monitoring Requirements Following a Spill or Leak Event:

If a spill or leak event occurs within a containment area, the permittee shall not discharge any spilled materials and shall take actions such as but not limited to pumping and hauling, power washing, and scrubbing of the surface to ensure removal of all spilled material. Prior to discharging any stormwater collected within a containment area for the first time after a spill event and clean up, the permittee must collect a sample from the containment area and ensure that no visible or odorous pollutants are discharged. If a sample contains a visible sheen,

floating solids, or a noxious smell, then the water collected in the containment area should be discharged into a sanitary sewer system or hauled to a treatment facility and clean up should be re-initiated.

If a known spill or leak has occurred within a containment area and the material spilled was petroleum-based, the following numerical guidelines are provided to determine if the water is suitable for discharge. The first time stormwater is collected in the containment area following a spill or leak of a petroleum-based product, the permittee shall collect a sample from the containment area or during discharge to verify compliance with the following limitations. This process shall continue for every subsequent rain event which necessitates a discharge until a compliant test has occurred. Even if the water is not ultimately discharged (the permittee tests collected stormwater, but hauls it away for treatment or discharges to the sanitary sewer as a precaution), a compliant sample fulfills this requirement and the permittee may resume discharging without numerical monitoring (still subject to visual monitoring) until an additional spill or leak has occurred. If a discharge of water occurs where the water is determined to exceed a numerical limit outlined below, the permittee shall notify the Department's Compliance program per Part IV.H.1 of this permit.

This Discharge Category is not subject to the submission of discharge monitoring reports via NetDMR. Records of all numerical and/or visual monitoring shall be maintained on-site and must be made available upon request of Department personnel.

Guidelines for stormwater from all petroleum tank containment structures

Parameter	Daily Maximum	Units	Monitoring Frequency	Sample Type	Notes
Oil & Grease	15	mg/L	1/Discharge	Grab	

Additional guidelines for tanks containing gasoline:

Parameter	Daily Maximum	Units	Monitoring Frequency	Sample Type	Notes
BTEX	100	µg/L	1/Discharge	Calculated	(1)
Benzene	22	µg/L	1/Discharge	Grab	
Toluene	REPORT	µg/L	1/Discharge	Grab	
Ethylbenzene	REPORT	µg/L	1/Discharge	Grab	
Xylene	REPORT	µg/L	1/Discharge	Grab	