MARYLAND DEPARTMENT OF THE ENVIRONMENT
Land and Materials Administration
Oil Control Program
1800 Washington Boulevard, Suite 620
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FACT SHEET

General Permit for the Discharge of Stormwater and Hydrostatic Test Water from Oil Terminals to Surface Water or Groundwater of the State

General Discharge Permit Number: 24OGT-XXXX
NPDES Number: MDG34XXXX

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Table of Contents

SUMMARY OF SIGNIFICANT CHANGES FROM THE 18OGT

1. Clarification of "new and existing" eligible discharges, instead of just "discharges".

2. Instead of "oil storage tank containment structures", the more specific terms "dikes" and "secondary containment" are used to exclude curbs, enclosures, or other non-dike structures which may be exposed to stormwater but are not intended to be covered by the permit.

3. The definitions of "Oil", "Impervious area" and "Total Petroleum Hydrocarbons or TPH" were clarified.

4. The NOI requirements were modified to include the latitude and longitude coordinates of the discharge points (i.e., exact outfall locations) in either decimal degrees or minutes/seconds degrees (III.A.1.c.).

5. The Violation of General Permit Conditions was updated to include Administrative Penalties (VI.D) and Criminal Penalties were modified to expand on the extent of the penalties (VI.F.1-3).

6. Various General Conditions were added to include; Permit Actions, Duty to Reapply, Need to Hald or Reduce Activity Not a Defense, and Duty to Mitigate. Conditions Necessary for Demonstration of an Upset were also updated (VII.I).

7. An important environmental initiative and consideration for upcoming permits involves incorporating Environmental Justice (EJ) protections. The concept behind EJ is that all people– regardless of their race, color, national origin or income –are able to enjoy equally high levels of environmental protection. Additional background may be found on MDE's website https://mdewwp.page.link/EJ. The permittee must include the EJ Score for the facility with the NOI. If the EJ Score for the facility is >=0.76, then the permitee shall post signage on-site so that the community knows that the facility discharges under this permit and offers the community to share the permit and NetDMR data upon the community's request.

BACKGROUND

The Clean Water Act (CWA) was originally enacted as the Water Pollution Control Act of 1948 (P.L. 80-845) and amended in 1972 by the Federal Water Pollution Control Act (P.L. 92-500), which established the National Pollutant Discharge Elimination System (NPDES) in Section 402 of the Act.

The 1972 amendments enumerated a set of national goals "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters," which among others included attainment of "water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water" (33 U.S.C. § 1251).

The law became known as the "Clean Water Act" (P.L. 95-217) under amendments to the Act in 1977. The 1977 amendments made it unlawful to discharge any pollutant from a point source into navigable waters without a permit and gave EPA authority to regulate such discharges by setting limits on the amount of pollutants that can be discharged into a body of water from a permitted source.

Under § 402(b) of the CWA, 40 CFR Part 123, EPA may grant authority (in whole or in part) to individual states to administer the federal NPDES program in that state. On September 30, 1990, the EPA authorized Maryland to operate such a program. The Code of Maryland Regulations (COMAR) Title 26, Subtitle 08, Chapter 04 requires all discharges of waste or wastewater to surface water to be authorized under a state discharge permit or NPDES permit. Authorized states are prohibited from adopting standards that are less stringent than those established under the Federal NPDES permit program but may adopt standards that are more stringent if allowed under state law. The Federal NPDES program under the CWA does not apply to groundwater discharges, therefore discharges to groundwater are regulated under the state discharge permit pursuant to COMAR 26.08.04.01B(1).

This permit replaces General Permit Number 18OGT, which became effective on December 12, 2017, and expired on December 11, 2022. Currently, the 18OGT general permit is administratively extended for facilities covered under that permit at the time it expired. As of 2022, over 42 Maryland facilities are registered by the Maryland Department of the Environment's (MDE) Oil Control Program (OCP) under the 18OGT permit.

General Permit 24OGT regulates its discharges pursuant to COMAR 26.08.04.09O(2), which covers the following discharges to surface water or groundwater of the State:

1. All new and existing discharges of stormwater from storage tank dikes (i.e., secondary containment dikes) and loading rack areas; and

2. All new and existing discharges of hydrostatic test water from oil terminals.

As a General Permit, the application process for coverage under this permit includes the submittal of a Notice of Intent (NOI) along with treatment system information, site map, analytical data, and an application fee, following the process as described below. Other than some minor format changes and the significant changes identified in the summary above, the 24OGT permit remains unchanged from the prior 18OGT permit.

PART I: APPLICABILITY AND COVERAGE

Part I of this permit identifies eligible and ineligible discharges under the permit, as do all MDE general NPDES permits.

The eligible discharges were clarified to refer to "all new and existing discharges" instead of simply "discharges", making it clear that the permit is applicable to both. In addition, instead of "oil storage tank containment structures" the more specific terms "dikes" and "secondary containment" are used to exclude curbs, enclosures, or other such non-dike structures that are not intended to be covered under this permit.

Part I.C lists the ineligible types of discharges, which would require coverage under a different permit through MDE's Water and Science Administration, or in the case of I.C.3, an Individual NPDES "ODS" permit through the Oil Control Program.

The rest of this part, which describes the other possible permits that may be required, authorization granted to permittees, and processes to terminate or transfer the permit, remains largely unchanged from the 18OGT permit except for the updating of hyperlinks to the No Exposure Certification, Notice of Termination, and Notice of Transfer forms.

PART II: DEFINITIONS

This part defines common terms found in all NPDES permits as well as those specific to this one. The list of terms remains largely unchanged from those in 18OGT, with the three exceptions below:

The definition of "Oil" was extended to specify mixtures of product/waste types, whether the substance is used for motor fueling, and the CERCLA regulatory citation was made specific to 42 U.S.C. §§9601.

"Total Petroleum Hydrocarbons or TPH" was clarified to read, "TPH can include gasoline range organics, diesel range organics, and oil range organics." There have been instances of permittees counting TPH-DRO and TPH-GRO separately, instead of summing those components to determine the maximum concentration of TPH as intended.

"Impervious area" was clarified to read "including any area that is paved or used for vehicular storage or traffic, building rooftops, sidewalks, driveways, etc.".

PART III: CONDITIONS OF REGISTRATION

This part clarifies what is required to apply for coverage by submitting an NOI and the application fee. The terms of Part III remain largely unchanged from the information that was required to apply for the 18OGT, and the requirements for reporting a change in the discharge or a discharge into a municipal sewer remain the same. Any alterations should be considered very minor and are addressed in updated instructions for the NOI. The NOI requirements were clarified to include the latitude and longitude coordinates of the discharge points (i.e., exact outfall locations) in either decimal degrees or minutes/seconds degrees (III.A.1.c.), as the 18OGT permit's NOI forms made the coordinates appear to be asking for a general location of the facility, and not of the outfall(s).

III.C delineates the responsible parties for signing and submitting all documents required by this permit, such as the NOI and Discharge Monitoring Reports. Written authorization by that responsible party is required for somebody else to become a duly authorized representative to sign and submit reports. Limited Liability Companies (LLC) were added to the "Signatories" section (III.C.2.b).

PART IV: SPECIAL CONDITIONS OF DISCHARGES

The Oil Control Program must be notified in writing prior to hydrostatic discharges that will exceed 100,000 gallons within a 24-hour period or where the rate of discharge will equal at least 50% of the receiving stream, as well as if any discharge is known or suspected to have contained any toxic pollutant not specifically limited by this permit at levels specified in 40 CFR

§ 122.42. This part, which is substantially the same as that of the 18OGT permit, also contains the discharge effluent limitations and monitoring requirements both for stormwater and for hydrostatic test water, as well as requirements for the maintenance of treatment systems. The effluent limitations are included with the permit here as Attachment 1. All discharges must, at minimum, be monitored for flow rate and Total Petroleum Hydrocarbons (TPH) unless otherwise specified in the permit, and cannot contain visible oil sheen, floating solids, or persistent foam.

Part IV.B.2. has additional requirements for hydrostatic testing that must be met before the test can be conducted, as well as specific requirements for the sourcing of the test water and the resulting discharge. Parameters with effluent limits that must be met include Total Suspended Solids (TSS), TPH, pH, and temperature. If the test water source is chlorinated, then the discharge must meet Total Residual Chlorine concentration limits; if the test water is then chemically dechlorinated, it must also meet specific Dissolved Oxygen concentration limits depending on the use classification of the receiving waters. There is also a provision to control erosion damage from the outfall. Some of these requirements may be waived in certain cases.

Part IV.B.3. sets out the requirements for the management of stormwater in the containment structures/diked areas and loading rack areas. The outlet of the containment area must always be maintained in the closed position except during stormwater discharge operations. The containment area must be inspected at least monthly for the presence of leaks or spills of product, with the observations kept in a written logbook. Any spills or leaks of product within the containment area must be removed as soon as possible. If no spills or leaks have ever occurred within the containment area, the permittee is not required to monitor the effluent, as long as the stormwater is visually inspected before discharge.

PART V: MONITORING AND REPORTING

This part specifies requirements for how to monitor discharges, data recording and retention, submission of testing results, and instructions to follow if a permit noncompliance occurs. This entire section is relatively standard across all MDE general NPDES permits and has been carried over verbatim from the 18OGT permit. On October 22, 2015, EPA published the NPDES Electronic Reporting Rule to modernize Clean Water Act reporting. As a result, this permit requires the submission of all reports electronically via EPA's (and MDE's) reporting website, NetDMR. MDE has included its standard permit language regarding this requirement, which is shared among all of its NPDES permits. More information regarding this rule can be found at www.epa.gov/compliance/npdes-ereporting.

PART VI: VIOLATION OF GENERAL PERMIT CONDITIONS

This part delineates the permittee's legal responsibilities as well as penalties for permit violations or falsification and tampering with any aspect of the permit (such as the data or certifications supplied in the application, reports, documents, or other information), and the monitoring devices or test methods required under this permit. Administrative Penalties were added under VI.D and the details of the Criminal Penalties for Violations (VI.F.1-3) were expanded upon.

PART VII: GENERAL CONDITIONS

The standard permit conditions are consistent with the other general NPDES permits recently issued by MDE. Multiple items were updated (A, I, & O) and added (C, E, F & G) to clarify the general conditions.

PART VIII: AUTHORITY TO ISSUE GENERAL NPDES PERMITS

This part identifies the statutes which provide authority for MDE to issue this and all other general NPDES permits. This language has also been unchanged from 18OGT permit.

ATTACHMENT 1: EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

This attachment is meant to be a simple reference sheet for permittees outlining the parameters of interest and the concentration limits that must be met in the effluent for both types of discharge categories in this permit, stormwater and hydrostatic test water. Explanations of the numeric limitations and the monitoring requirements, both numeric and narrative, are listed below along with the rationale for their inclusion in the permit. All parameters and their effluent limitations have been brought forward from the 18OGT permit without any changes.

Numerical Limitations / Monitoring

Flow: All MDE NPDES permits require monitoring for flow. There are no numerical limitations for flow in this permit. In lieu of measured flow, the permittee may also provide monitoring via flow estimation, pursuant to the terms of Part V.A.2. of the permit.

Additionally, for hydrostatic test water discharges, MDE has included two flow thresholds which trigger a requirement for additional notification prior to discharge: 100,000 gallons within a 24-hour period or flow which will comprise half or more of its receiving stream, and any single discharge of 100,000 gallons or more into a municipal storm sewer system. These notifications must be made to MDE and the operator of that system, respectively. These thresholds have been established based on best professional judgment (BPJ) because large volumes of water in storage may have thermal impacts on the receiving stream or can overwhelm the storm sewer system.

Total Petroleum Hydrocarbons (TPH): Both types of discharges contain a limit for this parameter, as it is a reasonable assumption that oil residue could be present in the stormwater runoff from oil storage and loading rack areas, or from the hydrostatic testing of oil-containing tank systems and piping. As petroleum hydrocarbons can be found in many different compositions and molecular weights depending on the product type, TPH is tested for both diesel-range and gasoline-range organics. The sum of these components is used to calculate TPH.

The daily maximum limitation of 15 mg/L is a historically-used technology-based limitation that was established using best professional judgment to represent an achievable standard for treatment using gravity separation or adsorption. If a visible sheen is present in the discharge, then it can be assumed that the concentration is greater than this value. However, the absence of a sheen does not indicate compliance with the standard, only a laboratory analysis of an effluent sample can demonstrate compliance with the standard.

Total Suspended Solids (TSS): This permit contains limits for TSS in hydrostatic test water effluent. Hydrostatic testing may cause sediments and/or scale to be flushed from tank and pipe interiors or sediments which may be present from construction or sediment-bearing water supplies.

The limitation is a daily maximum of 60 mg/L, which is a technology-based limit that MDE has established using best professional judgment to represent an achievable treatment level via gravity settling, filtration, or chemically-assisted gravity settling. While there is no water quality standard for TSS, there is a standard for in-stream turbidity. MDE has routinely posited that a limit of 60 mg/L for TSS is stringent enough to meet the criteria for turbidity.

pH: Discharges from hydrostatic testing have the potential to cause pH excursions by dechlorination, source water influences, and/or presence of concrete for cleaning or construction. Monitoring is required to be sure the test water being discharged would not cause pH concerns in the receiving waters.

The limit is a range of 6.5 to 8.5 which represents the water quality standard range. pH shall be analyzed within 15 minutes of retrieving the sample.

Total Residual Chlorine (TRC): Any discharge which contains water which has been chlorinated must be subject to a limit for TRC. While the actual permit limit is established based on the numerical water quality standards in COMAR 26.08.02.03-2G(1), language at COMAR 26.08.03.06 requires only that chlorine be reduced to non-detectable levels and specifies that the non-detectable level is 0.1 mg/L. Chlorine shall be analyzed within 15 minutes of retrieving the sample.

Dissolved Oxygen (DO): In cases where chemical dechlorination is required for a permittee to meet the chlorine limitation, it is possible for dissolved oxygen to be depressed, particularly if the dechlorinating agent is over applied. As a result, hydrostatic test water discharges contain a water-quality based limit for DO which is applicable if chemical dechlorination is performed. The limit requires a minimum DO level of 5.0 mg/L for Designated Use Class I, I-P, and II waters and a minimum DO level of 6.0 mg/L for Designated Use Class III, III-P, IV, and IV-P waters in accordance with COMAR 26.08.02.03-3.

Temperature/Temperature Difference: Hydrostatic test water could potentially represent a temperature concern if the water has been sitting outside obtaining solar heat for a lengthy time (such as within an aboveground storage tank on a sunny day) or simply because the discharge is very large. For that reason, MDE has established limitations for either temperature or a calculated parameter called "temperature difference." "Temperature difference" has been created for instances when the actual ambient stream temperature does not comply with water quality standards. Rather than limit the discharge to the WQS, the permittee subtracts the temperature of the discharge (either at the end of pipe or at the edge of a 50-foot mixing zone, if needed) from the higher of the ambient temperature or the WQS. The limitation is zero, as anything above zero would mean the discharge temperature is too high.

For the case of a large discharge (defined in this permit as greater than 100,000 gpd or greater than half of the flow of the receiving stream), the permit establishes a limit on temperature directly based on the water quality standards established at COMAR 26.08.02.03-3. The rationale behind this decision is that extremely large discharges have a greater potential to prevent the receiving stream from ever decreasing from an ambient temperature that already exceeds WQS, so in those instances, it is not appropriate to simply allow the discharge to meet current ambient temperatures. In cases where the ambient temperature is below the WQS, the limit is actually the same as that of "temperature difference."

Monitoring Frequency: Discharges from containment areas must be sampled at least once per quarter. Hydrostatic test water must be sampled per discharge event, with three individually

analyzed grab samples per every 500,000 gallons discharged. Since there is no reason to expect significant variation throughout the duration of these discharges, the more important governing factor is flow volume, as higher flows can have a greater impact on the receiving stream.

Narrative Limitations

Hydrostatic Test Water: The narrative criteria for hydrostatic testing discharges specifies that all used tanks, pipes, or pipelines shall be cleaned before they are filled with test water, with the wastewater properly disposed of (and not discharged under this permit). If water for testing purposes is appropriated from surface water or groundwater of the state, the permittee shall obtain, if necessary, a water appropriations permit from MDE's Water and Science Administration. If water is withdrawn from surface water sources, care must be taken to prevent excess turbidity in the source water. High suspended solids in the source water will not be justification for exceeding the TSS discharge limit in the effluent. Discharges shall not exceed the capacity of any treatment system being utilized. The rationale behind each of these conditions is essentially common sense, as they either prevent unnecessary pollution in discharges or refer permittees to other state requirements (appropriations).

Stormwater: The narrative criteria for the discharge of stormwater from containment areas requires that the outfall be equipped with a valve that is kept closed except while draining, which ensures that unnoticed spills do not leave the containment areas until the permittee can remove the product. The permittee must visually inspect the containment areas prior to discharge (and a minimum of once per month) and log all observations, with all leaks or other releases of product removed as soon as possible. Effluent monitoring is required only if a spill or leak of oil has occurred in the containment area.

ADDITIONAL INFORMATION

A copy of the entire draft general permit is available to any interested person and may be obtained from:

Maryland Department of the Environment
Land and Materials Administration
Oil Control Program
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This permit is being renewed in accordance with the Administrative Procedures Act, which includes the publication of a notice in a Maryland newspaper and allowing the public at least 30 days afterwards to provide comments. Upon written request, MDE will schedule a Public Hearing for the purpose of accepting public comment and for MDE to answer any questions regarding this permit renewal. MDE will provide an interpreter for deaf and hearing impaired persons provided that a request is made for such service at least five days prior to the hearing.

For additional information, please contact Mr. Brad Barzin of the Oil Control Program's AST and Permits Section at 410-537-3483.